

Zoning Ordinance

VILLAGE OF ELLSWORTH
ANTRIM COUNTY, MICHIGAN



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ARTICLE 1: TITLE, PURPOSE, AND INTERPRETATION OF WORDING

An Ordinance to provide for the establishment of Zoning Districts to encourage and regulate the use of land and proper location of buildings and structures for residence, trade, industry, or other purposes; to regulate dimensions of yards, and other spaces; to provide for the administration, enforcement, penalties for violation, and amendment of this ordinance.

1.1 SHORT TITLE

This Ordinance shall be known and may be cited as the Village of Ellsworth Zoning Ordinance, as amended and is referred to herein as the "Ordinance."

1.2 PURPOSE

The purpose of this Ordinance is to promote the public health, safety, and general welfare of the residents and visitors of the Village of Ellsworth. This Ordinance shall serve the general good of the community in accordance with goals and policies of the Village Master Plan and any additions, and amendments as may be approved by the Village.

1.3 ENABLING AUTHORITY

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

1.4 ENACTMENT

The provisions of this Ordinance are to become effective within said Village on the eighth (8) day after a notice of adoption has been published in a newspaper of general circulation. The notice of adoption shall be published within fifteen (15) days of enactment by the Village of Ellsworth Village Council.

1.5 LIMITATION OF ZONING ORDINANCE

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

1.6 INTERPRETATION OF WORDING

In order to clarify the intent of the provisions of this Ordinance, the following rules shall apply, except when clearly indicated otherwise.

- A. The particular shall control the general.
- B. The word "shall" is always mandatory and never discretionary. The word "may" is permissive.

- C. Words used in the present tense shall include the future; words in the singular number shall also denote the plural and the plural shall also denote the singular.
- D. A "building" or "structure" includes any part thereof.
- E. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
- F. Unless the context clearly indicates otherwise, where a regulation involves two (2) or more items, conditions, provisions, or events, the terms "and", "or", "either...or", such conjunction shall be interpreted as follows:
 - 1. "And" denotes that all the connected items, conditions, provisions, or events apply in combination.
 - 2. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- G. "Village" shall refer specifically to the Village of Ellsworth.
- H. Terms not defined shall be assumed to have the meaning customarily assigned them.
- I. Any necessary interpretation of this Ordinance shall be defined by the Village of Ellsworth Zoning Board of Appeals.

ARTICLE 2: GENERAL PROVISIONS

2.1 THE EFFECT OF ZONING

In order to carry out the intent of this Ordinance, no use of land shall be established or maintained, and no structure or part thereof shall be allowed to be used, constructed, remodeled, altered, or moved upon any property unless it is in conformance with this Ordinance, and a zoning permit has been issued.

If any, use, structure or part thereof is placed upon a piece of property in conflict with the intent and provisions of this Ordinance, such use or structure shall be declared a nuisance and may be required to be vacated, dismantled, abated, or cease operations until brought into conformance with this Ordinance.

In the event that any lawful use or structure which exists or is under construction at the time of the adoption of this Ordinance and is not in conformance with the provisions of the zoning ordinance, such use or structure shall be considered a legal non-conforming use and be allowed to remain as such, including completion of construction, providing completion occurs within one (1) year from the effective date of this Ordinance.

2.2 NONCONFORMITIES

Nonconforming uses and structures are those which do not conform to a provision or requirement of this Ordinance or any subsequent amendment but which were lawfully established prior to the time of Ordinance adoption or amendment.

2.2.1 Class "A" Nonconformities

- A. Designation Definition: Class "A" nonconforming uses or structures are those which have been so designated by the Planning Commission, after application by the person having interest in the property or the Zoning Administrator, upon finding that the use or any portion of the structure:
1. Is not in an environmentally sensitive area;
 2. And the continuance thereof would not be contrary to the purpose of this Ordinance as described in [Section 1.2](#);
 3. And the use or structure does not and is not likely to significantly depress the value of nearby properties;
 4. And that the use or structure was lawful at the time of its inception and that no useful purpose would be served by strict application of the provisions or requirements of this Ordinance with which the use or structure does not conform.
 5. And that the use or structure is of economic benefit to the community.

- B. Procedure For Obtaining Class "A" Designation, Conditions: A written application shall be filed 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 Planning Commission to make a determination of the matter. The Planning Commission may require the furnishing of such additional information as it considers necessary. The notice of hearing procedure before the Planning Commission shall be the same as in the case of an application for a variance. The decision shall be in writing and shall set forth the findings and reasons on which it is based. Reasonable conditions may be attached to the Class A designation to prevent conflicts with other property uses or to assure compatibility with the purpose of this Ordinance as outlined in [Section 1.2](#). No vested interest shall arise out of a Class "A" designation.
- C. Revocation of Class "A" Designation: Any Class "A" designation shall be revoked, following the same procedure required for designation, upon a finding that as a result of any change of conditions or circumstances the use or structure no longer qualifies for Class "A" designation.
- D. Regulations Pertaining to Class "A" Nonconforming Uses And Structures: A Class "A" nonconforming use or structure shall not be repaired, restored, extended, enlarged or substituted for except in accord with the following requirements:
1. The Planning Commission may permit the repair, improvement or modernization of a Class A nonconforming structure to correct deterioration, obsolescence, depreciation and wear, provided the structure will still meet the qualifications of a Class A nonconforming use or structure.
 2. A Class "A" nonconforming use or structure damaged by fire, explosion, flood, erosion or other acts of God may be restored, rebuilt or repaired only after approval by the Planning Commission. The Planning Commission shall permit any structure to be returned to its prior use provided there is no increase in the intensity of the nonconforming use and providing there is no increase in the square footage of the nonconforming structure. No restoration, rebuilding or repair shall increase the extent of violation of setback or other dimensional or area requirements of this Ordinance. If a nonconforming structure can be rebuilt in greater conformance or even complete conformance with this Ordinance, then the Planning Commission shall require the greatest possible conformance unless the cost of such compliance exceeds one hundred fifty (150) percent of the replacement cost of the entire structure, then complete compliance or partial compliance shall not be required. The Planning Commission may require the land owner to provide site plans, appraisals or other construction or land data which are necessary to assure compliance with the Ordinance.
 3. There shall be no structural changes including enlargement or extension of a Class "A" nonconforming structure or use except after approval of the Planning Commission. In exercising its discretion regarding a request for approval of a structural change, the Planning Commission shall consider the factors contained

in [Section 5.2](#), Uses Subject to Special Approval. In addition, no extension or enlargement of a Class A nonconforming use or structure shall be approved if approval would result in violation or increase of the waterfront, front yard, rear yard, side yard or side yard setbacks, or similar requirements of this Ordinance.

4. A Class "A" nonconforming use may be substituted for by a similar nonconforming use or structure when the Planning Commission determines the substitution would improve the property, would not increase the structure or uses nonconformity, or when the substitution would not be contrary to the intent of this Ordinance.
5. The Planning Commission may attach conditions to any approval granted by the Planning Commission to a Class "A" nonconforming use. Those conditions shall attempt to make the use less nonconforming or to lessen its impact on nearby properties.

2.2.2 Class "B" Nonconformities

- A. Designation Definition: All nonconforming uses and structures not designated as Class "A" are Class "B" nonconforming uses or structures.
- B. Regulations Pertaining to Class "B" Nonconforming Uses and Structures: It is the intention of this Ordinance that all Class "B" nonconforming uses will either be eliminated or changed to conforming uses over a period of time. This Ordinance is intended to encourage the elimination of Class "B" nonconforming uses and to discourage anything that extends the normal useful life of a Class "B" nonconforming use. A Class "B" nonconforming use or structure shall not be repaired, restored, extended, enlarged or substituted for except in accord with the following requirements:
 1. Minor repairs or maintenance of a Class "B" nonconforming use or structure in order to keep it structurally safe and sound is permitted. A Class "B" nonconforming use or structure shall not be repaired, improved or remodeled when such repairs or improvements exceeds fifty (50%) percent of the structures' replacement cost as determined by the Planning Commission. If a Class "B" nonconforming use or structure is changed to conform with this Ordinance, the limitations on repairs or improvements shall not apply.
 2. Any Class "B" nonconforming use or structure damaged by fire, explosion, flood, erosion or other acts of God may be restored, rebuilt, repaired only after approval by the Planning Commission. The Planning Commission shall permit any structure to be returned to its prior use provided there is no increase in the intensity of the nonconforming use and providing there is no increase in the square footage of the nonconforming structure. No restoration, rebuilding or repair shall increase the extent of violation of setback or other dimensional or area requirements of this Ordinance. If a non-conforming structure can be rebuilt in greater conformance or even complete conformance with this Ordinance, then the Planning Commission shall require it. The cost of complete

compliance or greater compliance with this Ordinance shall not be a factor in the decision of the Planning Commission unless the cost of compliance exceeds one hundred fifty (150) percent of the replacement cost of the structure as determined by the Planning Commission. The Planning Commission may require the land owner to provide site plans, appraisals, or other construction or land data which are necessary to assure compliance with this Ordinance.

3. No Class "B" nonconforming use or structure shall be enlarged, extended or structurally altered nor shall the nonconforming use be changed to a substantially different nonconforming use.
4. If a mineral extraction operation is designated a nonconforming use, existing holes or shafts may be worked or enlarged on the land which constituted the lot on which operations were conducted at the time of operation being so classified, but no new holds or shafts shall be established.
5. No Class "B" nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time it was established.
6. A Class "B" nonconforming structure or use may be substituted for with a conforming use or structure, or by a use or structure which meets the requirements of a Class "A" nonconforming use when the Planning Commission determines that the substitution would not increase the nonconformity of the use or structure or be contrary to the public health, safety and welfare and the intent of this Ordinance.

2.2.3 Determination of Replacement Cost; Prior Value

The cost of repairing, restoring, or improving a Class "A" or "B" nonconforming use or structure (excluding contents), damaged by fire, explosion, flood, erosion or other acts of God, shall be made on the basis of an appraisal by a qualified individual designated by the Planning Commission. The cost of such determination shall be born by the applicant. The Planning Commission may determine previous value of an existing or pre- catastrophe structure based on information from the most recent Property Tax Assessment record if they find that such record is current and reasonably accurate.

2.2.4 Non-conforming Lots of Record

In any district, principal structures and accessory buildings may be erected on any nonconforming lot of record provided permit for construction of a septic system is granted by the County Health Department and yard requirement variances are obtained through approval of the Zoning Board of Appeals.

If any non-conforming lot or lots are of continuous frontage with other such non-conforming lots under the same ownership, the owner shall be required to combine such lots to provide parcels which shall meet, insofar as possible, minimum requirements for the district in which they are located.

2.2.5 Discontinuance of Non-conforming Uses

If there is an intent to abandon the non-conforming use of any parcel of land and the abandonment continues for a period of six (6) months, then any further use thereof shall conform to the provisions of this Ordinance.

2.2.6 Creation of Non-Conforming Lots or Parcels

No lot area and no yard, court, parking areas or other required space shall be divided, altered, reduced or diminished as to make said area or dimension less than the minimum required or more than the maximum allowed under this Ordinance, except where such reduction or expansion has been brought about by the expansion or acquisition of public right-of-ways for a street, road, or highway. If a required area is already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.

2.3 LOT PROPORTION

The width of any lot, parcel, or land division created after the effective date of this Ordinance shall not be less than twenty-five percent (25%) of the lot or parcel depth.

2.4 SUBDIVISION OF LAND

All preliminary plats submitted to the Village Clerk pursuant to Subdivision Control Act of 1967, PA 288 shall be forwarded to the Planning Commission for review to determine whether said plat is consistent with the minimum lot requirements and other applicable requirements of this Ordinance. The Planning Commission shall forward the preliminary plat to the Village Council with appropriate recommendations based on review findings.

2.5 ANIMALS

The keeping of livestock is prohibited on any parcel of land less than five (5) acres in size. Nor may such animals be kept within one-hundred fifty (150) feet of a neighboring residential structure. Livestock shall be prohibited in any area of the Village if the livestock become obnoxious by reason of odor, nuisance or noise. The determination of the Zoning Board of Appeals shall be conclusive on the question of whether obnoxious conditions exist.

2.6 MOBILE HOMES USED AS TEMPORARY DWELLINGS

Mobile homes may be used as temporary dwellings until the owner or occupant thereof completes the construction or erection of a conventional housing unit for which a building permit has been issued. Upon application for a temporary dwelling permit from the Zoning Administrator, the applicant may obtain a trailer permit for an initial period not to exceed two (2) years from the effective date of the permit; and upon showing reasonable progress, may renew the permit for not more than one (1) additional year.

2.7 PRINCIPAL USES

No lot may contain more than one (1) principal structure or use, except that upon determination by the Planning Commission, groups of apartment buildings, offices, retail business buildings, agricultural

structures, or other similar groups of buildings may be considered principal structures or uses. The mixing of uses may be allowed by the Planning Commission in the C-1: Village Commercial District through site plan review or special approval.

2.8 ESSENTIAL SERVICES

The erection, construction, alteration and maintenance of essential services shall be exempt from the regulations set forth in this Ordinance and shall be permitted in any district. Telecommunication towers, alternative tower structures and antennas shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public or private utilities.

2.9 GREENBELT

To preserve natural resources, water quality and community scenic and recreational values, a greenbelt shall be established and maintained on all waterfront property. The greenbelt shall include all the land use area located within fifty (50) feet of the ordinary high water mark of a lake or a stream. Within the greenbelt, the following development or use restrictions shall apply:

- A. No structures are allowed except for boat launching and docking facilities.
- B. No dredging or filling is allowed except for reasonable sanding of beaches where permitted by state or federal law.
- C. The use of asphalt, concrete and other impervious surfaces shall be limited to walkways necessary for water access or boat launch ramps.
- D. The use of pesticides, herbicides and fertilizers shall be prohibited.
- E. Leaves, grass clippings and similar yard and garden wastes shall not be burned, ~~or~~ stored or composted.
- F. Neither septic tanks nor septic system filtration fields shall be located within the greenbelt.
- G. Natural vegetation cover, including trees, shrubs or herbaceous plants shall be maintained on a least sixty percent (60%) of the lake or stream frontage within the greenbelt. Beach sand, gravel, cobblestone or rock may be substituted for vegetated areas where these materials are existing.
- H. The greenbelt shall be shown on any plot plan or site plan submitted for approval during the process of developing a water frontage parcel.

2.10 HOME OCCUPATIONS

While the Village of Ellsworth recognizes that many residents feel the necessity to work at home, the Village also recognized the rights of all residents to be free from actual or potential nuisance which may be caused by non-residential activities conducted in a residential zone. The intent of this section is to ensure that any home occupation is compatible with other permitted uses in residential districts and to maintain and preserve the residential character of the neighborhood.

- A. The home occupation shall be clearly incidental and subordinate to the principal use of the premises for residential purposes. The exterior appearance of the structure shall not be altered or the occupation within the residence be conducted in a manner which would substantially alter the premises' residential character.
- B. The home occupation is conducted by the person or persons occupying the premises as their principal residence, with assistance from not more than one (1) non-resident employees. Such use shall not occupy more than twenty percent (20%) of the ground floor area of the dwelling unit.
- C. The dwelling has no exterior evidence, other than one (1) non-illuminated sign not exceeding four (4) square feet to indicate that the dwelling is being utilized for a non-residential purpose, and such sign is in conformance with the requirements of this Ordinance.
- D. No occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, dust, glare, heat, smoke, fumes, odor, vibrations or electrical disturbance. There shall be no discharge of polluting materials, fluids or gases into the ground or surface water, soil or atmosphere.
- E. Vehicular and pedestrian traffic generated by the home occupation shall not exceed that which would normally be expected in a residential neighborhood, and the need for parking shall be met off street, unless established onstreet parking exists in front of the property where the home occupation exists.
- F. The home occupation shall not be open to the public earlier than 8:00 a.m. nor later than 8:00 p.m.
- G. There shall be no open display or storage of goods, materials, vehicles or services in connection with a home occupation, and no off-street parking shall be permitted within the setback area.
- H. Any such home occupation shall be subject to inspection by the Zoning Administrator and the permit for same may be terminated for failure to comply with the Zoning Ordinance.

