

ARTICLE 1

TITLE, ENABLING AUTHORITY, PURPOSE, SCOPE & VALIDITY AND SEVERABILITY CLAUSE

SECTION 101 TITLE

This ordinance shall be known and cited as the Village of Athens Zoning Ordinance and Zoning Map.

SECTION 102 STATE ENABLING AUTHORITY

This Ordinance is adopted by the Village of Athens (“Village”) pursuant to the Michigan Zoning Enabling Act No. 110 of the Public Acts of Michigan of 2006 (MCL 125.3101 et seq.), as amended, (“Zoning Act”) and, when so far as it is applicable, the Michigan Planning Enabling Act No. 33 of the Public Acts of Michigan of 2008 (MCL 125.3801 et seq.), as amended (“Planning Act”).

SECTION 103 PURPOSE

- A. The purpose of the Village of Athens Zoning Ordinance and Zoning Map (“Ordinance”) is to regulate the use of land and structures to:
1. Promote and protect the public health, safety, and general welfare;
 2. Meet the needs of the state's citizens for food, fiber, energy, and other natural resources;
 3. Regulate the use of land and structures to provide places of residence, recreation, industry, commerce, service, and other uses of land;
 4. Ensure that use of the land is situated in appropriate locations and relationships;
 5. Limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities; and
 6. Facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements.
- B. Such is based on a plan and policy, including but not limited to, the following:

1. Encouraging the use of lands in accordance with their character and adaptability;
 2. Limiting the improper use of land and conserving natural resources and energy,
 3. Ensuring that uses of the land are situated in appropriate locations and relationships as well as providing adequate light and air, reducing congestion of the public roads and streets and reducing hazards to life and property;
 4. Facilitating adequate provisions for transportation, sewage disposal, safe and adequate water supply, education, and recreation;
 5. To conserve the expenditure of funds for public improvements and services to make the most advantageous use of land, resources, and properties under the jurisdiction of the Village; and
 6. Be made with reasonable consideration to the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.
- C. It is also the purpose of this Ordinance to provide for the establishment of districts and regulations that shall be uniform for each class of land or buildings, dwellings, and structures within a district located within the jurisdiction of the Village.
- D. It is also the purpose of this Ordinance to establish land development regulations designating or limiting the location, height, bulk, number of stories, uses, and size of dwellings, buildings, and structures that may be erected or altered, including tents, recreational vehicles and other forms of temporary dwelling, and to develop procedures for enforcement and penalty to ensure compliance with those provisions.
- E. This Ordinance may also provide for the regulation of land development and the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems.

SECTION 104 SCOPE OF REGULATIONS

- A. This Ordinance and the regulations, provisions and requirements found herein shall be interpreted, construed and implemented in such a manner as to progress its intent and purpose. Nothing within this Ordinance, however, shall be interpreted or construed to prevent compliance with an order by an appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition any part of a structure or premises declared unsafe or unhealthy.

- B. Where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations upon the use of any land, property, lot, building, or structure than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.
- C. This Ordinance is not intended to modify or annul any easement, covenant, or other private agreement.
- D. Nothing in the Ordinance shall be interpreted or held to authorize, grant, award or provide to any individual, person, firm, corporation or entity any vested right, license, permission, privilege or permit.
- E. The Ordinance and the provisions, regulations, requirements, maps and schedules contained herein are based upon implementation of the Village of Athens Master Plan (“Master Plan”), as amended. The Master Plan is and will continue to be the basis for consideration of the Ordinance and subsequent amendment thereof.

SECTION 105 VALIDITY AND SEVERABILITY CLAUSE

- A. This Ordinance and the articles, sections, provisions, regulations, requirements, maps and schedules contained herein are severable. If any part of this Ordinance is declared by a court of competent jurisdiction to be invalid for any reason, such invalidity shall only apply to the adjudicated article, section, regulation, provision, requirement, map or schedule and not affect the remainder of the Ordinance.
- B. If any part of this Ordinance is declared by court of competent jurisdiction to be invalid for any reason for a particular property, portion of land, parcel, lot, district, use, building or structure, such invalidity shall not apply or effect the regulation of any other property, portion of land, parcel, lot, district, use, building or structure located within the jurisdiction of the Village.

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ARTICLE 2

CONSTRUCTION OF LANGUAGE AND DEFINITIONS

SECTION 201 INTENT AND PURPOSE

- A. It is the intent and purpose of this Article to define the manner in which text herein is to be utilized and to define certain terms that are germane to the use of this Ordinance.

SECTION 202 LANGUAGE RULES

- A. The following rules shall apply to the text and language of this Ordinance:
1. In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
 2. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
 3. Words used in the present tense shall include the future and words used in the singular number shall include the plural and vice versa unless the context clearly indicates the contrary.
 4. All buildings are considered structures, but all structures may not be buildings.
 5. The word "building" or "structure" includes any part thereof.
 6. The word "person" means an individual, corporation, partnership, association, or other legal entity.
 7. The word "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."
 8. Any word or term not defined herein shall be used with a meaning of common or standard utilization.

SECTION 203 DEFINITIONS

The following definitions are germane to the use and interpretation of this Ordinance:

ACCESSORY BUILDING/STRUCTURE - A supplementary building or structure on the same lot, parcel or zoning lot as the principal building(s) or a portion of the principal building occupied by or devoted exclusively to any accessory use.

ACCESSORY USE - A use located on the same lot, parcel or zoning lot that is incidental, subordinate and customarily found in connection with the principal use of the land or buildings.

ADJACENT - A lot, parcel or structure which shares a common border or boundary with another lot, parcel or structure. Terms in common to “adjacent” include “abut” and “next to”.

ADULT FOSTER CARE - A residential structure that is licensed to provide room, board and supervised care, but not continuous nursing care, for unrelated adults over the age of 17, in accordance with Public Act 218 of 1979, as amended, and the applicable administrative rules as administered by the State of Michigan Family Independence Agency. (See also “State Licensed Residential Facilities) There exist four (4) types of Adult Foster Care:

- a. Family Home - Residence for six (6) or fewer adults. Licensee must live in the home, and local zoning approval is not required prior to issuance of a license.
- b. Adult Foster Care Small Group Home - Residence for twelve (12) or fewer adults. Licensee is not required to live in the home. Zoning approval is required prior to issuance of a license only if seven (7) or more residents will live in the home.
- c. Adult Foster Care Large Group Home - Residence for thirteen (13) to twenty (20) adults. Licensee is not required to live in the home. Zoning approval is required prior to issuance of license.
- d. Congregate Facility - Residence for more than twenty (20) adults requiring assistance or some level of care less than a full-time nurse. Zoning approval is required prior to issuance of license.

ADULT USES - The uses, either as accessory or principal, listed below are considered adult uses:

- a. Adult Entertainment Business - One or a combination of more than one of the following types of businesses: adult bookstore, adult motion picture theater, adult mini-motion theater, adult personal service business, adult novelty business, adult nightclub.
- b. Adult Book or Supply Store - An establishment having as a principle activity the sale of books, magazines, newspapers, video tapes, video discs and motion picture films which are characterized by their

emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse or sodomy.

- c. Adult Motion Picture Theater - An enclosed building with a capacity of fifty (50) or more persons having as a principal activity displaying motion pictures characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse or sodomy for observation by patrons therein.
- d. Adult Mini-Motion Picture Theater - An enclosed building having as a principal activity the presenting of material characterized by emphasis of portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse or sodomy for observation by patrons therein in individual viewing booths.
- e. Adult Novelty Business - A business, which has a principal activity of the sale of devices of simulated human genitals or devices, designed for sexual stimulation.
- f. Adult Personal Service Business - A business which has as a principle activity a person, while nude or partially nude, providing personal services for a person on an individual basis in a closed room. It includes, but it is not limited to, the following activities and services; massage parlors, exotic rubs, modeling studios, body painting studios, wrestling studios, individual theatrical performances. It does not include activities performed by persons pursuant to, and in accordance with, licenses issued to such persons by the State of Michigan.
- g. Adult Night Club - A business with the principal activity of providing entertainment by nude or partially nude performers.

ADULT SPECIFIED SEXUAL ACTIVITIES AND ANATOMICAL AREAS

- a. Adult "Specified Sexual Activities" are defined as:
 - i. Human genitals in a state of sexual stimulation or arousal;
 - ii. Acts of human masturbation, sexual intercourse or sodomy;
and
 - iii. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- b. "Specified Anatomical Areas" are defined as:

- i. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast (below a point immediately above top of the areola); and
- ii. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

AGRICULTURAL – As defined in this ordinance, “agricultural” includes crop farming, horticultural, viticulture, the production of field crops, grains and seed stock, fruits, berries, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, mushrooms, timber, pasturage, or and combination hereof, but not the raising of livestock as defined by this ordinance. (effective 4-15-12)

AIRPORT - The use of land, including water, runway, or other facility designed, used or intended to be used for the landing or taking off of aircraft, including all necessary taxiways, aircraft storage, tie down areas, hangers and other necessary buildings, structures and open spaces.

ALLEY - Any dedicated public way affording a secondary means of access to abutting property or that permits access to a rear yard, parking lot or other area of a lot and not intended for general traffic circulation.

ALTER/ALTERATION - Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders; or any change which may be referred to herein as altered or reconstructed. Terms in common include “reconstruction” or “remodel”.

AMUSEMENT CENTER - A principal commercial land use open to the public and consisting of coin or token operated amusement devices, also known as an arcade. Such devices shall include, but are not limited to, billiard tables, pool tables, video games, pinball machines, and/or any other machine which may be operated by the public generally for use as a game, entertainment, or amusement. This definition does not include such devices as accessory uses to bars, taverns, or restaurants or vending machines used to dispense foodstuffs, toys or other products for use and consumption, kiddie rides, or jukeboxes.