2.11 MOBILE HOMES

Mobile homes sited on individual lots shall meet the standards for minimum lot size, yard set-backs, and ground floor space for the district in which they are located and shall meet the following additional standards:

- A. Mobile homes shall be attached to an approved permanent foundation or basement and shall be anchored using a system that meets the Michigan Mobile Home Commission requirements.
- B. Mobile homes shall be installed according to manufacturer's set up requirements, and the construction of the unit shall comply with the National Mobile Home Construction and Safety Standards Act of 1974.

- C. The wheels, axles and towing assembly shall be removed from a mobile home before the unit is attached to the foundation. Additionally, no mobile home shall have any exposed undercarriage or chassis.
- D. Mobile homes shall not be used as an accessory building.

2.12 FENCES, WALLS AND HEDGES

Notwithstanding other provisions in this Ordinance, fences, walls, or hedges may be permitted on any property in the R-1, R-2, R-3, R-4, C-2, PUD Districts, provided that no fence, wall, or hedge exceed a height of six (6) feet in the side or rear yard, four (4) feet in the front yard, and shall be no closer than five (5) feet to the front property line or road right-of-way, and further provided such fence, wall or hedge shall not obstruct sight distances needed for safe vehicular traffic, nor create a hazard to traffic or pedestrians. Where a lot borders a lake or stream, fencing shall not be constructed on the waterfront side within the required fifty (50) foot greenbelt. Fences shall not exceed four (4) feet in height, nor unreasonably restrict views to the water from neighboring properties. Fences shall be constructed with the finished side facing out from the property and maintained in good repair and safe condition. No fence shall be constructed of materials that may be detrimental to the health, safety and welfare of adjacent residents, such as electric or barbed wire fences.

2.13 WATER SUPPLY AND SEWAGE DISPOSAL FACILITIES

All water supply and sanitary sewage disposal systems either public or private, for any building hereafter erected, altered or moved upon any premises shall be subject to compliance with local, and where appropriate, County and State Board of Health requirements. Plans must be submitted to and approved by the responsible agencies. The written approval of such facilities by the District Health Department of Antrim County, shall be filed with application for a Zoning Permit.

2.14 STORMWATER RETENTION

Stormwater drainage in excess of natural conditions shall be retained on site by using low impact development (LID) water quality technologies. LID water quality technologies shall include, but are not limited to, rain gardens, green roofs, vegetated swales, cisterns, permeable pavers, porous pavement and filtered stormwater structures. The Planning Commission has the authority to determine the type of LID water quality technology that will be used on site as part of the approval process.

2.15 NOISE CONTROL

The construction, including excavation, demolition, alteration or repair of any building, and the excavation of streets and highways on Sunday, except between the hours of 9:00 a.m. and 9:00 p.m., and on other days, except between the hours of 12:00 p.m. and 9:00 p.m. is prohibited.

2.16 SALVAGE OR DUMPING OF MOTOR VEHICLES

The salvage or dumping of motor vehicles is regulated by the Village of Ellsworth Ordinance Number 12 of 1995, 'Dismantled or Inoperable Motor Vehicles Ordinance'.

2.17 DUMPING OF MATERIALS

The natural terrain shall not be altered in any fashion to create safety and health hazards or substantially alter the character of the land so as to make it unsafe for the uses for which it was originally zoned or create olfactory or visual pollution.

- A. Dumping or stockpiling of waste material or junk: the collection, accumulation, storage or disposal of waste material, used construction material, junk or refuse is prohibited, except under the following circumstances.
 - 1. Such practices are a necessary accessory use to a permitted agricultural use.
 - 2. Such practices occur in a junk yard authorized under this ordinance, and are included in the approved site plan.
 - 3. Such practices are a necessary accessory use to a commercial or industrial use authorized under this ordinance, and are included in the approved site plan.
- B. Dumping of soil, sand and clay materials: The extensive dumping of soil, sand, clay or similar materials shall not be allowed on any lot or parcel without the issuance of a special use permit of the Planning Commission and subject to the following requirements:
 - 1. The owner, builder, or contractor obtain a letter from the District Conservationist, Soil Conservation Service, U.S. Department of Agriculture or other qualified soil scientist, setting forth approval and/or recommendations as to the suitability of the site for dumping of such materials; the material to be placed on the site shall be of such a composition as not to create potential contamination of the natural environment including groundwater, vegetation, soils and surface waters; no dumping of soil, sand, clay or similar material shall be undertaken that appreciably increases the surface runoff reaching adjacent or surrounding property. Surface runoff shall be dissipated by retention on the development parcel, percolation into the soil, evaporation, or by transport by natural drainage way or conduit to an appropriate point of discharge. Extensive dumping of material shall be construed to mean the placing of fill material on a lot or property so as to create a recognizable change in the character of the natural terrain of such lot or property.
- C. Dumping of toxic materials and/or nuclear wastes shall not be allowed in the Village of Ellsworth.

2.18 HAZARDOUS SUBSTANCES

All business or industries which store, use or generate hazardous substances as defined in this Ordinance, in quantities greater than 25 gallons or 220 pounds per month whichever is less, shall meet all state and federal requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of said hazardous substances. No discharge to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

2.19 GROUNDWATER PROTECTION

These provisions apply to uses which use, generate or store hazardous substances in quantities greater than 25 gallons or 220 pounds per month.

- A. Sites at which hazardous substances and polluting material are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, surface water and wetlands.
- B. Secondary containment for aboveground areas where hazardous substances and polluting materials are stored or used shall be provided and maintained. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
- C. General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
- D. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
- E. The Planning Commission may require a performance bond or similar assurance for safeguards prior to approval. The Planning Commission may require site plan review at five-year intervals.

2.20 PERMITTED USES

The following uses are specifically permitted in any zone:

- A. Telecommunication towers and alternative tower structures located on property owned, leased, or otherwise controlled by the Village of Ellsworth provided a license or lease authorizing such telecommunication tower or alternative tower structure has been approved by the Village of Ellsworth.
- B. Antenna collocated on telecommunication towers or alternative tower structures which have received a special use permit which included review of the standards set forth in set forth in [Section 5.4.11](#) of this ordinance.
- C. Small cell wireless facilities within the public right-of-way, subject to the requirements of The Small Cell Wireless Communications Facilities Deployment Act (PA 365 of 2018).

2.21 SIGNS

2.21.1 Purpose

The purpose of this section is to preserve the desirable character of the Village of Ellsworth, as well as to recognize the need for and privilege of advertising, so that people unfamiliar with the area, such as tourists and transients, may avail themselves of the goods and services afforded by the

local business places. At the same time, the Village recognizes the right of residents to be free of advertising that could affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all outdoor signs shall be subject to all federal, state and local statutes and regulations and the regulations of the Village of Ellsworth Zoning Ordinance.

These regulations are intended to permit signs and other displays that are needed for the purposes of identification or advertising, subject to the following objectives:

- A. By reason of their size, location, spacing, construction or manner of display, signs shall not endanger life or limb, confuse or mislead traffic, obstruct vision necessary for traffic safety, or otherwise endanger the public health or safety.
- B. Signs should enhance the aesthetic appeal of the Village. Thus, these regulations are intended to:
 - 1. regulate oversized signs that are out-of-scale with the surrounding buildings and structures, and
 - 2. prevent an excessive accumulation of signs which cause visual clutter and distraction.

2.21.2 Signs Not Requiring a Sign Permit

The following signs may be placed in any zoning district without a sign permit, provided such signs comply with any applicable federal or state law or regulation and are located so as not to cause a nuisance or safety hazard:

- A. One (1) non-illuminated identification sign per use, not exceeding two (2) square feet of sign surface.
- B. Street name signs, route markers and other traffic control signs erected or approved by state, county or village agencies when necessary to give proper directions or to otherwise safeguard the public.
- C. Non-advertising signs erected by any organization, person, firm or corporation that is needed to warn the public of dangerous conditions and unusual hazards including but not limited to: road hazards, high voltage, fire danger, explosives, severe visibility, etc.
- D. Non-advertising signs exclusively devoted to controlling property access (no trespassing, private property, keep out, no hunting, hiking trail, day use only, and similar instructional messages), provided the sign surface does not exceed the maximum size limitations of [Subsection 2.21.4\(B\)\(1\)](#) below.
- E. Non-advertising signs marking an historically significant place, building or area when sanctioned by a national, state or local historic organization recognized by the planning commission, provided the sign surface does not exceed the maximum size limitations of [Subsection 2.21.4\(B\)\(1\)](#) below.

- F. Temporary real estate signs, not exceeding ten (10) square feet, on individual lots advertising a premise for sale or rent.
- G. Signs advertising sales such as garage, estate, auction, moving, and yard sales, which last no more than seven (7) consecutive days, provided the sign surface does not exceed the maximum size limitations of [Subsection 2.21.4\(B\)\(1\)](#) below.
- H. Signs that have been approved in conjunction with a valid site plan or zoning permit for any principal or accessory use, and signs required by federal or state agencies in connection with federal or state grant programs.
- I. Political and noncommercial signs, provided the sign surface does not exceed the maximum size limitations of [Subsection 2.21.4\(B\)\(1\)](#) below.

2.21.3 Signs Requiring a Sign Permit

Except as otherwise provided in [Subsection 2.21.2](#) above, no sign shall be erected within any zoning district, until a sign permit is issued by the zoning administrator. Sign permit fees shall be established by the Village Council as provided in [Section 6.4](#) of this Ordinance. Before issuing a sign permit, the zoning administrator shall determine that the proposed sign complies with all requirements of this section.

2.21.4 Signs Authorized by Zoning District

- A. Unless otherwise prohibited in this Ordinance, an outdoor business or informational sign, off-premise sign or temporary sign shall be permitted on property within the Village Commercial District (C-1), the General Commercial District (C-2), the Planned Unit Development District (PUD) and on property in any zoning district on which a home occupation is located, if and only if all of the requirements of this section are met.
- B. Unless otherwise prohibited in this Ordinance, an outdoor business or informational sign, temporary sign or one (1) identification sign at each entrance to residential subdivisions or developments shall be permitted on property within the Low Density Residential District (R-1), General Residential District (R-2), Village Residential District (R-3), and Mixed Residential District (R-4)Size Regulations:
 - 1. The sign surfaces of all outdoor business or informational signs, off-premise signs, portable, and signs expressing noncommercial views shall not exceed the following size limitations:

Zoning District	Maximum Size of Sign Surface
R-1, R-2, R-3 and R-4	Ten (10) square feet
C-1 and PUD	Twenty-four (24) square feet
C-2	Thirty two (32) square feet

- 2. All identification signs located at the entrance to residential subdivisions and

developments shall be no more than sixteen (16) square feet per sign.

2.21.5 Location Regulations

The following regulations apply to all signs regardless of the zoning district in which they are located.

- A. No off-premise sign shall be permitted in R-1, R-2, R-3 or R-4 zoning districts.
- B. No freestanding sign shall exceed a maximum height of twenty (20) feet, as measured from the ground to the top of the sign.
- C. Both sides of any freestanding or overhanging sign may be used as a sign surface.
- D. Before erecting an overhanging sign above a public right-of-way, the owner of the sign shall receive the written approval of the proper governmental agency having jurisdiction over that right-of-way. An overhanging sign shall not project beyond the structure wall to which it is attached more than five (5) feet and shall be no less than fourteen (14) feet above the public right-of-way.
- E. Freestanding signs may be permitted in a front yard, provided the sign is located no less than ten (10) feet from the front lot line.
- F. In no case shall a wall sign or window sign exceed a total of ten (10%) percent of the area of the building wall to which it is attached.
- G. No sign shall be placed at any location which obstructs the vision of drivers using a public or private street or alley or which obstructs the vision of drivers using any driveway, parking lot or other route providing ingress or egress to any premise.
- H. A commercial use located in any zoning district shall not have more than two (2) off-premise signs related to that commercial use and such signs shall be permitted in the C-1 and C-2 zoning districts. Not more than one (1) off-premise sign shall be allowed in the C-1 and C-2 zoning districts per three hundred (300) feet of road frontage or one (1) off-premise or on-premise sign per lot, whichever allows more signs.
- I. No sign shall be located on the roof of any building or structure.

2.21.6 Sign Lighting

The following regulations apply to all signs regardless of the zoning district in which they are located.

- A. Externally illuminated signs: the light source shall be directed, shaded or designed so as not to interfere with vision of persons on adjacent highways, streets or properties, and shall not emit any light above a horizontal plane through the luminaire so to unnecessarily illuminate the night sky.

- B. Internally illuminated signs: the sign background or field shall be opaque and dark colored. Letters, numerals, logos and similar message elements may be of transparent material to permit internal lighting to reveal the message or information on the sign surface.
- C. Except for time and temperature signs, signs containing flashing, intermittent or moving lights are prohibited.
- D. Illuminated signs shall be shut off outside the hours of operation of an establishment when no customers, staff, or occupants are present.

2.21.7 Temporary Signs

The following regulations apply to all temporary signs regardless of the zoning district in which they are located.

- A. Portable signs shall be allowed for a maximum of thirty (30) days within any calendar year.
- B. In the case of a special event, which occurs no more than once every six (6) months and lasts for a period not to exceed twenty-one (21) consecutive days, advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics are permitted for a period not more than seven (7) days prior to the special event and not more than one day (1) after the completion of the special event.
- C. In the case of a special event lasting no more than seven (7) consecutive days that occurs periodically throughout the year, at the same times, and for the same duration, advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics are permitted pursuant to an annual zoning permit for a period not more than seventy-two (72) hours prior to the special event and not more than twelve (12) hours after the completion of the special event.
- D. Signs advertising sales such as garage, estate, auction, moving, and yard sales, which last no more than seven (7) consecutive days, shall be permitted no more than forty-eight (48) hours prior to the sale, provided the signs are removed immediately after the sale.
- E. Signs expressing noncommercial views shall be permitted.
- F. Political signs shall be removed within five (5) days after the election to which they apply.
- G. Sign Maintenance: A property owner may maintain or improve an existing conforming sign without a sign permit, provided the type, size, shape, height and use remains the same.

2.21.8 Nonconforming Signs

Any sign lawfully in existence prior to the enactment of this section which does not meet the

requirements of this section may continue in use as a nonconforming sign. The maintenance, reconstruction, alteration, discontinuation or change in a nonconforming sign shall be governed by [Section 2.2](#) of this Ordinance.

2.21.9 Variances

The Zoning Board of Appeals shall have the power to authorize, upon an appeal, specific variances from the requirements of this section. The request for a variance from the requirements of this section shall be governed by the rules and procedures relating to variances contained in Article 7 of this Ordinance.

2.22 MEDICAL MARIJUANA

- A. Intent and Purpose: With regard to the Michigan Medical Marijuana Act (hereinafter referred to as the "MMMA"), Initiated Law 1 of 2008, MCL 333.26423, *et seq*, and its administrative rules, R 333.101, *et seq*, the purpose of this section is to implement land use regulations to address the medical use of marijuana in accordance with the MMMA.
- B. Further, it is the intent of this ordinance to:
1. protect the public health, safety, and general welfare of persons and property,
 2. to allow certain locations as specified below, and
 3. to require adequate separation between primary caregiver facilities to prevent clustering of grow operations in one area.
- C. It is the further intent of this ordinance to comply with the MMMA while concurrently attempting to:
1. protect the health, safety, and welfare of persons in the community, and also
 2. to address and minimize reasonably anticipated secondary effects upon children, other members of the public, and upon significant areas of the community, that would be reasonably expected to occur in the absence of the provisions of this ordinance.
- D. This ordinance is designed to recognize the fundamental intent of the MMMA to allow the creation and maintenance of a private and confidential patient-caregiver relationship to facilitate the statutory authorization for the limited cultivation, distribution, and use of marijuana for medical purposes; and to regulate around this fundamental intent in a manner that does not conflict with the MMMA so as to address issues that would otherwise expose the community and its residents to significant adverse conditions, including the following: adverse and long-term influence on children; substantial serious criminal activity; and danger to members of the public.
- E. This ordinance permits authorizations for activity based on the MMMA. Nothing in this ordinance shall be construed as allowing persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, cultivation, growth, possession or control of marijuana not in strict accordance with the express authorizations of the MMMA and this ordinance; and, nothing in this ordinance shall be construed to undermine or provide immunity from federal law as it may be enforced

by the federal or state government relative to the cultivation, distribution, or use of marijuana.