APARTMENT - A group of rooms that are designed to function as a single, complete dwelling unit that is either situated with three or more of these units in a single structure or as an accessory use to a principal use. See other definitions for “Accessory Use” and “Multiple-Family”.

APPRAISED VALUE - The value of property as estimated by an individual qualified to appraise type or classification of subject property.

ARCHITECTURAL FEATURES - Architectural features of a building shall include but not be limited to cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys, and decorative ornaments.

AS-BUILT DRAWINGS - Final drawings or plans that are the result of modifications during the construction phase of an approved development.

ASPHALT BATCHING FACILITIES - A temporary facility for the production and manufacture of asphalt paving material.

ASSEMBLY BUILDING/STRUCTURE - A large public or semi-public building, room, or structure in which a group of people can gather together for worship, meetings, instruction, banquets, exhibits or entertainment.

AUTOMOBILE - Unless specifically indicated otherwise, “automobile” is defined as any vehicle including cars, trucks, vans, motorcycles and the like. Said definitions do not include recreational or commercial vehicles.

BAR - An establishment containing tables and chairs, and/or a counter at which alcoholic beverages and sometimes food are served to be consumed on the premises. Terms in common include “tavern” and “pub”.

BASEMENT - That portion of a building, which is partly or wholly below finished 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 unless otherwise described herein.

BED & BREAKFAST - A traditional single-family dwelling that is owner occupied in which a maximum of six (6) sleeping rooms are rented, with or without meals, for compensation for the traveling or vacationing public. Stays are transient and temporary in nature.

BEDROOM - A bedroom is a room in a dwelling unit used for or intended to be used in whole or in part for sleeping purposes by a person or persons.

BERM - A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes.

BLOCK - The property abutting one side of a street and lying between the two (2) nearest intersecting streets (crossing or terminating), or between the nearest such street and railroad right-of-way, un-subdivided acreage, lake, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.

BOARD OF APPEALS - As used in this Ordinance, the term Board of Appeals means the Village of Athens Zoning Board of Appeals as authorized by the Michigan Zoning Enabling Act No. 110 of the Public Acts of Michigan of 2006 (MCL 125.3101 et. Seq.), as amended.

BOND - A form of insurance required of an individual or firm to secure the performance of an obligation (as in performance or surety bond).

BROWNFIELD - With certain legal exclusions and additions, the term "brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

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.

BUILDING - Any structure, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for the purpose of housing, sheltering, storing, or enclosing persons, or personal property, or carrying on business activities.

BUILDING CODE - The State of Michigan Construction Code regulating building/structure construction in the Village.

BUILDING FRONTAGE - The portion of a building that principally faces a public or private right-of-way.

BUILDING INSPECTOR - An individual or entity appointed, hired or contracted by the Village Council to administer the State of Michigan Construction Code within the Village. The term shall be used interchangeably with Building Official for purposes of this Ordinance.

BUILDING LINE - The line that coincides with the edge of the building nearest the front, side or rear line of the lot, which includes covered and enclosed porches.

BUILDING PERMITS - A building permit is the written authority issued by the Building Inspector permitting the construction, removal, moving, alteration, of a building, fence, sign or other as required by the Building Code.

BUILDING, PRINCIPAL – See “Principal Building/Structure” herein.

CAMPGROUND - A plot of ground upon which two (2) or more sites, areas or locations are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.

CARPORT - A partially open structure, intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to other accessory structures.

CEMETERY - Property, including crematories and mausoleums, used, or intended to be used solely for the perpetual internment of deceased human beings or customary household pets.

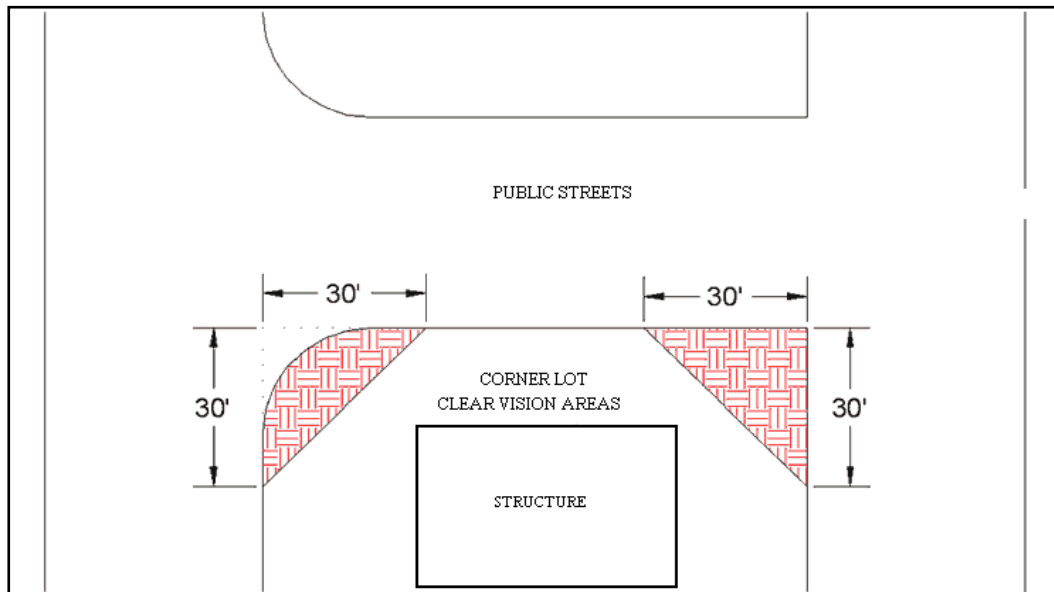
CERTIFICATE OF OCCUPANCY - A document signed by the Building Inspector as a condition precedent to the occupancy of a use or the construction/reconstruction of a structure or building which acknowledges that such use, structure or building complies with the provisions of the State Construction Code.