2.22.1 Regulations for Qualifying Patients

The medical use of marijuana by a qualifying patient in that qualifying patient's dwelling or an accessory building to that dwelling is hereby recognized as an accessory use to the principal residential use of the property and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:

- A. The qualifying patient must be issued and at all times must maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA.
- B. All marijuana plants or products must be contained or grown within the dwelling, an accessory building to that dwelling, or outdoors in an enclosed, locked facility that permits access only by the qualifying patient.
- C. If a room with windows within the dwelling or accessory building is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.

2.22.2 Regulations for Primary Caregivers

The medical use of marijuana by a primary caregiver in a primary caregiver facility is hereby authorized as a use by right in any zoning district, provided that all of the following regulations are met:

- A. The primary caregiver must be issued and at all times must maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA.
- B. The primary caregiver must obtain a zoning permit under Article VIII of this Ordinance.
- C. Except when being transported as provided in item I below, all marijuana plants or products must be contained within the primary caregiver facility or outdoors in an enclosed, locked facility that segregates the marijuana plants and products for medical use for each qualifying patient and that permits access only by the primary caregiver.
- D. If a room with windows within the primary caregiver facility is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
- E. Except as provided herein, no more than one (1) primary caregiver shall be permitted

to provide primary caregiver services within a single primary caregiver facility. Provided, however, a husband and wife or not more than two (2) unrelated individuals whose relationship is of a permanent and distinct domestic character and who live as a single, nonprofit housekeeping unit with single culinary facilities may both be primary caregivers within the same primary caregiver facility.

- F. The medical use of marijuana shall comply at all times with the MMMA and General Rules of the Bureau of Health Professionals, Michigan Department of Licensing and Regulatory Affairs or any successor agency, as they may be amended from time to time.
- G. Except for any qualifying patients who reside with the primary caregiver of medical marijuana, no qualifying patients may be present at a primary caregiver facility for any purpose directly related to medical marijuana primary caregiver services. This subsection, however, shall not be construed to prohibit the presence of qualifying patients at a primary caregiver facility for purposes unrelated to medical marijuana primary caregiver services.
- H. No children, including qualifying patients under the age of 18 (eighteen) shall be permitted at any time at a primary caregiver facility, except when (a) in the presence of his/her parent or guardian, or (b) the qualifying patient resides with the primary caregiver at the primary caregiver facility, or (c) the qualifying patient visits are for purposes unrelated to primary caregiver services.
- I. No marijuana for medical use shall be dispensed by the primary caregiver to qualifying patients at the primary caregiver facility, except to a qualifying patient who resides with the primary caregiver at the primary caregiver facility. Except as provided herein, the primary caregiver shall deliver all marijuana for the medical use of such qualifying patient, and such delivery shall take place on private property away from public view. Any such delivery vehicle shall be unmarked and not bear any emblem or sign that would indicate the nature of its cargo. In addition, all marijuana for medical use delivered to a qualifying patient shall be packaged so the public cannot see or smell the marijuana.
- J. No marijuana for medical use shall be consumed, smoked, or ingested by a qualifying patient by any method at a primary caregiver facility, except by a qualifying patient who resides with the primary caregiver at the dwelling.
- K. A primary caregiver facility shall not have any signage visible from the outdoors that would indicate the nature of the primary caregiver services being conducted in the primary caregiver facility.
- L. No primary caregiver facility shall be located in violation of any of the following spacing requirements:
 - 1. Four hundred (400) feet from any public or private school and its accessory structures;
 - 2. One hundred (100) feet from any church or place of worship and its

accessory structures;

3. Four hundred (400) feet from any preschool, child care or day care facility and its accessory structures;
4. Four hundred (400) feet from The Moms and Tots Center;
5. Four hundred (400) feet from The Good Samaritan Food Pantry;
6. Two hundred (200) feet from any public facility, such as libraries museums, parks, campgrounds, playgrounds, public beaches, boat launches, community centers, and other public places where children may congregate.

The above spacing requirement shall be from lot line to lot line.

- M. The portion of the primary caregiver facility, including any room or area utilized to grow marijuana for medical use, shall contain electrical service and wiring certified by an electrician licensed in the State of Michigan, meeting the applicable requirements of the electrical code in effect in Antrim County.

2.23 SIDEWALKS

2.23.1 Requirements

- A. Sidewalks shall be required for all new development construction, with the exception of single-family dwellings, two-family dwellings, and accessory structures including accessory dwelling units.

2.23.2 Standards

- A. Location: Sidewalks shall be located in the right-of-way along the front property line, extending along the entire frontage of the property. All necessary permits for performing work in the right-of-way shall be obtained prior to construction beginning.
- B. Construction Specifications: Sidewalks shall be constructed to the standards approved by the Village in terms of width, thickness, and material selection.
- C. Connectivity: Sidewalks shall align directly with any existing sidewalks on neighboring properties. Customer entrances shall be provided an extension of the sidewalk in order to provide direct customer access.

ARTICLE 3: ZONING DISTRICTS AND MAP

3.1 CLASSIFICATION OF ZONING DISTRICTS

For the purpose of this ordinance, the following Zoning Districts shall be established in the Village of Ellsworth:

- R-1 Low Density Residential District
- R-2 General Residential District
- R-3 Village Residential District
- R-4 Mixed Residential District
- C-1 Village Commercial District
- C-2 General Commercial District
- R Recreation

3.2 OVERLAY DISTRICTS

Overlay districts are established to achieve specific land management objectives and aver or solve certain land use problems. For the purpose of this ordinance, the following Overlay Districts shall be established in the Village of Ellsworth:

- BCOD Breezeway Commercial Overlay District

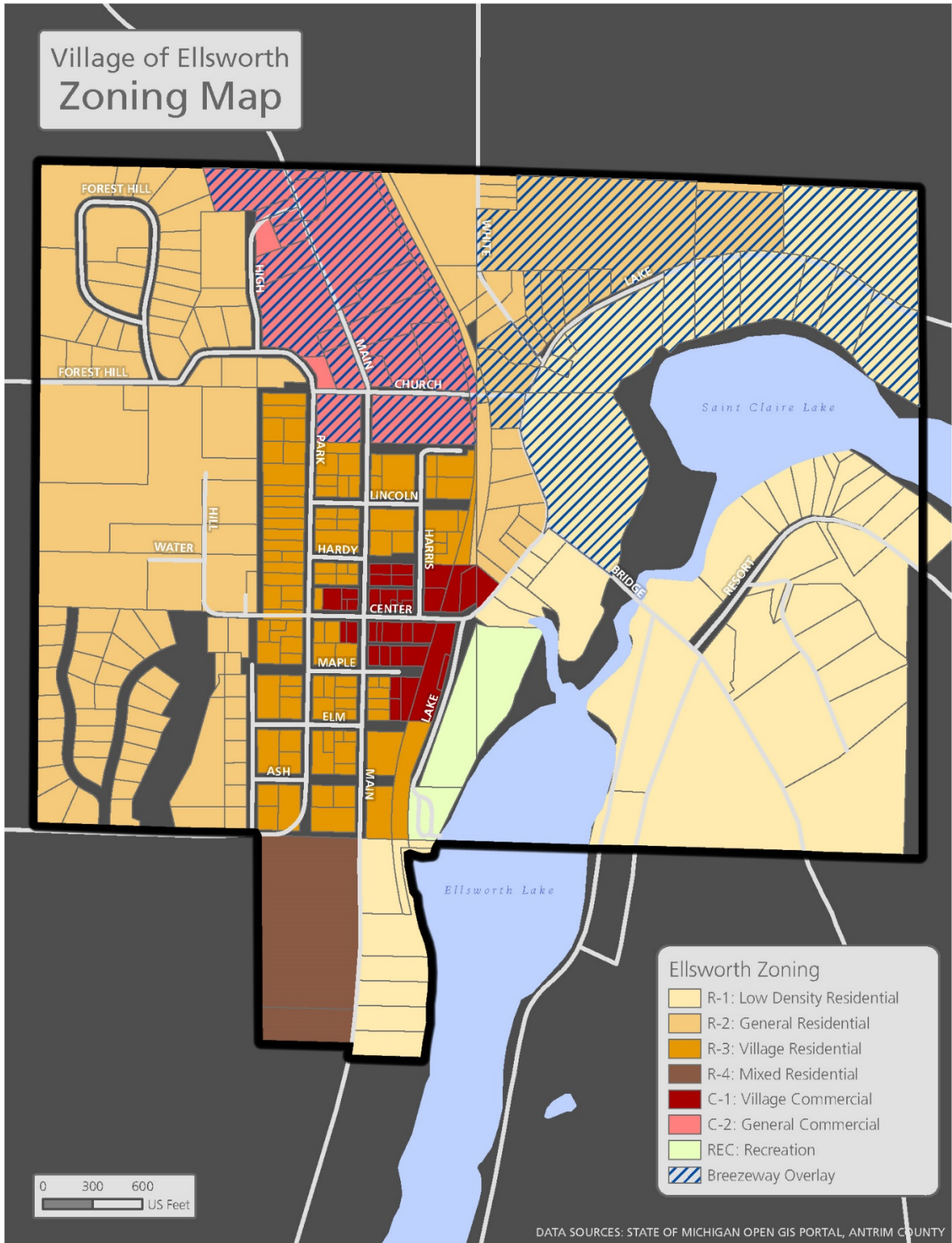
3.2.1 Intent

The intent of the Breezeway Commercial Overlay District is to facilitate future commercial and recreation-based development along the C-48 corridor that is consistent with the regional vision for the C-48 Breezeway corridor. The "Breezeway" is a rural ride along C-48 from Atwood (U.S. 31) through Ellsworth & East Jordan and ending in Boyne Falls (U.S. 131). The route boasts scenic overlooks, recreational amenities, working farms & orchards, artist galleries & studios, resale shops, lodging facilities, and retail and service businesses.

3.3 ZONING MAP

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

3.3.1 Village of Ellsworth Zoning Map, Antrim County, Michigan



3.4 BOUNDARIES OF DISTRICTS

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

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

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

3.5 ZONING OF VACATED AREAS

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

3.6 ZONING OF FILLED AREAS

Whenever, after appropriate permits are obtained, any fill material is placed in any lake or stream so as to create a usable or buildable space, such fill area shall take on the Zoning District and accompanying provisions of the land abutting said fill area. No use on any lake or stream shall be allowed which does not conform to the Ordinance provisions on the property from which said property emanates. No fill material shall be placed in any lake or stream within the Village unless appropriate permits are obtained from the Michigan Department of Environmental Quality.

3.7 ZONING DISTRICT CHANGES

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

ARTICLE 4: DISTRICT REGULATIONS

4.1 INTENT OF EACH ZONING DISTRICT ESTABLISHED

- A. Low Density Residential (R-1): The land uses in this District are intended to encourage an environment of predominantly low density residential structures located on individual lots along with other residential relate facilities which serve the residents within the District.
- B. General Residential District (R-2): The purpose of the provisions of this District is to reserve areas principally for single-family residential use, and maintain safe and desirable conditions for this and similar uses, and to promote the proper use, enjoyment and conservation of the water, land topographic and vegetation resources of the area of the Village deemed particularly adapted to such uses.
- C. Village Residential (R-3): The purpose in creating the Village Residential District (R-3) is to provide a limited mixture of residential housing types to provide a wider range of choice by residents seeking housing. Structures shall be located on lots or premises, served by the municipal water system, adequate in size and soil type to allow for an on-site septic system, and set back from the public thoroughfare to facilitate safe exit from and entrance to the premises. The requirements are intended to protect and stabilize the basic qualities of the District, and to provide suitable and safe conditions for family living. The District is established in conformity with the existing areas. Since certain other uses are generally accepted as compatible with residential development, if properly integrated, the inclusion of such uses is provided by "Special Approval".
- D. Mixed Residential (R-4): The Mixed Residential (R-4) District is designed to provide a location within the Village for dwelling units containing a mixture of densities and housing types. Those structures which offer an alternative to single family detached housing (while still adhering to a low and medium density character of the community) will be permitted in this District. This District shall be located within the Village to facilitate access to commercial activities and community services.
- E. Village Commercial (C-1): The intent for establishing this District is to provide for the continuation of and enhancement of existing commercial in the downtown Village area. This District typically accommodates those retail and business activities which cater to the needs of permanent residents and tourists of the area. Development in the Village Commercial District (C-1) is subject to the design standards in [Section 5.6](#).
- F. General Commercial (C-2): The intent for establishing this District is to provide for commercial uses along designated portions of Atwood Road, (C-48). This District typically accommodates those business activities which require more space and cater to the needs of permanent residents and tourists of the area.
- G. Recreation (REC): The intent of the Recreation (REC) zoning district is to provide and exclusive place for public recreation and open space lands in the Village as a limited and

valuable resource. The Recreation zoning district is intended to permit limited but reasonable use of open space and public recreational lands.

4.1.1 Intent of Each Overlay District Established

- A. Breezeway Commercial Overlay (BCO): An overlay district is established along County Route C-48 through the Village of Ellsworth, in order to encourage economic development along the designated scenic route known as the Breezeway. The Breezeway Commercial Overlay District will include all properties with frontage on C-48. Developments in the Breezeway Commercial Overlay District (BCO) are subject to the design standards in [Section 5.7](#).

4.2 ZONING DISTRICTS AND REGULATED USES

The Regulated Uses table in this section lists by land use category (e.g. residential, commercial, etc.) where a particular land use is allowed in a respective zoning district. The following rules shall apply when interpreting the table:

- A. Permitted Uses: Except as otherwise provided in [Section 1.5](#), the use of all lands and premises, and the erection and use of all buildings and structures shall, after the effective date of this Ordinance, be limited to land uses noted with the symbol "P" in the Regulated Uses table.
- B. Uses Subject to Special Approval: Special approval use of lands and premises, and the erection and use of buildings and structures shall, after the effective date of this Ordinance, be limited to the land uses noted with the symbol "S" in the Regulated Uses Table and shall be subject to the provisions of [Section 5.2](#).
- C. Uses Not Allowed: If a land use is not allowed in a zoning district, then it will be left blank without an "S" or "P".
- D. Uses Subject to Supplemental Site Development Standards: Uses noted with an asterisk "*" symbol indicate those subject to use-specific provisions under [Section 5.4](#).
- E. Accessory Buildings and Uses: Accessory buildings and uses customarily incidental to a use permitted by right in a district shall also be permitted. Accessory buildings and uses customarily incidental to a use subject to special approval in a district shall also be allowed through a special approval.

4.3 REGULATED USES TABLE

Regulated Uses	Zoning Districts						
	R-1	R-2	R-3	R-4	C-1	C-2	REC
A. AGRICULTURAL USES							
1. Farming or Agricultural Operations	P					P	
B. RESIDENTIAL USES							
1. Dwellings, Single-Family	P	P	P	P		P	
2. Dwellings, Two-Family	P	P	P	P			
3. Dwellings, Multiple-Family			P	P	S	S	

Regulated Uses	Zoning Districts						
	R-1	R-2	R-3	R-4	C-1	C-2	REC
4. Mobile or Manufactured Home Park Developments				S*			
5. Mixed Use (Residential Above First Floor)					P	P	
6. Guesthouse (1), On Owner-Occupied Property	S	S	S	S			
7. Accessory Dwelling Units	P*	P*	P*	P*			
8. Live / Work Units					P	P	
9. Home Occupations, Subject to The Provisions of Section 2.10	P	P	P	P			
10. Bed and Breakfast Facilities	S	S	S	P			
11. Adult Foster Care Family Home	P	P	P	P		P	
12. Adult Foster Care Small Group Home	P	P	P	P		P	
13. Adult Foster Care Large Group Home			S	S	S		
14. Family Child Care Home	P	P	P	P		P	
15. Foster Family Home	P	P	P	P		P	
16. Foster Family Group Home	P	P	P	P		P	
17. Group Child Care Home	P	P	P	P		P	
18. Adult Daycare Home	P	P	P	P			
19. Convalescent or Nursing Homes	S	S	S	S			
20. Senior Citizen Housing	S	S	P	P			
C. COMMERCIAL USES							
1. Adult Day Care Facilities			S	P			
2. Banks and Financial Services					P	P	
3. Business and Personal Services					P	P	
4. Car Wash Facilities						S*	
5. Child Care Centers					P	P	
6. Drive-Through Services						S*	
7. Funeral Homes					P	P	
8. Gasoline / Service Station					S*	S*	
9. Golf Courses or Country Clubs	S	S	S				
10. Medical Clinics					P	P	
11. Microbrewery, Small Winery, Small Distillery, and Tasting Room					P		
12. Motels and Resorts					P	P	
13. Outdoor Commercial Recreation Facilities						P	
14. Outdoor Sales Facilities					S	S	
15. Professional Offices				P	P	P	
16. Public and Private Campgrounds	S*						
17. Restaurants and Bars, Except Drive-Through Restaurants					P	P	
18. Retail Sales, Within an Enclosed Building					P	P	
19. Sale of Motor Vehicles					S	S	
20. Sexually Oriented Business						S*	
21. Veterinary Hospitals Without Boarding Facilities					P*	P*	
22. Veterinary Hospital or Kennel, On A Minimum of Five (5) Acres						P*	
D. INSTITUTIONAL & PUBLIC USES							
1. Cemeteries, On A Minimum of Twenty (20) Acres	S	S	S				S
2. Churches and Related Religious Buildings	S	S	S	P	P	P	
3. Civic, Social and Fraternal Organization Facilities			S		P	P	
4. Public Buildings and Facilities	S	S	S	P	P	P	S
5. Public Parks, Playgrounds, Or Recreation Facilities	P	P	P	P	P	P	P
E. INDUSTRIAL USES							
1. Auto Body and Paint Shops						S	

Regulated Uses	Zoning Districts						
	R-1	R-2	R-3	R-4	C-1	C-2	REC
2. Enclosed Warehouses						P	
3. Gas and Oil Processing Facilities						S*	
4. Lumber Yards						S	
5. Manufacturing Uses						P	
6. Mini-Storage				S			
7. Mining and Incidental Gravel Processing						S*	
8. Outdoor Sales						S*	
9. Outdoor Storage Facilities						S	
10. Plant Nurseries						P	
11. Public Utility Buildings Without Storage Yards					P	P	
12. Retail and Wholesale Sales						P	
13. Sale and Storage of Fuel						S	
14. Sand and Gravel Excavation				S*			
15. Telecommunication Towers and Facilities and Alternative Tower Structures	S*						

4.4 SCHEDULE OF DIMENSIONAL REGULATIONS

Zoning District	District Name	Min. Lot Size		Max. Height of Structure (stories)	Min. Yard Setback (ft)			Min. Dwelling Unit Width (ft)	Max % of Lot Coverage
		Area (s.f.)	Width (ft)		Front	Side	Rear		
R-1	Low Density Residential	32,000	100	2	30 (a)	20 (b)	20	24	20
R-2	General Residential	15,000	80	2	25 (a)	10 (b)	15	24	30
R-3	Village Residential	12,000	60	3	25 (a)	10 (b)	10	20	35
R-4	Mixed Residential	15,000 (c)	100	3	25 (a)	10 (b)	15	14	35
C-1	Village Commercial	---	---	3	---	---	---	n/a	---
C-2	General Commercial	12,000	100	2	35	20	20	n/a	---
REC	Recreation	12,000	100	2	35	20	20	n/a	20
BCO	Breezeway Commercial Overlay	Underlying zoning district regulations apply							

4.4.1 Notes on Schedule of Dimensional Regulations

- a. For lots which border a lake or a stream, the minimum structure setback on the waterfront side shall be fifty (50) feet from the ordinary high water mark.
- b. In cases where a curvilinear street pattern produces irregularly shaped lots with nonparallel side lines, a lesser frontage width at the street line may be permitted, PROVIDED that the lot width at the building line is equal to (or greater than) the specified lot width for that District.
- c. The following Minimum Lot Area shall be required in the R-4 District:

One Family	9,600 square feet for each dwelling unit.
Two Family	7,000 square feet for each dwelling unit.
Multiple Family	8,000 square feet for first dwelling unit, plus 5,000 square feet additional for each additional 3 or more bedroom units and 4,000 square feet additional for each additional two-bedroom unit and 3,000 square feet for each additional one-bedroom or efficiency unit. Lot sizes are subject to Section 2.13 requirements.
Tourist or Lodging Houses	10,000 square feet, plus an additional 500 square feet for each non-resident person accommodated.

- d. No side yards are required in the Village Commercial District (C-1), EXCEPT, when adjacent to any Residential District (R-1, R-2, R-3 or R-4), in such cases the adjacent Residential District regulations will apply.
- e. No Rear yards are required in the Village Commercial District (C-1), EXCEPT when a rear lot abuts any Residential District (R-1, R-2, R-3 or R-4) without an intervening alley, there shall be a rear yard of at least twenty (20) feet.
- f. Height restrictions in this Article do not apply to telecommunication towers and facilities and alternative tower structures located in accordance with this Ordinance.
- g. Front setback in the Village Commercial District (C-1) is defined by the build-to line standards in [Section 5.6](#).

ARTICLE 5: DEVELOPMENT STANDARDS, REVIEWS AND APPROVALS

5.1 SITE PLAN REVIEW (ALL DISTRICTS)

Site plans give the Planning Commission an opportunity to review development proposals in a concise and consistent manner. The use of the site plan ensures that the physical changes in the property meet with local approval and that development actually occurs as it was promised by the developer.

5.1.1 General Requirements

Site plans are required for the following uses:

- A. All new uses except one-family dwelling units, two-family dwelling units, accessory dwelling units, or home occupations.
- B. Expansion or renovation of an existing use, other than one-family or two-family residential use, which increases the existing floor space more than twenty five (25) percent.
- C. Changes of use for an existing structure or lot.
- D. Other uses as required by this Ordinance.

5.1.2 Site Plan Application Requirements

- A. Pre-Application Meeting: The procedure of application and approval of a site plan shall include one (1) or more informal conferences between the applicant and Zoning Administrator. The applicant shall inform the Zoning Administrator of the applicant's general intentions at this time. The Zoning Administrator may request or recommend the applicant request representatives from Village, Township or County agencies (department of public works, fire department, county sheriff and other agencies) to attend such informal conferences. After consideration of comments from the pre-application meetings, the applicant shall submit a formal site plan.
- B. The following required items shall be demonstrated on the site plan drawings, written narrative/submitted documentation, or both as indicated in the table below:

Site Plan Item	Description	Shown on Site Plan	Written Narrative/ Submissions
1.	The date, north arrow, and scale. The scale shall be at least one (1) inch = fifty (50) feet for parcels less than three (3) acres, and not less than one (1) inch = one hundred (100) feet for parcels three (3) acres or more.	✓	
2.	The boundary lines of the property, to include all dimensions and legal description.	✓	
3.	The location and width of all abutting right-of-ways.	✓	
4.	The existing zoning district in which the site is located and the zoning of adjacent parcels. In the case of a request for a zoning change, the classification of the proposed new district must be shown.	✓	
5.	The location of all existing and proposed structures and uses on the site, including proposed drives, walkways, signs, exterior lighting, parking (showing the dimensions of a typical parking area), loading and unloading areas, common use areas and recreational areas and facilities.	✓	
6.	Description of the uses and other human-made facilities.		✓
7.	The location and identification of all existing structures within a two hundred (200) foot radius of the site.	✓	
8.	The location and description of the environmental characteristics of the site prior to development such as topography, soils, vegetative cover, mature specimen trees, drainage, streams, wetlands, shorelands, or any other unusual environmental features.	✓	✓
9.	Natural features that will be retained, removed, and/or modified including vegetation, hillsides, drainage, streams, wetlands, shorelands, and wildlife habitat.	✓	
10.	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 areas of change.		✓
11.	A landscaping plan with all existing and proposed landscaping, walls and/or fences.	✓	

Site Plan Item	Description	Shown on Site Plan	Written Narrative/ Submissions
12.	A grading plan showing the topography of the existing and finished site shown by contours or spot elevations. Where the existing slope on any part of the site is ten percent (10%) or greater, contours shall be shown at height intervals of two (2) feet or less.	✓	
13.	A stormwater management plan showing all existing above and below grade drainage facilities, and proposed plans incorporating low impact development water quality technologies and other best management practices.	✓	✓
14.	Location, type and size of all above and below grade utilities.	✓	
15.	Type, direction, and intensity of outside lighting shown on a photometric plan in compliance with exterior lighting standards.	✓	
16.	Location of any cross access management easements, if required.	✓	
17.	Location of pedestrian and non-motorized facilities, if required.	✓	
18.	An indication of how the proposed use conforms to existing and potential development patterns and any adverse effects.		✓
19.	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. 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.		✓
20.	Plans to control soil erosion and sedimentation, including during construction.	✓	✓
21.	Permit or approval from the Department of Public Works indicating the method to be used to serve the development with municipal water.		✓
22.	Permit or approval from the health department or responsible agency indicating the method to be used for sewage treatment.		✓
23.	The number of units proposed, by type, including a typical floor plan for each unit, dimensions, and area in square feet.	✓	
24.	Elevations for all building facades.	✓	
25.	The number of people to be housed, employed, visitors or patrons, anticipated vehicular and pedestrian traffic counts, and hours of operation.		✓

Site Plan Item	Description	Shown on Site Plan	Written Narrative/ Submissions
26.	Phasing of the project, including ultimate development proposals.	✓	
27.	General description of deed restrictions and/or cross access management easements, if any or required.		✓
28.	The name and address of the property owner.	✓	✓
29.	Name(s) and address(es) of person(s) responsible for preparation of site plan drawings and supporting documentation.	✓	✓
30.	Sealed/stamped drawings from a licensed architect, engineer, or landscaped architect.	✓	

- B. All site plan drawings shall be submitted on sheets twenty four (24) inches by thirty six (36) inches and in digital PDF format.
- C. All required materials shall be presented to the Zoning Administrator’s office by the petitioner or property owner or their designated agent at least ten (10) days prior to the Planning Commission meeting were the site plan will be considered. The Zoning Administrator shall cause the submitted application to be placed on the agenda of the next regular Planning Commission meeting.

5.1.3 Standards for Site Plan Review

The Planning Commission shall not approve a site plan unless it meets each and every one of the following standards that are applicable to the use under consideration:

- A. That the applicant may legally apply for site plan review.
- B. That all required information has been provided.
- C. That the proposed development conforms to all regulations of the zoning district in which it is located and all other applicable standards and requirements of this ordinance, including but not limited to all supplementary regulations.
- D. That the plan meets the requirements of the Village of Ellsworth for fire and police protection, water supply, sewage disposal or treatment, storm, drainage, and other public facilities and services.
- E. That the plan meets the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.
- F. That natural resources will be preserved to a maximum feasible extent, and that areas to be left undisturbed during construction shall be so indicated on the site plan and at the site per se.
- G. That the proposed development property respects floodways and flood plains on or

in the vicinity of the subject property.

- H. That the soil conditions are suitable for excavation and site preparation, and that organic, wet, or other soils which are not suitable for development will either be undisturbed, or modified in an acceptable manner.
- I. That the proposed development will not cause soil erosion or sedimentation problems.
- J. That the drainage plan for the proposed development is adequate to handle anticipated storm water runoff, and will not cause undue runoff onto neighboring property or overloading of water courses in the area.
- K. That grading or filling will not destroy the character of the property or the surrounding area, and will not adversely affect the adjacent or neighboring properties.
- L. That structures, landscaping, landfills or other land uses will not disrupt air drainage systems necessary for agricultural uses.
- M. That phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage, or erosion control.
- N. That the plan provides for the proper expansion of existing facilities such as public streets, drainage systems, and water and sewage facilities.
- O. That landscaping, fences or walls may be required when appropriate to meet the objectives of this Ordinance.
- P. That parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
- Q. That vehicular and pedestrian traffic within the site, and in relation to streets and sidewalks serving the site, shall be safe and convenient.
- R. That outdoor storage of garbage and refuse is contained, screened from view, and located so as not be a nuisance to the subject property or neighboring properties.
- S. That the proposed site is in accord with the spirit and purpose of this Ordinance, and not inconsistent with, or contrary to, the objectives sought to be accomplished by this Ordinance, the master plan, and the principles of sound planning.

5.1.4 Approval, Conditions, and Denial

The Planning Commission shall have the responsibility and authorization to approve, approve with conditions, or deny, a site plan as follows:

- A. Approval: A site plan shall be approved if it contains the information required by the Zoning Ordinance and is in compliance with the Zoning Ordinance and the conditions imposed under the ordinance, other township planning documents other applicable ordinances, and state and federal statutes.
 - B. Conditions: The Planning Commission may impose reasonable conditions on any site plan approval. The conditions may include conditions necessary to ensure 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. Conditions imposed shall:
 - 1. 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.
 - 2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - 3. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards. The breach of any condition shall be grounds for revoking the site plan approval.
 - 4. Be recorded in the minutes of the appropriate Planning Commission meeting.
 - C. Denial: Upon determination that a site plan does not comply with the standards and regulations set forth in this Article or elsewhere in the Ordinance, or requires extensive revisions in order to comply with the standards and regulations of this Ordinance, the Planning Commission shall deny the site plan and record its reasons in the minutes of the appropriate meeting.
- 5.1.5 Expiration, Reapplication, Revocation, Amendment Fees and Performance Guarantee**
- A. Expiration: A site plan approval shall be valid for a period of one (1) year from the date of approval of the application. If a zoning permit has not been issued within one (1) year from the date of approval, the Planning Commission may permit a one (1) year extension upon consideration of a written request submitted by the Applicant or their designee.

- B. Reapplication: No application for a site plan review that has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions.
- C. Revocation: When the construction of a building or creation of a use is found to be in nonconformance with the approved Site Plan, the Planning Commission may fully and finally revoke, by official action its original approval, by giving the owner evidence in writing of such action, which becomes effective ten (10) days following the original notice of such impending action being properly communicated to the owner. The owner may remedy the violation during this ten (10) day period, at which time he shall so notify the Planning Commission, who may then, by official action, defer revocation.
- D. Amendments: An Applicant of an approved site plan review may request an amendment to the approved site plan in writing to the Zoning Administrator. The process for approving a proposed amendment is based on the nature of the request and shall be processed as follows:
1. Insignificant Deviation: The Zoning Administrator shall be authorized to approve amendment requests that are determined to be insignificant deviations from the approved site plan. Insignificant deviations are changes that still meet all applicable standards and requirements of the Ordinance and will not increase the intensity of the proposed use, create new lots or increase the density, noticeably change the location or proposed improvements to the property, or result in no substantial impact to neighboring properties, the general public, or those intended to occupy or use the proposed development.
 2. Minor Amendment: The Planning Commission shall be authorized to permit minor amendment requests to an approved site plan. Minor amendments are those determined by the Zoning Administrator to still meet all the applicable standards and requirements of the Ordinance, and will result in no substantial impact to neighboring properties, the general public, or those intended to occupy or use the proposed development. Minor amendment requests shall be accompanied with a revised site plan demonstrating the proposed change.
 3. Major Amendment: All other amendment requests shall be deemed to be major amendments and shall follow the same process as a new site plan review application. The Planning Commission may impose additional conditions on the approval of the major amendment as allowed in this section. The applicant may reject the additional conditions by withdrawing the major amendment request and proceed under the existing approved site plan review.
- E. Administrative Fees: Any Site Plan application shall be accompanied by a fee, in an amount to be determined by the Village Council. Such fee shall be for the purpose

of payment for the administrative costs and services expended by the Village in the implementation of this section and the processing of the application. Such fee may be used to reimburse another party retained by the Village to provide expert consultation and advice regarding the application. The Village may return any unused portion of the fee to the applicant. Any costs of special meetings called to review site plans shall be paid by the applicant.

- F. Performance Guarantee: To ensure compliance with the Ordinance and any conditions imposed, the Planning Commission may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the Village covering the estimated cost of improvements be deposited with the Village Clerk to ensure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the zoning permit. The Village shall not require the deposit of the performance guarantee until it is prepared to issue the zoning permit. If requested by the holder of the approved site plan, the Village shall rebate any cash deposits in reasonable proportion to the ratio of work completed on the required improvements as work progresses.

5.2 USES SUBJECT TO SPECIAL APPROVAL

5.2.1 General Requirements

Uses requiring special approval shall be subject to the general provisions of the zoning district where located in addition to applicable provisions of this section to prevent conflict with or impairment of the other uses or uses permitted by right of the district. Each use shall be considered an individual case.

5.2.2 Special Approval Application Requirements

Application shall be submitted through the office of the Zoning Administrator, to the Planning Commission, on a special form provided for that purpose, and shall include all the required items from [Section 5.1.2](#).