CHANGE OF USE - A use of a building, structure or parcel of land, or portion thereof which is different from the previous use as it is classified in this Ordinance or in the State Building Code, as amended.

CHARACTER - Where used in this Ordinance to describe consistency between existing and proposed development, character shall mean consistency in materials of construction and architecture.

CHURCHES AND RELIGIOUS INSTITUTIONS - Buildings or structures wherein persons regularly assemble for religious worship and education and which is maintained and controlled by a religious body organized to sustain public worship and education.

CLEAR VISION AREA - The clear vision area (otherwise known as "sight triangle") is a triangular-shaped area on corner lots. On any corner lot in any district having front and side yards, the area between the heights of three (3) feet and ten (10) feet in an area measuring thirty (30) feet from the point of intersection of the street right-of-way lines and the tangent connecting the thirty (30) foot extremities of the intersecting right-of-way lines is a clear vision area. See Illustration below:



CLINIC - An establishment where human patients are examined and treated by physicians, dentists, or members of similar professions, and may incorporate customary laboratories and pharmacies incidental to or necessary to the service of clinic patients. A clinic shall not include overnight stays by patients or users of the facility.

CLUB - An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit and open only to members and not the general public.

COMPLIANCE REVIEW - Compliance review and approval shall be issued by the Zoning Administrator following an inspection that confirms that all requirements of a previously issued and therefore governing zoning permit and this Ordinance have been met.

COMMERCIAL USE - Commercial use means the use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or services.

COMMERCIAL VEHICLE - Any motor vehicle which has a commercial license and/or which has a gross vehicle weight rating (GVWR) of over 10,000 pounds.

COMMISSION - The words "Commission" or "Planning Commission" shall mean the Village of Athens Planning Commission.

COMMON AREA - A parcel or parcels of land with the improvements or open space thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and/or occupants of individual dwelling units in a subdivision, condominium or planned unit development.

COMMON WALL - A wall shared in common between abutting dwelling units, between abutting nonresidential principal structures, or between a principal structure and a garage or similar attached structure.

COMMUNICATION TOWER - All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment building, and commercial mobile radio service facilities. Not included within this definition are citizen band radio facilities, short wave facilities, ham, amateur radio facilities, satellite dishes, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority. For purposes of this Ordinance, the following additional terms are defined:

- a. Attached Wireless Communications Facilities shall mean wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.
- b. Wireless Communication Support Structures shall mean structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.
- c. Collocation shall mean the location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

CONDITIONAL USE - A use that would be inconsistent with or detrimental to other uses permitted in the same zoning district unless carefully considered as to number, area, size, exterior design, location or relation to the adjacent properties and to the neighborhood and may be permitted if proper conditions are applied and safeguards are taken.

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

- a. Condominium Act - State of Michigan Public Act 59 of 1978, as amended.
- b. Condominium Documents - The master deed and bylaws, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws that affect the rights and obligations of a co-owner in the condominium.
- c. Condominium Lot - The condominium unit and the contiguous limited common element surrounding the condominium unit, which shall be the counterpart of "lot" as used in connection with a project developed under the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended.
- d. Condominium Unit - The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.
- e. General Common Elements - The common elements other than the limited common elements intended for the common use of all of the co-owners.
- f. Limited Common Elements - A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.
- g. Master Deed - The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by Section 8 of the Condominium Act.

CONDOMINIUM PROJECT - Means a plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the State of Michigan Public Act 59 of 1978, as amended.

CONDOMINIUM SUBDIVISION - A division of land on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act (Public Act 288 of 1967, as amended). A condominium unit shall be equivalent to the term "platted lot" for the purposes of determining compliance of a condominium subdivision with the provisions of

this ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage.

CONDOMINIUM SUBDIVISION PLAN - The drawings attached to the master deed for a condominium subdivision which describes the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

CONDOMINIUM UNIT - that portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential office, industrial, business, or other type of use. A condominium unit may consist of either vacant land or space that either encloses or is enclosed by a building structure.

CONVALESCENT HOME - A convalescent home is a state licensed facility for the care of chronically ill or disabled children or the aged, or a place of rest for those suffering serious bodily disorders. Terms in common include “nursing home”.