5.2.3 Standards for Special Approval

The standards for approving a use subject to special approval shall be the same as those in [Section 5.1.3](#).

5.2.4 Approval, Conditions, and Denial

The Planning Commission shall have the responsibility and authorization to approve, approve with conditions, or deny, a use subject to special approval after holding a public hearing and as follows:

- A. Public Hearing: A public hearing shall be held for all special approval requests. A notice of the special approval request and public hearing as required by the Michigan Zoning Enabling Act, Act 110 of 2006 as amended, shall be provided by the Zoning Administrator. The notice shall be given not less than fifteen (15) days

before the date the application will be considered. The notice shall describe the nature of the special approval request; indicate the subject property, state when and where the written comments will be received concerning the request. Notices shall be provided as follows.

1. One notice shall be published in a newspaper which circulates generally in the Village.
 2. Notice shall be sent by mail or personal delivery the owners of the subject property.
 3. Notice shall be sent by mail or personal delivery the owners of the property within three hundred (300) feet of the boundary of the subject property.
 4. Notice shall be sent by mail or personal delivery to all the occupants of structures within 300 feet of the boundary of the subject boundary.
- B. Approval: The process for approving a use subject to special approval shall be the same as in [Section 5.1.4\(A\)](#).
- C. Conditions: The process for imposing conditions on a use subject to special approval shall be the same as [Section 5.1.4\(B\)](#).
- D. Denial: The process for denying approval of a use subject to special approval shall be the same as [Section 5.1.4\(C\)](#).
- E. The Zoning Administrator shall have the right to inspect any special approval use, to ensure continued compliance with the conditions of the special approval.

5.2.5 Expiration, Reapplication, Revocation, Amendment, Fees and Performance Guarantee

The processes related to expiration, reapplication, revocation, amendment, fees, and performance guarantees shall be the same as [Section 5.1.5](#), with the exception that a major amendment shall warrant a new public hearing on the proposed request.

5.3 PLANNED UNIT DEVELOPMENT STANDARDS

5.3.1 Intent

The intent of the Planned Unit Development is to allow design and use flexibility on a given site while at the same time protecting present and future residents and public facilities from the adverse effects of unplanned or unregulated development. This approach allows the applicant to utilize innovative designs and methods to control the effects of development rather than having rigid numerical zoning standards dictate design parameters. The burden of proving a Planned Unit Development is within the parameters and intent of this Ordinance is completely upon the applicant. The Village Planning Commission is to be the judge of whether or not the design contains sufficient safeguards as to make the effects of the development compatible with the intent of this Ordinance. It is the expressed intent of

this section to allow such items as setbacks, yards, parking spaces, type of dwelling unit and use to be regulated on an overall impact or gross development basis rather than individually for each lot, use, or structure.

5.3.2 Criteria

A PUD shall be judged against the criteria outlined below. The discretionary judgmental process shall follow, first the procedures specified in this Article and second other conditions specified in this Ordinance, such as under the General Provisions and Supplemental Site Development Standards.

- A. Size: A PUD shall be of sufficient size to contain on the site both physically and aesthetically not only the development proposed but also any effects of such development that would ordinarily be apparent and different from the effects of permitted uses on the adjacent properties.
- B. Internal Design Standards: A PUD shall be designed so as to provide future users, residents, visitors, and public service personnel with light, air, privacy, circulation patterns, park areas, and public services equal to or greater than those required of the same uses in any zoning district where they are permitted.
- C. External Effects: A PUD shall be designed so as not to create any significant negative impact upon adjacent properties, residents, or public facilities.

5.3.3 Approval Procedures

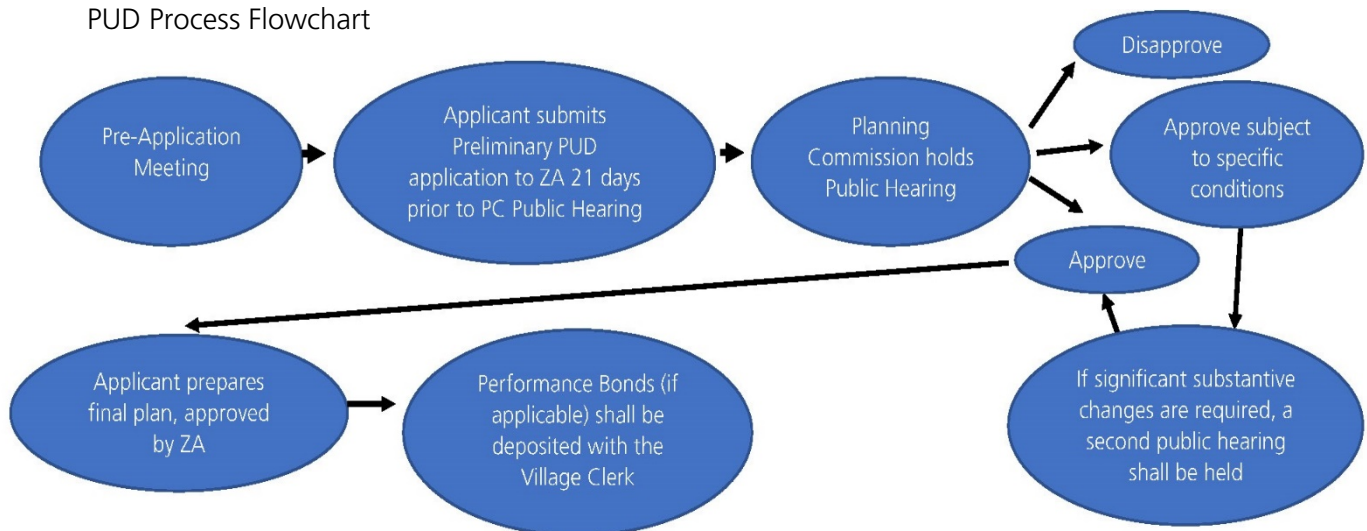
- A. Pre-Application Meeting: The procedure of application and approval of a PUD permit shall include one (1) or more informal conferences between the applicant and Zoning Administrator. The applicant shall inform the Zoning Administrator of the applicant's general intentions at this time. The Zoning Administrator may request or recommend the applicant request representatives from Village, Township or County agencies (department of public works, fire department, county sheriff and other agencies) to attend such informal conferences. After consideration of comments from the pre-application meetings, the applicant shall prepare a preliminary plan.
- B. Requirements of Preliminary Plan: Following the Pre-application Conference, the applicant may file a PUD application with the Zoning Administrator in order to receive a formal Planning Commission review of a Preliminary Planned Unit Development Plan for the subject property. The applicant shall submit one (1) full size print set on 24" x 36" paper and an electronic pdf version of the Preliminary Planned Unit Development Plan with the PUD application, at least twenty-one (21) days prior to the date of the Planning Commission meeting at which a Public Hearing on the Plan is to be scheduled.

The Preliminary Planned Unit Development Plan shall provide all the information specified under Section 5.1.2.

- C. Planned Unit Development Review Procedure:

1. Public Hearing: Upon request Village Planning Commission shall schedule, notice and conduct a public hearing on the Planned Unit Development Preliminary Plan.
2. Approval / Action: Following the public hearing, the Village Planning Commission shall approve, disapprove or approve subject to specified conditions / revisions to the proposed PUD. If the required conditions or revisions are, in the opinion of the Planning Commission, substantive in nature, a second public hearing shall be held. Approvals shall be valid for twelve (12) months. If a final plan is not submitted within twelve (12) months the preliminary approval shall become null and void.
3. Final Approval: A final plan shall be prepared incorporating any changes specified as part of the preliminary approval. The Zoning Administrator shall review the final plan for compliance with the provisions of the preliminary approval. If found to be in compliance, the Zoning Administrator shall issue a final approval and shall notify appropriate agencies that construction permits may be issued. Final approval shall be valid for twelve (12) months. If construction permits are not obtained within this time, the approval shall become null and void.
4. Performance Bonds: To ensure compliance with the approved final plan, the Village may require a deposit, (cash, certified check, irrevocable bank letter of credit, or security bond), to cover the estimated cost of improvements. The performance guarantee shall be deposited, with the Village Clerk, at the time of the issuance of the permit authorizing the activities or project. The Village may not require the deposit of performance guarantee before the Village is prepared to issue the permit. The Village shall rebate or release any cash deposits in reasonable proportion to the ratio of work completed on the required improvements as work progresses.

PUD Process Flowchart



5.3.4 Fees

Fees for PUD Project Master Plan review shall be established or revised by resolution of the Village Council.

5.4 SUPPLEMENTAL SITE DEVELOPMENT STANDARDS

Those permitted uses and uses allowed by Special Approval enumerated in any zoning district, if included below, shall be subject to the following conditions and requirements:

5.4.1 Campgrounds

- A. A minimum lot size shall be five (5) acres. The lot shall provide direct vehicular access to a public street or road. The term "lot" shall mean the entire campground or travel trailer park.

5.4.2 Car Wash Facilities

- A. Vacuuming activities may be carried out in the rear yard and at least fifty (50) feet distance from any adjoining residential use. In lieu of providing this requirement, a five (5) foot masonry wall may be erected in a manner that will shield residential uses from undue noise pollution due to said vacuuming activities.
- B. The entrances and exits of the facility shall be from within the lot and not directly to or from adjoining street or alley. A street or alley shall not be used as maneuvering or parking spaces for vehicles to be serviced by the subject facility.

5.4.3 Drive-Thru-Services

- A. The main and accessory buildings shall be set back a minimum of forty (40) feet from any adjacent right-of-way line or residential property line.
- B. There shall be provided, on the sides abutting or adjacent to a residential district or use, a six (6) feet completely obscuring wall, fence or landscape screen, measured from the surface of the ground on the abutting residential district or use.

5.4.4 Gas and Oil Processing Facilities

- A. The facility shall comply with all federal, state and local building, environmental and health codes and regulations.
- B. The applicant shall provide copies of the application for permit to drill, permit to drill, survey record of well location, and plat, as provided to the Supervisor of Wells, Department of Natural Resources, as part of the permit process for the location and erection of oil and gas processing facilities.
- C. The Planning Commission may impose reasonable conditions in order to secure compliance with the applicable zoning standards.

- D. The facility may incorporate surface land owned or leased by the oil and/or gas company. If leased, the lease documents shall be submitted to the Planning Commission, and the Village Council shall be informed of the length of the lease.
- E. Because the subject facilities are industrial in nature, the required site plan shall also show adequate visual and sound privacy from adjacent property and public roads. Forested greenbelt, berms, attractive fence screen, landscaping, mufflers, insulation, or other contrivances may be used to ensure compliance with visual and sound privacy of the adjacent properties.
- F. In the event the facility is no longer required or is not used for two (2) years, the existing facility shall be removed and the area restored to its original state. Further, the area shall be checked by an agency concerned with environmental protection to insure it is clear of pollutants.
- G. The sound level of the facility shall not exceed sixty (60) decibels as measured four hundred and fifty (450) feet in any direction from the facility.
- H. The facility shall be built no closer than four hundred and fifty (450) feet from an existing dwelling.
- I. The facility shall be built no closer than one hundred (100) feet from any public road.

5.4.5 Gasoline / Service Station

- C. Minimum lot size shall be fifteen thousand (15,000) square feet for a Service station or repair garage and twelve thousand (12,000) square feet for a filling station.
- D. Minimum lot width shall be one hundred twenty (120) feet for a service station or repair garage and one hundred (100) feet for a filling station.
- E. An automobile service station building, repair garage or main building for a filling station shall be located not less than forty (40) feet from the street right-of-way or less than twenty-five (25) feet from the side or rear lot line of any adjoining residential property or less than ten (10) feet from the side or rear lot line of adjoining commercial or industrial property.
- F. No ingress or egress to an automobile service station, public garage or filling station, shall be closer than twenty-five (25) feet from any intersection or residential property line abutting the property on which such facility is located.
- G. The entire lot, excluding those areas occupied by a building or landscaped areas, shall be hard-surfaced with concrete or a plant mixed bituminous material.
- H. All lubrication equipment, hydraulic hoists and pits shall be completely enclosed within a building. All gasoline pumps shall be located not less than twenty-five (25) feet from any lot line and shall be arranged so that motor vehicles may be provided

easy egress and ingress to and from the adjoining street, and so that no portion of the vehicle while it is stopped for service, shall overhang onto a sidewalk, curb, street or public right-of-way.

- I. When adjoining residential property, a masonry wall shall be constructed parallel to the property line of such residential property as required in [Section 2.12](#). All masonry walls shall be protected by a fixed curb or other barrier to prevent vehicular contact.
- J. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a masonry wall of at least five (5) foot high ([Section 2.12](#)). Outside storage or parking of disabled, wrecked or partially dismantled vehicles shall be allowed for a period not to exceed fifteen (15) days.
- K. The sale or rental of used or new vehicles, including trailers or recreational vehicles on the premises, is prohibited.
- L. The property on which the automobile service station, repair garage or filling station is located shall be no closer than five hundred (500) feet from a vehicular entrance or exit to a hospital, library, museum, public or private school, playground, church or park.
- M. All exterior lighting, including signs, shall be hooded or shielded so that glare shall be shielded from the view of adjacent properties.
- N. On a corner lot, both street frontage sides shall conform to all applicable front yard regulations of this ordinance.

5.4.6 Kennels or Veterinary Hospital

- A. All kennels or veterinary hospitals shall be operated in conformance with County and State regulations.
- B. For kennels and Veterinary Hospitals with boarding facilities, animals shall be confined in a fenced area to preclude their approaching nearer than one hundred (100) feet to any dwelling on adjacent premises or nearer than fifty (50) feet from the property line, whichever is greater.
- C. The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.
- D. All principal use activities shall be included within an enclosed main building.

5.4.7 Mobile or Manufactured Home Parks Development

Manufactured Home Parks may be permitted in the Mixed Residential District, R-4, after a hearing by the Planning Commission, provided the following conditions are satisfied:

- A. Manufactured home parks for the location of two (2) or more manufactured homes shall be developed pursuant to the requirements of The Mobile Home Commission Act, Public Act 96 of the State of Michigan, 1987.
- B. Manufactured Home Parks shall be located on sites with a minimum size of twenty (20) acres.
- C. No land shall hereafter be utilized for the erection, construction, operation and/or maintenance of a residential manufactured home, mobile home or trailer coach park as defined by the laws of the State of Michigan, except upon application for a permit from the Village signed by the owner and legal title holder of the property sought to be used for such purposes.
- D. The occupancy load of any manufactured housing unit shall be limited to provide no less than three hundred (300) cubic feet of air space per occupant exclusive of the cubic air space of toilet rooms or closets.
- E. The land parcel being proposed for the manufactured housing park shall be of such land areas as to provide for a minimum of at least twenty (20) manufactured housing sites and shall not exceed a maximum of one hundred (100) manufactured housing sites.
- F. Manufactured housing sites shall contain a minimum area of at least four thousand (4,000) square feet. All such manufactured housing site areas shall be computed exclusive of service drives, facilities and recreation space.
- G. All manufactured housing parks shall have access to major or secondary thoroughfares within the Village by directly abutting thereon. Frontage on said thoroughfares shall be equal to at least two hundred (200) feet in width.
- H. An obscuring wall, fence or landscape screen six (6) feet in height shall be provided on all sides of the manufactured housing park, with the exception of that portion providing ingress and egress to the site.
- I. Fences when provided around manufactured housing lots shall be uniform in height and shall not exceed thirty (30) inches in height and shall be constructed in such a manner as to provide firefighter access to all sides of each manufactured housing site.
- J. Recreation space and landscaping as follows:
 - 1. There shall be provided an area of not less than one hundred (100) square feet for recreation, for each manufactured housing site in the park, with a minimum area of not less than five thousand (5,000) square feet, which shall be not longer than two (2) times its width. Such area shall be developed and maintained by the management so as to provide healthful recreation for children housed in the manufactured housing park.

2. The front yard and the side yard adjacent to a street shall be landscaped and the entire manufactured housing park shall be maintained in clean, presentable condition at all times.

5.4.8 Outdoor Sales Facilities

- A. Lighting should be installed in such a manner which will not create a traffic hazard on abutting streets or which will cause a glare or direct illumination to be cast onto adjacent properties.
- B. Parking area shall be provided on-site so as to prevent on-street parking.