DAY CARE - The following definitions shall apply in the construction and application of this Ordinance:

- a. **Family Day Care Home:** A private home in which one (1) but fewer than seven (7) minor children or adults are received for care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. A family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks in a calendar year. A family day care home must be licensed or registered under Act No. 116 of the Public Acts of 1973. MCL 722.111.
- b. **Group Day Care Home:** A private home in which more than six (6) but not more than twelve (12) minor children or adults are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Group day care home includes a home that gives care to an unrelated child or adult for more than four (4) weeks in a calendar year.
- c. **Day Care Center:** A facility, other than a private residence, receiving more than one (1) or more children or adults for care and supervision for periods less than twenty-four (24) hours, and where the parents or guardians are not immediately available to the child.

DEED RESTRICTION - A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the County Register of Deeds. Unless the Village has an

ownership interest in the property, a deed restriction is enforced by the parties to the agreement, not by the Village. Terms in common include “restrictive covenant.”

DENSITY - The number of dwelling units situated on or to be developed per net or gross acre of land.

DISCRETIONARY - An action which requires the exercise of judgment or deliberation during the decision-making process, as distinguished from situations where the public agency or body is limited to a determination of conformity with applicable statutes, ordinances or regulations.

DISTRICT - A portion of the Village within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

DRIVE-IN/THROUGH - Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle and is so developed that all or a portion of the retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to service patrons while in a motor vehicle.

DRIVEWAY - A means of access for vehicles from a street or approved alley across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot.

DWELLING/DWELLING UNIT - A building or portion thereof which is used exclusively as a residence and provides complete, independent living facilities for one or more persons or a family, including permanent provisions for living, sleeping, eating, cooking and sanitation. A travel trailer, motor home, automobile, tent or other portable building shall not be considered a dwelling.

DWELLING, EFFICIENCY - An efficiency unit is a dwelling unit consisting of one (1) room, exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room. Terms in common include “studio” apartment.

DWELLING, MULTIPLE FAMILY - A building containing three or more individual dwelling units.

DWELLING, SINGLE FAMILY - A detached building designed for and occupied exclusively by one (1) family in one (1) dwelling unit.

DWELLING, TWO FAMILY - A detached building designed for and occupied exclusively by two (2) families living independently of each other in two (2) dwelling units. Terms in common include “duplex”.

EASEMENT - A grant of one or more of the property rights by a property owner to and/or for use by the public, or another person or entity.

EQUIPMENT RENTAL - A building or part of a building where residential, industrial and commercial equipment is kept for rental to the general public, including but not limited to lawn and garden tools, floor cleaning equipment, masonry tools, painting and decorating equipment, trailers, plumbing tools, power tools and earthmoving equipment.

ERECTED - The word erected includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavation, fill, drainage, and the like, shall be considered a part of erection when done in conjunction with a structure.

ESSENTIAL PUBLIC SERVICES - The erection, operation, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead, gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, police call boxes, towers, poles, recycling bins and other similar equipment or accessories reasonably in connection therewith (not including buildings) for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment.

EXCAVATION - The removal or recovery by any means whatsoever of soil, rock, sand, gravel, peat, muck, barrow, shale, limestone, clay or other mineral or organic substances, other than vegetation, from water or land, whether exposed or submerged. Common household gardening is not included in such definition.

FAMILY - An individual or a group of two (2) or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than two (2) additional unrelated people, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit. Also, a collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing non-transient domestic character, who are cooking and living as a single non-profit housekeeping unit, and whose relationship is the functional equivalent of a domestic family with a demonstrable and recognizable bond, which constitutes the functional equivalent of the bonds, which render the domestic family a cohesive unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land, or a barrier closing or bordering a field, yard, etc. usually made of posts and wire or wood, used to prevent entrance, to confine, or to mark a boundary.

FILLING - The depositing, dumping or placing of any matter or material into or onto the ground.

FLOOD - During high amounts of precipitation, or resulting from high amounts of precipitation, a rise in the water level of a water body or course, or the rapid accumulation of water from run-off or other sources so that land that is normally dry is temporarily inundated by water.

FLOOD PLAIN - The relatively flat area or low lands adjoining a body of water, channel or watercourse, which may be covered by floodwater when high amounts of precipitation are experienced. Flood plains are often wetland areas that are part of the river flow system and contiguous areas paralleling major rivers or streams that exhibit unstable soil conditions for development.

FLOOD PLAIN, 100-YEAR FLOOD - The base flood elevation used to define areas prone to flooding, describing, at minimum, the depth or peak elevation of flooding which has a one (1) percent or greater chance of occurring in any given year (100 year flood).

FLOODWAY - The channel of any watercourse and those portions of the flood plain adjoining the channel which are reasonably required to carry and discharge flood water.