5.4.9 Sexually Oriented Business

- A. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within five hundred (500) feet of any principal or accessory structure of another sexually oriented business.
- B. No sexually oriented business shall be established on a parcel which is within five hundred (500) feet of any parcel zoned R-1, R-2, R-3, or R-4.
- C. No sexually oriented business shall be established on a parcel within five hundred (500) feet of any residence, park, school, child care organization, or place of worship, or other sexually oriented business shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the residence, school, child care organization, place of worship, or other sexually oriented business.
- D. The proposed use shall conform to all specific density and setback regulations, etc. of the zoning district in which it is located.
- E. The proposed use must meet all applicable written and duly promulgated standards of the Village of Ellsworth and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
- F. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not be visible from neighboring properties or adjacent roadways.
- G. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
- H. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that: 1)

"Persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."

- I. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
- J. Hours of operation shall be limited to 8:00 AM to 12:00 AM.
- K. All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes.
- L. Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
 - 1. Is handicap accessible to the extend required by the Americans With Disabilities Act;
 - 2. Is unobstructed by any door, lock or other entrance and exit control device;
 - 3. Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - 4. Is illuminated by a light bulb of wattage of no less than 25 watts;
 - 5. Has no holes or openings in any side or rear wall
- M. Review Procedure for Sexually Oriented Businesses:

The Planning Commission shall adhere to the following procedures when reviewing a special approval application for a sexually oriented business.

- 1. If the Planning Commission determines that a special approval application for a sexually oriented business is not complete when it is first presented to the Planning Commission, it shall provide written notice by first class mail within three (3) business days of said determination detailing the items required to complete the application. Upon payment of a new filing fee, the applicant may resubmit the amended application for review by the Planning Commission for completeness.
- 2. If the Planning Commission determines that the application is complete, it shall within sixty (60) days of said determination make and adopt specific findings with respect to whether the proposed sexually oriented business is in compliance with the standards designated in Sections 5.2.3 and 5.4.9. If the Planning Commission has not made and adopted findings of fact with

respect to a proposed sexually oriented business and either approved or denied the issuance of a special approval for the same within sixty (60) days of its determination that a completed application has been filed, then the special approval shall be deemed to have been approved.

3. Prompt judicial review of adverse determination: If the Planning Commission denies a special approval application for a sexually oriented business pursuant to the above paragraphs, then the applicant shall be entitled to prompt judicial review by submitting a written request to the Zoning Administrator. The Village shall within three (3) business days of the receipt of such written notice do the following:
 - a. File a petition in the Circuit Court for the County of Antrim seeking a judicial determination with respect to the validity of such denial and, in conjunction therewith, apply for a preliminary and permanent injunction restraining the applicant from operating the sexually oriented business in violation of the Village Zoning Ordinance;
 - b. Request that the application for issuance of a preliminary injunction be set for a show-cause hearing within five (5) business days or as soon thereafter as is possible after the filing of such petition. In the event the applicant appears at or before the time of such show-cause hearing, waives the notice otherwise provided by Michigan Court Rules, and requests that at the time set for such hearing the Court proceed to hear the case under applicable rules of civil procedure for the issuance of such permanent injunction on its merits, the Village shall be required to waive its application for preliminary injunction and shall join in such request.

In the event that the applicant does not waive notice and/or does not request any early hearing on the Village's application for permanent injunction, it shall never the less be the duty of the Village to seek the earliest possible hearing date under Michigan Law and the Michigan Court Rules. The filing of written notice of intent to contest the Planning Commission's denial of a special approval shall not in any way affect the validity of such denial, but such denial shall be deemed invalid and the special approval application automatically approved if, within fifteen (15) business days of the filing of the Village's petition, show-cause hearing has not been scheduled.

5.4.10 Soil, Clay, Sand, Gravel or Similar Material - Removal or Filling

- A. From and after the effective date of this Ordinance, it shall be unlawful for any person, firm, corporation, partnership, or any other organization or entity to strip any topsoil, sand, clay and gravel or similar material, or to use lands for filling within the area of the Village without first submitting a site plan and procuring approval from the Planning Commission.

- B. A separate site plan approval will not be required for excavation or fill activities associated with building construction pursuant to a duly issued building permit. However, where sand, gravel, topsoil, or other substances are removed from the site where found and taken to another site, site plan approval is needed for the receiving site.
- C. A separate site plan shall be required for each separate excavation or fill site. In addition to the site plan requirements listed in [Section 5.1.2](#), a site plan prepared under this section shall also include:
 - 1. Name and addresses of parties interested in said premises setting forth their legal interest in said premises.
 - 2. Full legal description of the premises where operations are proposed.
 - 3. Detailed proposal as to method of operation, what type of machinery or equipment will be used, and estimated period of time that such operation will cover.
 - 4. Detailed statement as to exactly what type of material is proposed to be extracted or deposited.
 - 5. Proposed method of filling excavation and/or other means to be used to allow for the reclamation of lands to a usable purpose.
 - 6. Such other information as may be reasonable required by the Planning Commission to base an opinion as to whether the site plan should be approved or not.

5.4.11 Transmission and Communication Towers (Commercial), Public Utility Microwaves and Public Utility T.V. Transmitting Towers

- A. Application: The applicant must demonstrate that no existing tower, alternative tower structure or alternative technology not requiring the use of towers or alternative tower structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other alternative towers or alternative technology. Evidence submitted to demonstrate that no existing tower, alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
 - 1. No existing towers or alternative structures are located within the geographic area which meets the applicant's engineering requirements
 - 2. Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.

3. Existing towers or alternative tower structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or alternative tower structures, or the antenna on the existing towers or alternative tower structures would cause interference with the applicant's proposed antenna.
 5. The fees, costs or contractual provisions required by the owner in order to share an existing tower or alternative tower structure or to adapt an existing tower or alternative tower structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 7. The applicant demonstrates that an alternative technology that does not require the use of towers or alternative tower structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- B. Setbacks: The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the planning Commission may reduce the standard setback requirements if the goals of this ordinance would be better served thereby:
1. Towers must be setback a distance equal to at least seventy-five (75) percent of the height of the tower from any adjoining lot line.
 2. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- C. Security Fencing: Towers and attendant accessory structures shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may waive any such requirements, as it deems appropriate.
- D. Landscaping: The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however that the Planning may waive any such requirements if the goals of this ordinance would be better served thereby.
1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for

residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 3. Existing mature tree growth and natural land forms on the side shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- E. State or Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower and antenna at the owner's expense.
- F. Aesthetics: Towers and antennas shall meet the following requirements:
1. Towers shall either maintain a galvanized steel finish or, subject to an applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 4. Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however this section shall not be construed as limiting the use of temporary generators, or similar devices used to create power during periods of interruption of the primary power source.

- G. Lighting: Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternative and design chosen must cause the least disturbance to the surrounding views.
- H. Compliance with Codes: Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
- I. Interference with Residential Reception: Towers shall be located so that they do not interfere with television and radio reception to neighboring residential areas.
- J. Signs: No signs other than signs required pursuant to federal, state, or local law of ordinance shall be allowed on an antenna or tower.
- K. Spacing-Towers: Towers shall be located no closer than one (1) mile from an existing telecommunication or alternative tower structure, as measured in a straight line between the base of the existing tower and proposed base of the proposed tower.
- L. Spacing-Residences: A tower shall not be located within two hundred (200) feet or three hundred (300) percent of the height of the tower, whichever is greater, of a single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this section shall be measured from the base of the tower structure to the lot line of the single family or multiple family unit, church, school or other structure normally used and actually used for the congregation of persons.
- M. Removal of Abandoned Antennas and Towers: Any antenna or tower that is not operated for a continuous period of nine (9) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety days of receipt of notice from the Village notifying the owner of such abandonment. Along with removal, the owner shall restore the site of the antenna or tower to its original condition prior to location of the antenna or tower and antenna at the owner's expense. If there are two or more users of a single tower, than this provision shall not be effective until all users cease using the tower. The Planning Commission may require the applicant to file a bond equal to the reasonable cost of removing the tower, antenna, alternative tower structure or other supporting structure(s) as a condition of a special use permit given pursuant to this section.

5.4.12 Accessory Dwelling Units (ADU's)

Accessory dwelling units (ADU's) are intended to provide flexible housing options in the Village by allowing homeowners to establish a second dwelling unit on their property. ADU's are subject to the following standards:

- A. ADU's shall be limited permitted districts and properties with single-family dwelling units as the principle use. ADU's shall be subordinate to the single-family dwelling unit.
- B. The owner of the property shall live on site, either in the principle dwelling unit or the accessory dwelling unit.
- C. ADU's shall have their own separate entrance, kitchen, sleeping area, and full bathroom facilities.
- D. ADU's may be either attached or detached from the single-family dwelling unit. Attached ADU's may occupy a basement, first floor or second floor of the principle dwelling. Detached ADU's are subject to all applicable setback and height requirements for the zoning district.
- E. All ADU's shall meet applicable building and fire codes.
- F. Building materials and designs used on detached ADU's or additions to the principle dwelling for an attached ADU, shall be of similar style as that of the principle dwelling.
- G. The minimum size living shall be 300 square feet.
- H. The maximize size shall not exceed 800 square feet, or the size of the principle dwelling unit, whichever is less.
- I. One (1) off-street parking space shall be required for an ADU.

5.5 OFF-STREET PARKING, LOADING AND UNLOADING STANDARDS

Off-street parking space with adequate access to all spaces shall be provided and maintained in all zoning districts at the time of erection or alteration of any main building, that is adequate for parking, loading and unloading of vehicles according to the requirements listed below, and including at least the minimum number of spaces required by the table in [Section 5.5.2](#).

5.5.1 Parking Requirements

- A. Parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.
- B. Residential off-street parking space shall consist of a parking strip, driveway, garage or any combination located on the premises they are intended to serve. In a residential district, a commercial vehicle may be parked or stored provided it does not exceed one (1) ton in capacity and is owned by someone residing on the premises.

- C. Adequate space should be provided in all parking areas to facilitate turning around of vehicles so that the entry on to village streets and county roads may be in a forward manner and not by backing up. Furthermore, in parking areas where internal movement of vehicles is necessary, adequate aisle space shall be provided to insure vehicular and pedestrian safety.
- D. A minimum of one hundred sixty-two (162) square feet shall comprise one (1) vehicular parking space or nine (9) feet by eighteen (18) feet.
- E. Off-street parking lots shall be constructed of asphalt, concrete, or other dustless and durable surface material approved by the Planning Commission.
- F. Adequate area must be provided for snow piling. Handicap parking must be provided as required by State and Federal regulations. Designation of parking area must be clearly identifiable for use by the public.
- G. Off-street parking lots shall be located in the side or rear yard. Side yard parking lots shall not extend closer to the right of way than the principle building.

5.5.2 Minimum Number of Parking Spaces per Unit

The minimum number of parking spaces shall be provided in accordance with the following Schedule of Parking Requirements:

Use	Minimum	Maximum	Measurement
Offices	2.5	3	Per 1,000 GFA
Automobile Sales & Services	3.5	4	Per 1,000 GFA
Consumer/Personal Services	3	3	Per 1,000 GFA
Eating & Drinking Places	1	1	Per 3 seats
Places of Assembly	1	1	Per 3 seats or by Fire Code
Commercial & Retail Services	2	3	Per 1,000 GFA
Multiple-Family Dwellings	1.5	2	Per Unit
Single-Family Dwellings	2	N/A	Per Unit

- A. Computation of gross floor area of buildings shall be exclusive of basements, cellars or attics where these areas are used for storage or utilities; calculated using the outside perimeter of building. In the case of a single story structure, the floor area may be reduced by ten (10) percent to accommodate storage or utilities.
- B. When a parking requirement calculation results in a fractional number, any fraction up to one half (1/2) shall be disregarded; any fraction equal to one half (1/2) or more shall be rounded up to the nearest whole number.
- C. The Village Planning Commission shall determine the required parking space for uses not specified in [Section 5.5.2](#).

- D. Where available, on-street parking along the street frontage of a parcel may be used towards satisfying the minimum parking requirements in [Section 5.5.2](#).
- E. Shared Parking: Shared parking between complimentary uses may be allowed upon approval of the Planning Commission. Complimentary uses are those that have parking needs at different times of the day and week. The effect of shared parking is a reduction in the minimum number of spaces required for each use. The minimum number of spaces required in a shared parking scenario is determined by adding the minimum number of parking spaces required for each use and dividing by 1.4. For example:

Residential Use = 4 spaces minimum
Commercial Use = 10 spaces minimum

$(4 \text{ spaces} + 10 \text{ spaces}) / 1.4 = 10 \text{ shared parking spaces required}$

Shared parking may be established on the same lot or within three hundred (300) feet as outlined in [Section 5.5.1\(A\)](#).

- F. Establishments with off-street parking shall provide bicycle parking at a rate of one (1) loop or stall minimum, plus one (1) loop or stall for every ten (10) vehicle parking spaces on site.

5.5.3 Parking Lot Landscaping and Screening

All off-street parking lots shall meet the following landscaping and screening standards:

- A. Treed Islands: Parking lots with ten (10) or more spaces shall provide treed islands satisfying the following requirements:
1. Single-loaded aisles shall have one (1) treed island containing one (1) canopy tree at both ends of each row. The minimum dimensions for each island shall be nine (9) feet by eighteen (18) feet.
 2. Double-loaded aisles shall have one (1) treed island containing two (2) canopy trees at both ends of each row. The minimum dimensions for each island shall be twelve (12) feet by thirty six (36) feet.
 3. In addition to the above required treed islands, additional treed islands shall be provided at a ratio of one (1) treed island per ten (10) parking spots and shall be evenly distributed throughout the off-street parking area. The treed islands shall contain one (1) canopy tree each and shall have the minimum dimensions of nine (9) feet by eighteen (18) feet.
 4. Treed islands shall be surrounded by a concrete curb at a height of six (6) inches. In addition to the required canopy tree(s), the interior of the islands shall be vegetated with turf and may be used for stormwater management, however, snow storage is prohibited.

- B. **Screening:** Off-Street parking lots shall be effectively screened when adjacent to a residential zoning district, established residential use, and public street right of way.
 - 1. Screening material shall be vegetation, opaque wall, berm, or combination thereof.
 - 2. Minimum height at time of installation shall be three (3) feet.
- C. **Landscaping Materials:** All shrubs and trees used to satisfy the landscaping requirements of this subsection are subject to the following:
 - 1. Only native, non-invasive shrubs and trees provided by the Northwest Michigan Invasive Species Network’s *Recommended Planting Guidelines for Municipalities* shall be used.
 - 2. The minimum size at the time of planting shall be:

Canopy (shade) trees (i.e. Oak, Maple, Ash)		2.5” caliper
Evergreen trees (i.e. Pine, Spruce, Fir)		8’ height
Ornamental trees:	Single trunk (i.e. Crabapple)	2” caliper
	Multi-trunk (i.e. Birch)	7’ height
Large shrubs (i.e. Viburnum)		30” spread
Small shrubs (i.e. Juniper)		18” spread

- 3. All plantings shall be healthy and disease free. Any required planting that dies shall be replaced. The Planning Commission may delay the planting of required landscaping until an appropriate season if the timing of construction is not conducive to planting.

5.5.4 Loading and Unloading Space

Every building or structure engaged in loading and unloading goods shall provide space on the premises in addition to that required for parking, for the loading, unloading and standing of all vehicles to avoid undue interference with public use of the highway. Loading and unloading spaces shall:

- A. Be located in the rear or side yard only; and
- B. Not interfere with required or designated parking spaces and circulation.

5.6 VILLAGE COMMERCIAL DISTRICT (C-1) DESIGN STANDARDS

All developments in the Village Commercial District (C-1) shall adhere to the following design standards:

5.6.1 Build-To Line

- A. Developments with quasi-public space, such as outdoor dining and plazas, located between the front façade and the front property line shall adhere to a build-to line setback back fifteen (15) feet from the front property line.
- B. Developments without a quasi-public space between the front façade and the front property line shall adhere to a build-to line setback five (5) feet from the front property line.

5.6.2 Customer Entrances

All developments shall have the main customer entrance located on the front, street side of the façade. For corner lots, developments may incorporate two (2) customer entrances on each street-facing façade, or one (1) customer entrance located at the corner of the building located at a forty five (45) degree angle to the street intersection.

5.6.3 Minimum Ground Floor Ceiling Height

The minimum allowed vertical distance between the finished floor and the ceiling on the ground floor of a building shall be twelve (12) feet.

5.6.4 Minimum Ground Floor Transparency

A minimum of sixty-five (65) percent of the first-floor front façade between two (2) and eight (8) feet above grade shall be comprised of transparent, non-reflective windows into non-residential space.

5.7 BREEZEWAY COMMERCIAL OVERLAY DISTRICT (BCOD)

All developments in the BCOD shall be subject to the design standards outlined in Section 5.6 (VILLAGE COMMERCIAL DISTRICT DESIGN STANDARDS). The dimensional regulations and uses permitted shall be subject to the underlying zoning district.

ARTICLE 6: ADMINISTRATION AND ENFORCEMENT

6.1 ADMINISTRATIVE OFFICES

The provisions of the ordinance shall be administered and enforced by a Village Zoning Administrator and/or deputy of same, designated and appointed by the Village Council. Said Zoning Administrator and/or deputy shall be compensated, subject to conditions and rate of pay as determined by the Village Council. The Zoning Administrator shall, among other duties, issue all permits and notices of violations provided for in this ordinance.

6.2 ZONING PERMITS

- A. A zoning permit shall be required to secure the designated building permit and must be presented at the time of application for said building permit. No structure within the limits of the Village of Ellsworth shall hereafter be erected, moved, enlarged, altered, or razed nor shall any work be started on such structures until a zoning permit shall have been obtained from the Zoning Administrator. No permit shall be issued to erect a building or structure or make any changes of use unless they are in conformity with the provisions of this Ordinance and amendments duly enacted after the effective date of this Ordinance. Unless construction is started within one (1) year from the date of issuance, the zoning permit shall be void.
- B. The demolition of any structure with a ground floor area of four hundred (400) square feet or more shall require a zoning permit to be issued by the Village Zoning Administrator.
- C. The erection of any structure larger than one hundred (100) square feet in floor area shall require a zoning permit to be issued by the Village Zoning Administrator.
- D. The establishment and operation of a home occupation shall not require a zoning permit, but shall be subject to the standards in [Section 2.10](#).

6.3 APPLICATION REQUIREMENTS

There shall be submitted with all applications for zoning permits two (2) copies of a site layout or plot plan drawn to scale showing:

- A. The location, shape, area and dimensions of the lot;
- B. The location, dimensions, height, and bulk of the existing and/or proposed structures, to be erected, or moved on the lot;
- C. The intended uses;
- D. The proposed number of dwelling units or the primary uses of the proposed facilities;
- E. The yard, open space, and parking space dimensions; and

- F. Any other information deemed necessary by the zoning administrator to determine and provide for the enforcement of this Ordinance.

6.4 FEES

Fees for the inspection and issuance of zoning permits required under this Ordinance shall be collected by the Zoning Administrator in advance of issuance. Fee schedules will be determined by the Village Council and will cover the costs of administration of the Ordinance.

6.5 ENFORCEMENT

6.5.1 Nuisance per se

Any land, dwellings, buildings or structures, including tents and trailer coaches, used erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

6.5.2 Inspection

The Zoning Administrator shall have the duty to inspect each alleged violation and shall have the right to inspect any property for which a zoning permit has been issued to ensure compliance with the plans and conditions of the zoning permit or approved site plan.

6.5.3 Penalties

- A. Any person, partnership, limited liability company, corporation, or association who creates or maintains a nuisance per se or who violates or fails to comply with any provision of this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with provisions of this Ordinance.
- B. The Village Zoning Administrator is hereby designated as the authorized Village official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
- C. In addition to enforcing this Ordinance as a municipal civil infraction, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

6.6 CONFLICTING REGULATIONS

In the interpretation of this Ordinance, this Ordinance shall rule unless there exists a conflict with a regulation, deed restriction or private covenant which is more stringent, in which case the more stringent regulations will rule.

ARTICLE 7: ZONING BOARD OF APPEALS

7.1 CREATION AND MEMBERSHIP

The Ellsworth Village Council has elected to serve as the Village Zoning Board of Appeals (ZBA) in accordance with the Michigan Zoning Enabling Act, Act 100 of its duties and exercise its powers as provided by the Act, as amended, and in such a way that the spirit of this Ordinance is observed, public safety is secured and substantial justice is done.

The Village Council may appoint up to two (2) alternate members for three (3) year terms. An alternate member may be call on a rotating basis, to sit as a regular member of the ZBA in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular voting member of the board of appeals.

7.2 ORGANIZATION AND PROCEDURES

7.2.1 Rules or Procedures

The Village Council shall adopt its own rules or procedures as may be necessary to conduct its meeting and carry out its function as a board of appeals. The Board shall choose its own chairperson, and in his/her absence, an acting chairperson.

7.2.2 Meetings

Meetings shall be held at the call of the chairperson and at such times as the Board of Appeals may determine. All meetings by the Board shall be open to the public. The Board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance.

7.2.3 Minutes

Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered, together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the Village Clerk and shall be made available to the general public. The Village Clerk shall act as Secretary to the Board of Appeals, and all records of the Board's action shall be taken and recorded under the Clerk's direction.

7.2.4 Hearings

The Board of Appeals shall fix a reasonable time for handling of the appeal and give due notice.

- A. A notice of the time and place of such hearing shall be published in a paper or general circulation in the Village. Such notice shall contain the address, if available, and location of the property for which the variation or other ruling by the Board of Appeals is sought, as well as a brief description of the nature of the appeal.
- B. Additionally, a notice stating the time, place and object of the hearing to be served personally or by mail addressed to the parties, making the request for appeal and to all owners of property and occupants of all structures within three hundred (300) feet of the property in question, not less than fifteen (15) days prior to the date of the scheduled hearing. Such notices shall be served personally or sent to the respective owners and tenants at the address given on the last assessment roll. The Zoning Board of Appeals may recess such hearings from time to time and reconvene as per provisions of the Open Meeting Act.

7.2.5 Decisions

The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed and shall make such order, requirement, decision or determination as in its opinion ought to be made and shall have all powers of the officer from whom the appeal is taken. The Board of Appeals shall return a decision on a case within a reasonable time.

7.2.6 Majority Vote

A majority concurring of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which they are required to pass, or to effect any variation in this Ordinance. A vote of 2/3 of the members shall be necessary to grant a variance for a use not otherwise permitted by the ordinance in a particular district.

7.3 APPEALS

7.3.1 Filing of Appeals

Appeals to the Board of Appeals may be made by any person aggrieved, or by any officer, department, or board of the Village. An appeal concerning the administration of the provisions of this Ordinance may be made to the Board of Appeals within a time prescribed by the Board of Appeals by general rule. Such appeal shall be filed with the secretary of the Board of Appeals or with the Zoning Administrator, and shall specify the reasons for the appeal. The Zoning Administrator shall immediately transmit to the Secretary of the Board all papers constituting the record upon which the action appealed from was taken.

7.3.2 Stay

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals, after notice, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Appeals or, on application, by court of record.

7.3.3 Fees

A fee as established by the Village Council shall be paid to the Secretary of the Board of Appeals at the time of filing application with the Board. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, and other expenses incurred by the Board in connection with the appeal.

7.4 DUTIES AND POWERS

The Village Board of Appeals shall not have the power to alter or change the Zoning District classification of any property, nor to make any change in the terms or intent of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation or variance. The Board of Appeals also has the authority to interpret district boundaries on the Zoning Map.

7.4.1 Review

The Board shall hear and decide appeals where it is alleged by the person objecting that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provisions of this Ordinance.

7.4.2 Interpretation

The Board shall have the power to:

- A. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of the Ordinance.
- B. Determine the precise location of the boundary lines between the 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 purposes and intent of each district.
- D. Establish site specific off-street parking and loading space requirements when it is determined that an amount above the minimum as established in this Ordinance will be necessary.

7.4.3 Variances

The Board shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, PROVIDED ALL of the BASIC conditions listed herein and any ONE (1) of the SPECIAL conditions listed thereafter can be satisfied.

- A. Basic Conditions: Any variance granted from this Ordinance:

1. Will not be contrary to the public interest or to the intent and purpose of this ordinance.
 2. Will not cause a substantial adverse effect upon property values in the immediate vicinity, in the district in which the property of the applicant is located or in similar districts throughout the village.
 3. Is not one where the specific conditions relating the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.
 4. Will relate only to property that is under control of the applicant.
- B. Special Conditions: When ALL of the foregoing basic conditions can be satisfied, a variance may be granted when any ONE (1) of the following special conditions can be clearly demonstrated:
1. Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of the particular parcel of land.
 2. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same Zoning District. Such circumstances or conditions shall not have resulted from any act of the applicant after the adoption of this ordinance.
 3. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same Zoning District.
- C. Rules: The following rules shall be applied in the granting of variances:
1. The Board may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this ordinance. The breach of any such condition shall automatically invalidate the permit granted.
 2. Each Variance granted under the provisions of this ordinance shall become null and void unless: The construction authorized by such variance or permit has been commenced within six (6) months after the granting of the variance. The occupancy of land, premises, or buildings authorized by the variance has taken place within two (2) years, after the granting of the variance.
 3. No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the

last denial, except on grounds, or newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

ARTICLE 8: AMENDMENTS, SEVERANCE AND ENACTMENT

8.1 INTERPRETATION

The interpretation and application of the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, conform, convenience and general welfare. It is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provisions of law or ordinance, or with any rules, regulation, or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premise, providing, however, that where this Ordinance imposes a greater restriction than is required by existing ordinances or rules, regulations or permits, the provisions of this Ordinance shall take precedence. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of the public's health, safety and welfare.

8.2 SEVERABILITY

This Ordinance and the various parts, sections, subsections, phrases and clauses thereof are hereby declared to be severable. In any part, article, section, sentence, phrase or clause adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

8.3 AMENDMENT TO THIS ORDINANCE

The Village Council is authorized and empowered to cause this Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in the Michigan Enabling Act, Act 110 of 2006, as amended.

A. Planning Commission Responsibilities:

1. Public hearing notice shall be published in an official paper or paper of general circulation, at least 15 days prior to the Planning Commission held public hearing. The notice shall specify the subject of the public hearing, as well as the time and place of the hearing.
2. Not less than 15 days notice of the time and place of the public hearing shall be given by mail to each public utility and railroad company owning or operating any public utility or railroad within districts or zones affected, provided the public utility or railroad company has registered its name and mailing address with the Village Clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.
3. If an individual property or several adjacent properties are proposed for rezoning, notice of the rezoning shall be given to the owners of the property in question at least 15 days before the hearing.

4. Planning Commission shall hold at least one public hearing. A hearing (opportunity to comment) shall be granted to any person interested at the time and place specified on the notice.
 5. The Planning Commission shall make a tentative report, hold at least one public hearing before submitting a final report to the Village Council (legislative body). A summary of comments submitted at the public hearing shall be transmitted with the report of the Planning Commission to Village Council (the legislative body).
- B. Village Council Responsibilities:
1. The legislative body may hold additional public hearings, if it considers it necessary, or as may be required by charter.
 2. The Village Council may adopt the ordinance and maps, with or without amendments, after receipt of the Planning Commission's report, or refer the ordinance and maps again to the commission for a further report. [The Village Council shall not determine boundaries of districts nor impose regulations until after the final report of the Planning Commission has been submitted and a public hearing has been held.]
 3. If a proposed zoning amendment is the object of a protest petition (as described in the Michigan Zoning Enabling Act, Act 110 of 2006, as amended), the adoption of the amendment shall require a 2/3 vote of the legislative body, unless a larger vote is required by the Village Charter.
 4. Following adoption of zoning ordinance amendments by the Village Council, one (1) notice of adoption shall be published in a newspaper of general circulation in the village within 15 days after adoption.
- C. The notice shall include the following information:
1. A summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
 2. The effective date of the ordinance.
 3. The place and time where a copy of the ordinance may be purchased or inspected. The filing and publishing requirements in this section relating to the village zoning ordinance supersede charter provisions relating to the filing and publication of village ordinances.

8.4 RIGHTS AND REMEDIES

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

8.5 GENERAL RESPONSIBILITIES

The Village Council or its duly authorized representative is hereby charged with the duty of enforcing this Ordinance and said Council is hereby empowered to begin and pursue any and all necessary and appropriate actions and/or proceedings in the Circuit Court or any other court having jurisdiction to restrain and/or prevent any noncompliance with, or violation of, any of the provisions of this Ordinance, and to correct, remedy and/or abate such non-compliance or violation. It is further provided that any person aggrieved or adversely affected by such a non-compliance or violation may institute suit and/or join the Village Council in such a suit to abate the same.

8.6 ENACTMENT AND EFFECTIVE DATE

- A. This Ordinance was enacted on August 10, 2020 by the Village of Ellsworth Village Council and will be effective on the eighth (8) day after publication. Such effective date shall be September 3, 2020. The foregoing Zoning Ordinance and Zoning Map were presented at a public hearing before the Village of Ellsworth Planning Commission on July 16, 2020.

- B. Amendments or revisions to this Ordinance or Zoning Map shall become effective on the eighth (8) day after publication of a notice of adoption of said amendments or revisions within fifteen (15) days of adoption in accordance with Section 401 of the Michigan Zoning Enabling Act (PA 110 of 2006), as amended.

I hereby certify that the above referenced Ordinance was enacted by the Village of Ellsworth Village Council at a regular meeting held on August 10, 2020.

Village Clerk

Enactment Date: August 10, 2020

Publication Date: August 27, 2020

Effective Date: September 3, 2020

ARTICLE 9: DEFINITIONS

Accessory Building or Structure: A supplemental building or structure on the same lot as the main building occupied by or devoted exclusively to an accessory use, but not for dwelling, lodging, or sleeping purposes. Where an accessory building is attached to a main building in a substantial manner, such as a wall or roof, the accessory building shall be considered a part of the main building.

Accessory Dwelling Unit: A separate dwelling unit with a separate entrance, kitchen, sleeping area and full bathroom facilities, which is an attached or detached extension to an existing single-family dwelling unit.

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

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

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

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

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

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

- a. persons who appear in a state of nudity;
- b. live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;

- c. films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
- d. persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Daycare Facility: A facility, other than a private residence, receiving at least three (3) but not more than twelve (12) adults to be provided with care for periods of less than 24 hours a day.

Adult Daycare Home: A private residence receiving fewer than six (6) adults or more adults to be provided with care for periods of less than 24 hours a day.

Adult Foster Care Family Home: A private residence with the approved capacity to receive at least three (3) but not more than six (6) adults to be provided with foster care. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

Adult Foster Care Large Group Home: An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.

Adult Foster Care Small Group Home: An adult foster care facility with the approved capacity to receive at least three (3) but not more than twelve (12) adults to be provided with foster care.

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

- a. offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;
- b. offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
- c. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

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

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

Agriculture: The use of land or tilling of the soil, raising of trees or field crops or animal husbandry, as a source of significant income.

Alterations: Any change, addition or modification in construction or type of use of occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed".

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

Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio signals or other communication signals.

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

Automobile Sales Area: Any space used for display, sale or rental of motor vehicles, in new or used and operable condition.

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

Basement: That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

Bed and Breakfast Facility: See definition for Tourist home.

Billboard: A piece of construction upon which a sign or advertisement is displayed for the purpose of informing the general public, but not including bulletin boards used to display official court or public office notices.

Board of Appeals: As used in this Ordinance, this term means the Village of Ellsworth Zoning Board of Appeals.

Boarding, Lodging, or Rooming House: A building other than a hotel where for more than twenty (20) days a year lodging, meals, or both are offered to more than three (3), but less than twenty-one (21) persons at a time for compensation.

Boat and/or Canoe Livery and Boat Yard: Boat and/or canoe livery and/or boat yard shall mean a place where boats and/or canoes are stored, rented, sold, repaired, decked and serviced.

Buffer Strip: A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.

Building: Any structure having a roof supported by columns, or walls for the shelter or enclosure of persons, animals, or property of any kind.

Buildable Area: The buildable area of a lot is the space remaining after the minimum setback and open space requirements of this Ordinance have been complied with.

Buildable Width: The width of a lot left for building after required side yards are provided.

Building Height: The building height is the vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck of a mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping the ground-level is measured at the average wall line.