FLOOR AREA - The floor area of a building or structure shall be the sum of the gross horizontal floor areas of the several stories of a building or structure as measured to the exterior face of the exterior walls, plus that area similarly measured of all other floor except basements, that are accessible by a fixed stairway, such as storage areas, recreational rooms, boiler and other areas within or contiguous to the structure.

FLOOR AREA, USABLE - For the purposes of computing parking requirements, usable floor area shall be considered as that area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for restrooms and janitorial service rooms, shall be excluded from the computation of usable floor area.

FLOOR AREA RATIO (FAR) -The ratio of the floor area of a building or structure to the area of the lot on which the building is located. The ratio is calculated by dividing the total floor area by the total lot area, both areas being in the same unit of measure, and expressing the quotient as a decimal number. The term is commonly referred to as FAR.

FLOOR, GROUND - That portion of a building that is partly below grade, but so located that the vertical distance from the average grade to the ceiling is greater than the vertical distance from the average grade to the floor. A ground floor shall be counted as a story.

FOOTING - That portion of the foundation of a structure which spreads and transmits loads directly to the soil.

GARAGE - An accessory structure for the principal permitted use, used for the storage of motor vehicles for the use of the occupants of the aforementioned principal permitted use.

GOLF COURSE - The premises upon which the game of golf is played, including clubhouse, driving range, parking lots, pro-shop, and other structures and uses incidental to a golf course.

GOLF COURSE, MINATURE - One or more nine (9) to eighteen (18) hole miniature-scaled golf courses. Equipment is limited to a putter and golf ball and such courses often contain a variety of obstacles for the participant to navigate.

GOLF, DRIVING RANGE - A practice facility that is included as an accessory use to most golf courses. Driving ranges also commonly operate as a principal use consisting of a large, open field with teeing ground at one end. The landing area may include target greens and yardage markers. Driving ranges may also include practice putting greens and may have areas for chipping, pitching and bunker practice.

GROUND FLOOR COVERAGE (GFC) - The total ground floor area of the principal and all accessory buildings divided by the total lot or parcel area and expressed as a percentage. The term is commonly referred to as GFC.

GRADE, AVERAGE - The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation of a building or structure.

GRADE, FINISHED - The lowest point of elevation between the exterior wall of the structure and a parallel line five (5) feet from the foundation of a structure.

GRADE, NATURAL - The elevation of the ground surface in its natural state, before man-made alterations.

GREENHOUSES AND NURSERIES - A facility, typically a glass enclosure, used for the cultivation of plants, wherein the growing, wholesaling and/or retailing of plant materials is the principal use. Incidental sales can include the sale of products used for gardening or landscaping.

GROSS SITE AREA - The total area of a site including flood plains, wetlands, and water bodies.

HAZARDOUS SUBSTANCE - Hazardous substances include hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labors; flammable and combustible liquids as defined by the Michigan Department of State Police, Fire Marshal Division; hazardous materials as defined by the U.S. Department of Transportation; critical materials, polluting materials, and hazardous waste as defined by the Michigan Department of Natural Resources, and hazardous substances as defined in Michigan Public Act 307 of 1982, as amended, and the Federal Comprehensive Environmental Response Compensation and Utility Act of 1980, Public Act 96-510, 94 STAT 2767, as amended.

HEIGHT (BUILDING OR STRUCTURE) - The structure height is the vertical distance measured from the established grade reference level to the highest point of the roof surface if

a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip, and gambrel roofs. Where the building may be situated on sloping terrain, this height may be measured from the average ground level of the grade at the building wall.

HOME BASED BUSINESS - A professional occupation, activity, or use of residential property that is clearly customary, incidental, and a secondary use of the property. A home based business is a more intensive use of residential property than a home occupation (as defined separately herein). As a home based business, the occupation, activity or use is permitted use of other structures on the property in addition to the dwelling unit and employees are not required to reside in the dwelling unit on the property. Typical home based businesses include off-site service type professions, such as surveyors, trades contractors, and other businesses requiring storage and employees that do not necessarily occupy the property during an entire shift. A home based business does not include on-site manufacturing, auto repair, or other on-site services.

HOME OCCUPATION - A professional occupation, activity, or use of residential property that is clearly customary, incidental, and a secondary use of the property. A home occupation is considered a less intensive use of residential property than a home based business (as defined separately herein) in that the occupation, activity or use is confined to the dwelling unit and employees must reside as part of the family unit occupying the dwelling where the occupation is situated. Typical home occupations include real estate agents, attorneys, mail-order clerks, telemarketing, etc.

HOSPITAL - An institution providing health services, primarily for in-patients 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, pharmacies, medical supply sales, training facilities, central service facilities, and staff offices.

HOTEL - A building or structure or part thereof, intended or designed to be used, or which are used, rented out to be occupied temporarily or for sleeping purposes, in which the rooms are usually occupied singly for fee and in which no provisions for cooking are made, and in which building there may be a general kitchen and/or public dining room(s) for the accommodation of the occupants. Terms in common include "motel".