Building Width: The building width is the shorter of the plan view dimensions for the structure.

Build-To Line: An alignment established a certain distance from the front property line to a line along which the building shall be built. Front porches and handicap ramps shall be exempt from build-to line requirements, and must occur behind the front property line.

Campgrounds: Any parcel or tract of land, under the control of any person wherein sites are offered for the use of the public or members of an organization, either free of charge or for a fee for the establishment of temporary living quarters for five (5) or more recreational units.

Child Care Center: A facility, other than a private residence, receiving one (1) or more children under thirteen (13) years of age for care for periods of less than 24 hours a day, where the parents or guardians are not immediately available to the child. Child care center includes a facility that 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, before- or after-school program, or drop-in center. Child care center does not include those uses excluded under "Child Care Center" in the Child Care Organization Act (1973 PA 116, MCL 722.111(1)(h)).

Child Care Organization: Any governmental or nongovernmental organization having as its principle function the received of minor children for care, maintenance, training, and supervision, notwithstanding whether educational instruction may be given, and organizations commonly described as child caring institutions, child placing agencies, children's camps, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, group homes or day care homes.

Church: See definition for Place of Worship.

Clinic: A building or group of buildings where human patients are admitted for examination and treatment by more than one professional, such as a physician, dentist, or the like, except that human patients are not lodged therein overnight.

Club: Buildings and facilities owned or operated by corporation, association, person or persons, for social, educational, or recreational purposes.

Condominium Unit: That portion of a condominium subdivision designed and intended for occupancy and use by the unit owner consistent with the provisions of the master deed. A condominium unit is not a lot or parcel as those terms are used in this Ordinance.

Drive-Thru Restaurant: Any restaurant with an auto service window.

Dwelling Unit: A building or portion of a building, either site-built or pre-manufactured which has sleeping, living, cooking and sanitary facilities and can accommodate one family, either permanently or transiently. In the case of buildings which are occupied in part, the portion occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for dwellings. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling unit.

Dwelling, Single-Family: A detached building containing not more than one dwelling unit designed for residential use and conforming in all other respects to the standards set forth in Dwelling Unit.

Dwelling, Two-Family: A building containing not more than two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in Dwelling Unit.

Dwelling, Multiple-Family: A building containing three or more dwelling units designed for residential use and conforming in all other respects to the standards set forth in Dwelling Unit.

Enclosed, locked facility: That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423.

Erected: Includes built, constructed, reconstructed, extension, enlargement, moved upon, or any physical operation on the premises intended or required for a building or structure. Excavation, fill, drainage, and general land improvements which are not required for a building or structure, shall not be considered to fall within this definition.

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

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

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

Excavating: Excavating shall be the moving or removal of sand, stone, gravel, or dirt.

Family: An individual or two or more persons living together as a single housekeeping unit.

Family Child Care Home: A state licensed facility in a dwelling unit in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than 24 hours a day, unattended by legal guardian, except children related to an adult member of the family by

blood, marriage or adoption. Family Child Care Home also includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

Farm: All of the contiguous neighboring or associated land operated as a single unit on which bona fide agriculture is carried on directly by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees.

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

Foster Family Home: A private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in a household under the Michigan adoption code, chapter X, of the probate code of 1939 (1939 PA 288, MCL 710.21 to 710.70) are provided care for 24 hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian.

Foster Family Group Home: A private home in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in a household under the Michigan adoption code, chapter X, of the probate code of 1939 (1939 PA 288, MCL 710.21 to 710.70) are provided care for 24 hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian.

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

Garage-Public: A building, or part thereof, designed or used for equipping, servicing, repairing, hiring, storing, or parking motor vehicles. The term repairing *does not include* the rebuilding, dismantling or storage of wrecked or junked vehicles.

Gas and Oil Processing Facilities: Any facility and/or structure used for, or in connection with, the production, processing or transmitting of natural gas, oil, or allied products or substances, and the injection of same into the ground for storage or disposal, not under the exclusive jurisdiction or control of the Supervisor of Wells, Department of Natural Resources or Public Service Commission; not including industrial facilities such as cracking plants, large oil storage facilities and heavy industrial operations and facilities.

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

Grade: The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

Greenbelt: A strip of land parallel to the bank of a stream or lake maintained in trees and shrubs or in its natural state.

Ground Floor Area: The square footage of floor space measured from exterior to exterior wall, but not including enclosed and unenclosed porches, breezeways, garages, attic, basement and cellar area.

Group Child Care Home: A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the household 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 (4) weeks during a calendar year.

Guest House: Guest house shall mean a building which is on the same lot or building site as the principal dwelling, and is used for the accommodation of guests of the occupants of the principal dwelling.

Home Occupation: An occupation, profession, activity, or use that is clearly an incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

Hospital: An institution providing health services, primarily for inpatients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities, clinics and staff offices.

Hotel: A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five (5) sleeping rooms and in which rooms there is no provision for cooking.

Housekeeping Cabin Park: A parcel of land on which two (2) or more buildings are maintained, offered, or used for dwelling or sleeping quarters for transients, but shall not include boarding or lodging houses, tourist homes, hotels or motels.

Industrial Park: A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

Junkyard: The use of premises or building for storage or abandonment, keeping, collecting, bailing, of inoperable automobiles, trucks, tractors and other such vehicles and parts thereof, scrap building materials, scrap contractor's equipment, tanks, cases, barrels, boxes, piping, bottles, drums, glass, rags, machinery, scrap iron, paper and any other kind of scrap or waste material.

Kennel: Any lot or premises on which four (4) or more dogs or cats of age four (4) months or older are kept temporarily or permanently.

Live / Work Unit: A dwelling unit used for both dwelling purposes and any nonresidential use permitted in the zoning district in which the unit is located, provided not more than two (2) persons who do not reside in the unit are employed on the premises.

Lodging House: see Tourist Home.

Loading Space: An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

Lot: The parcel of land occupied or to be occupied by a use or building and its accessory buildings or structures together with such open spaces, minimum area, and width required by this Ordinance for the district in which located, but not including any area within any abutting right-of-way or traffic lane.

Lot, Corner: A lot located at the intersection of two streets or a lot bounded on two sides by a curving street, any two (2) sides of which form an angle of one hundred thirty-five (135) degrees or less.

Lot Coverage: The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

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

Lot, Double Frontage: A lot other than a corner lot having frontage on two (2) more or less parallel streets. In case of a row of double frontage lots, one street will be designated as the front street for all lots in the plat in the request for zoning compliance permit. If there are existing structures in the same block fronting on one (1) or both of the streets, the required front yard setback shall be observed on those streets where such structures presently front.

Lot, Interior: A lot other than a corner lot with only one (1) lot line fronting on a street.

Lot Lines: The property lines bounding the lot.

- a. **Front Lot Line:** In the case of an interior lot abutting upon one public or private street, the front lot line shall mean the line separating such lot from such street right-of-way. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from the street in the plat and in the request for a zoning compliance permit. (*See Lot, Double Frontage*) In the case of a lot having frontage upon a lake, river, or stream, the water frontage shall be considered the front lot line.
- b. **Rear Lot Line:** The lot line being opposite the front lot line. In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.

- c. **Side Lot Line:** Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot of Record: A parcel of land defined by a legal description and recorded in the office of the Antrim County Register of Deeds on or before the effective date of this Ordinance.

Lot, Waterfront: A lot having frontage directly upon a lake, river, or stream. The portion adjacent to the water is considered the water frontage.

Lot Width: The horizontal distance between the side lot lines, measured at the two (2) points where the building setback line intersects the side lot line.

Lot, Zoning: A contiguous tract of land which at the time of filing for a zoning permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership.

Marijuana or marihuana: That term as defined in Section 7106 of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being MCL 333.7106.

Master Plan or Comprehensive Plan: The statement of policy by the Village Planning Commission relative to the agreed-upon desirable physical pattern of future community development. It consists of a series of maps, charts, and written material representing in summary form the community's conception of how it should grow in order to bring about the very best community living conditions.

Medical Use: That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423.

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

Mobile Home Park: A parcel of land which has been planned and improved for the placement of three (3) or more mobile homes for residential dwelling use.

Mobile Home Site: A plot of ground within a mobile home park designed for the accommodation of one mobile home.

Motel: A series of attached, semi-detached or detached rental units providing overnight lodging for transients, open to the traveling public for compensation.

Non-Conforming Use: A use which lawfully occupied a building or land at the effective date of is Ordinance or Amendments thereto that does not conform to the use regulations of the Zoning District in which it is located.

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

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

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

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

Off Street Parking Lot: A facility which is not located on a public street or right-of-way providing vehicular parking spaces, along with adequate drives and aisles. Adequate maneuvering space shall also be included to allow unrestricted access and egress to at least two (2) vehicles.

Ordinary High Water Line: Is defined as in the Michigan Inland Lakes and Stream Act to mean the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the soil and the vegetation. On an inland lake which has had a level established by law, it means the high established level. On a river or stream, the ordinary high water mark shall be the ten year flood limit line.

Outdoor Sales Facilities: Includes use operated for profit, substantially in the open air, including:

- a. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair or rental services.
- b. Outdoor display and sale of garages, motor homes, mobile home, snowmobiles, farm implements, swimming pools and similar activities.
- c. Retail sale of trees, fruit, vegetables, shrubbery, plants, seeds, top-soil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
- d. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving ranges, children's amusement park or similar recreation uses.

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

Parking Space: An area of definite length and width exclusive of drives, aisles, or entrances, giving access thereto, and fully accessible for the storage or parking of permitted vehicles.

Person: An individual, sole proprietorship, partnership, corporation, limited liability company or association.

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

Planned Unit Development (PUD): A zoning district which allows a development to be planned and built as a unit and which permits upon review and approval, variations in many of the traditional controls related to density, land use, setbacks, open space and other design elements, and the timing and sequencing of the development.

Porch, Enclosed: A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

Porch, Open: A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or integral roof with principal building or structure to which it is attached.

Primary caregiver: That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marijuana Act.

Primary caregiver facility: The dwelling in which a primary caregiver resides, or an accessory building to that dwelling, within which the primary caregiver performs primary caregiver services for qualifying patients.

Principal Use: The main use to which the premises are devoted and the principal purpose for which the premises exists.

Professional Office: The office of a professional person such as a doctor, dentist, engineer, architect, attorney, insurance or real estate agent, and the like.

Public Place: Any real property or an appurtenance to the real property which is owned by this state any municipality of this state, a public agency, or by a college or university in this state and may include a structure, enclosure, facility, or complex, including a court, mall, park, or other area, feature, or element; a public place shall also mean a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institutions of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

Public Sewer Systems: A public sewer system shall be defined as a central or community sanitary sewage and collection system of pipes and structures including pipes, conduits, manholes, pumping stations, sewage and waste water treatment works, diversion and regulatory devices, and outfall structures, collectively or singularly, actually used or intended for use by the general public or a segment thereof, for the purpose of collecting, conveying, transporting, treating or otherwise handling sanitary sewage or industrial liquid waste of such a nature as to be capable of adversely affecting the public health operated and maintained by the general public.

Public Utility: Any person, firm, corporation, municipal department board, or commission fully authorized to furnish and furnishing, under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, water services, or sewage disposal.

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

Recreational Vehicle: A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, fifth wheel trailers, travel trailers, and tent trailers.

Resort: A recreational lodge, camp or facility operated for gain, and which provides overnight lodging and one or more of the following: golf, skiing, dude ranching, recreational farming, snowmobiling, pack trains, bike trails, boating, swimming, hunting and fishing and related or similar uses normally associated with recreational resorts.

Roadside Stand: An accessory and temporary farm structure operated for the purpose of selling local agricultural products, part of which are raised or produced on the same farm premises.

Road Width: The designed width of a mobile home or trailer coach while in transit on a public highway.

Retail and Retail Stores: Any building or structure in which goods, wares, or merchandise are sold to the ultimate consumer for direct consumption and not for resale.

School: A public or private educational institution offering students a conventional academic curriculum, including kindergartens, elementary schools, middle schools, and high schools. Such term shall also include all adjacent properties owned by and used by such schools for educational, research, and recreational purposes.

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

- a. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

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

Specified Anatomical Areas: are defined as:

- a. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus and female breast below a point immediately above the top of the areola; and
- b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified Sexual Activities: means and includes any of the following:

- a. the fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast;
- b. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- c. masturbation, actual or simulated; or
- d. excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

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

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

Sign, Animated: Any sign having a conspicuous and intermittent variation in the illumination of the physical position of any part of the sign.

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

Sign, Identification: An on-premise sign whose copy is limited to the name and address of a building, institution, person and/or the activity or occupation being identified.

Sign, Off Premise: Any sign relating to subject matter not conducted on the premises on which the sign is located.

Sign, On Premise: An advertising sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises.

Sign, Outdoor business or Informational: A freestanding, overhanging or wall mounted sign located outside a structure on which is displayed information pertaining to a product, use, occupancy, function, service or activity located within that structure, on the same property as the sign, or at a location different than the property on which the sign is located.

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

Sign, Portable: A sign that is designed to be transported, including but not limited to signs:

- With wheels removed;
- With chassis or support constructed without wheels;
- Designed to be transported by trailer or wheels;
- Converted A- or T- frame signs;
- Attached temporarily to the ground, a structure, or another sign;
- Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the business for which the vehicle is being used in normal day-to-day operations of that business.

Sign surface: That portion of a sign excluding its base, foundation and erection supports on which information pertaining to a product, use, occupancy, function, service, or activity is displayed.

Sign, Wall: Any sign attached parallel to or painted on the exterior surface of a building or structure wall in such a manner that the sign does not extend beyond the surface of the wall to which it is attached.

Sign, Window: Any sign, picture, symbol, or combination thereof, designed to communicate information about any activity, business, commodity, event, sale, or service that is placed on a window pane or glass so that it is visible from the out-of doors.

Special Approval: Approval by the Village Planning Commission of a use of land in a district that is not antagonistic to other land use in the district when such use is specified in this Ordinance for that district upon such approval.

Stable, Private: A stable used or to be used by an individual for housing horses owned by said individual for the use of himself or his immediate family, and located not less than one hundred fifty (150) feet from any adjoining property.

Stable, Public: A stable used to house horses for hire, and located not less than one hundred fifty (150) feet from any adjoining property.

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

- a. A "mezzanine" floor shall be deemed a full story only when it covers more than fifty (50%) percent of the area of the story underneath said mezzanine, or if the vertical distance from the floor next below it to the next above it is twenty-four (24) feet or more.

- b. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if over fifty (50%) percent of its height is above the level from which the height of the building is measured, or if it is used for business purposes.

Street, Highway, Road: A thoroughfare which affords the principal means of access to abutting property.

Structure: A construction or building, the use of which requires permanent location on the ground or attached to something having permanent location on the ground.

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

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

Theater, Indoor: An indoor theater shall be any building used primarily for the presentation of dramatic spectacles, shows, movies, or other entertainment open to the public, with or without charge.

Theater, Outdoor: An outdoor theater shall be any other place used for the presentation of dramatic spectacles, shows, movies, or other entertainment open to the public, with or without charge, but not including athletic events.

Thoroughfares, Secondary: An arterial street which is intended to serve as a trafficway serving primarily the immediate Village area and serving to connect with major thoroughfares.

Tourist Home: Any family occupied dwelling used or designed in such a manner that certain rooms in excess of those used by the family are rented to the transient public for compensation. For the purpose of this Ordinance, the term tourist home also includes bed and breakfast facility.

Undevelopable Land: Land which has soil types or a high water table condition which present severe limitations on septic tanks and tile fields and on which no septic tank and tile field can be legally constructed and to which no public sewer is extended.

Use: The lawful purpose of which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, or maintained, let, or leased, according to this Ordinance.

Variance: A modification of literal provisions of this Ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of said provision would cause undue hardship owing to circumstances unique to the individual property in which the variance is sought.

Yard: A space open to the sky between a building and the lot lines of the parcel of land on which located, unoccupied or unobstructed by an encroachment or structure except as otherwise provided by this Ordinance.

Yard, Front: A yard across the full width of the lot extending from the front line of the principal building to the front lot line, or highway-right-of-way line as the case may be.

Yard, Rear: A yard extending across the full width of the lot from the rear line of the building to the rear lot line.

Yard, Side: A yard extending between the side lot lines and the side of the principal building, between the front and rear yards.