INDUSTRIAL USE - The use of a lot, parcel, building or structure for manufacturing, processing, fabricating or assembly of materials or goods. Warehousing or bulk storage of products and materials are typical accessory uses.

INOPERABLE OR ABANDONED MOTOR VEHICLE - Any wheeled vehicle which is self-propelled and intended to be self-propelled, and which by reason of dismantling, disrepair or other cause (lack of title, tag, registration, etc.) is incapable of being propelled under its own power or used for its intended purpose. See "junk".

JUNK - Any motor vehicles, machinery, appliances, products, or merchandise with parts missing, or scrap metals or other trash, rubbish, refuse, or scrap materials that are damaged or deteriorated that are not stored within a completely enclosed building or having proper

zoning permits and approvals for such purposes. Junk includes any inoperable or abandoned motor vehicle, or unusable parts thereof, which is not licensed for use upon the highways of the State of Michigan for a period in excess of thirty (30) days and shall also include, whether so licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of thirty (30) days and which is not in a completely enclosed building. Junk does not include domestic refuse if stored so as to not create a nuisance and is stored for a period not to exceed seven (7) days.

JUNK YARD - A parcel, building or structure where waste, used or salvaged materials, discarded material, including, but not limited to, scrap iron, other metals, paper, rags, rubber tires, wood, and bottles, are stored, baled, packed, disassembled, or handled for the purpose of purchase, sale, or exchange

KENNEL - Any parcel, lot, building or structure used for breeding, commercial sale, boarding, or treatment of non-farm animals. Farm animals shall include those animals typically associated with agricultural production, such as cows, sheep, pigs, etc.

LANDSCAPING - The following definitions are applicable to the term landscaping:

- a. **Berm** - An earthen mound of variable height and width, used as a visual relief or transitional area between different land uses or uses of differing intensity.
- b. **Buffer** - A defined landscaped area composed of plant material, wall, and/or berm maintained to provide visual screening, noise reduction, and transition between incompatible land uses or uses of differing intensity.
- c. **Conflicting or Incompatible Land Use** - Where a residential use abuts a non-residential use or a residential land use developed at a higher density, or vice versa.
- d. **Greenbelt** - A landscaped area that is intended to provide a transition between a public road right-of-way and an existing or proposed land use.
- e. **Opacity** - A degree of imperviousness or ability to obscure visibility in to or out of.
- f. **Plan, Landscaping** - A required plan detailing compliance with the landscaping, buffering and screening requirements of this Ordinance.

LIGHTING - The following words, terms and phrases, when used in the application of this Ordinance, shall have the meanings ascribed to them below:

- a. **Foot Candle** - A standard unit, established as a reference, and used when measuring the quantity of light. A foot-candle equals the total

intensity of light that falls upon a one square foot surface that is placed one (1) foot away from one (1) lit candle.

- b. Glare - Intense light that is directed from a fixture into the eye of observers or passers-by impairing the ability to see clearly compromising public safety and welfare or interfering with the use and personal enjoyment of other properties and property owners.
- c. Lamp - The luminaire component that produces the visible light.
- d. Light Fixture - The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens.
- e. Light Pollution - Electric light which may impact the safety and welfare of travelers by impairing their ability to see potential hazards effectively, reduces the enjoyment of the night sky, causes undesirable glare, unnecessary illumination of adjacent properties or causes a detrimental effect on the environment.
- f. Luminaire - The complete lighting system including the lamp and light fixture.
- g. Shielded Fixture - An outdoor light fixture shielded or constructed in a manner such that its light does not project beyond a certain limit.

LIVESTOCK - Those species of animals used for human food and fiber or those species of animals used to service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, captive cervidae, raticies, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs or cats.

LOADING SPACE - A designated off-street area for temporary parking of a commercial vehicle while loading and/or unloading products, merchandise or materials.

LOT - A plat, plot or parcel of land occupied, or designed to be occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are arranged and designed to be used in connection with such buildings. A lot may or may not be the land shown on a duly recorded plat and includes a condominium unit in condominium subdivision where land is associated with the structure. For the purposes of enforcing this Ordinance, a lot is land under one ownership that is at least sufficient in size to meet the minimum requirements for use, coverage, area, setbacks and open space as required herein. Terms in common include “parcel”, “unit” and “zoning lot”.

LOT AREA, GROSS - The area contained within the lot lines or property boundary including street right-of-way if unplatted.

LOT AREA, NET - The area within the described lot lines excluding road right-of-way and portions of the area that are part of a lake, river or stream.

LOT, CORNER - A lot whose lot lines form an interior angle of less than 135 (one hundred thirty five) degrees at the intersection of two street lines.

LOT COVERAGE - The amount of a lot, stated in terms of percentage, that is covered by all buildings, and/or structures located thereon. See "Ground Floor Coverage" herein.

LOT DEPTH - The average horizontal distance from the front line to the rear lot line or from the front right-of-way line to the rear lot line measured at the median between the side lot lines.

LOT FRONTAGE - The total continuous length of the front lot line where sharing a boundary with a public road or an approved private road.

LOT INTERIOR - An interior lot is a lot other than a corner lot with only one lot line fronting on a street.

LOT LINES - A line dividing or separating one (1) lot from another, or from a public right-of-way, therefore constituting the property lines bounding a lot.

LOT LINE, FRONT- For an interior lot, the front lot line shall mean the line separating the lot from a public or approved private road right-of-way. For a corner lot that has frontage on more than one (1) street, the corner lot shall be considered as having a front lot line for each front on a public or approved private road right-of-way.

LOT LINE, REAR - The lot line that is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular shaped lot, a line ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of rear yard.

LOT LINE, SIDE - Any lot line that is not a front lot line or a rear lot line. A side lot line separating a lot from a street on a corner lot is considered a front lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

LOT OF RECORD - A tract of land which is part of a subdivision shown on a plat or map which has been recorded in the County Register of Deeds or a tract of land described by metes and bounds that is the subject of a deed or land contract which is likewise recorded in the Register of Deeds.

LOT WIDTH - The horizontal distance between the side lot lines, measured at the two (2) points at the right-of-way line (upon which the lot has frontage) at the intersect of the side lot lines, unless otherwise specified in this Ordinance. For lots fronting on the curve of a cul-de-sac street the minimum straight line distance between the side lot line may measured at the minimum required front yard setback.

MANUFACTURED HOUSING - A dwelling unit that is designed for long term residential use and is wholly or substantially constructed at an off-site location and transportable in one (1) or more sections. Manufactured housing includes mobile homes and modular housing units bearing the seal that the structure is in compliance with the National Manufactured Housing Construction Standards Code and the State of Michigan Construction Code.. Manufactured (or mobile) home does not include a recreational vehicle.

MINI-STORAGE (WAREHOUSE) FACILITIES - A building or group of buildings in a controlled access or fenced area that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares which are not used on a daily basis.

MANUFACTURED HOME - A structure, transportable in 1 or more sections, which is built on a chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

MANUFACTURED HOUSING COMMUNITY - A a parcel or tract of land under the control of a person upon which 3 or more manufactured homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

MASTER PLAN - A document known as the Village of Athens Master Plan containing the future development policy and future land use map for the Village, together with supporting documentation, as most recently adopted or amended by the Planning Commission.

MORTUARY - See "cemetery".

MOTOR HOME - A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy. See "recreational vehicle".

NONCONFORMING BUILDING/STRUCTURE - A building/structure or portion thereof existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the provisions of the Ordinance in the zoning district in which it is located.

NONCONFORMING LOT - A lot, created prior to the effective date of this Ordinance, or amendments thereto, and which does not conform to the lot area regulations for the district in which it is located.

NONCONFORMING USE - A structure, building, lot, or other parcel of land occupied by a use at the effective date of this Ordinance, or amendments thereto, and which does not conform to the uses permitted within or the use regulations of the district in which it is located.

NUISANCE - An offensive, annoying, unpleasant, or obnoxious thing or practice or a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things including but not limited to: noise, dust, smoke, odor, glare, fumes, flashes, vibration, objectionable effluent, noise of a congregation of people, passing traffic, or invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities.

NURSING HOME - See “Convalescent Home”.

OCCUPIED - The word “occupied” includes arranged, designed, built, altered, converted to, rented or leased, or intended to be inhabited and utilized for defined purposes.

OPEN AIR BUSINESS - When developed in conjunction with a permitted use, any area that is exclusively used for the sale of or taking of orders for products, merchandise or services where such is displayed, sold or ordered in the open air without structure. Terms in common include “outdoor sales”.

OPEN SPACE, COMMON - Common area that is held as perpetual open space for the collective use and enjoyment of the owners, tenants, or occupants of a single development.

OPEN SPACE, DEDICATED - Common area that is open space dedicated as a permanent recorded easement for the general public.

OPEN SPACE REQUIRED - The yard space of a lot that is established between the street or lot line and the required setback line. Such area shall be open, unoccupied and unobstructed by any building, structure or portion thereof, except as otherwise provided in this Ordinance.

OPEN STORAGE - All outdoor storage of building materials, sand, gravel, stone, lumber, equipment, construction vehicles and other supplies.

ON-SITE WIND ENERGY SYSTEM - A structure and associated facilities constructed for the purpose of harnessing the wind to generate electricity for use in a principal or accessory structure on the same property or zoning lot as the Wind Energy System. For the purposes of this Ordinance, the structure and associated facilities are intended to be consumer-based and principally used on-site.

ORDINARY HIGH WATER MARK - The line between upland and bottom land 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 surface of the soil, and the vegetation.

OUTDOOR FURNACE - A device for the burning of renewable fuels (wood, corn, etc.) outdoors for the purpose of providing heat and hot water to a habitable structure that is normally provided by a traditional furnace and boiler within the structure.

OWNER - The owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.

PARCEL - An area described by metes and bounds. See “lot” and “lot of record” as defined herein.

PARK - An area of land, building or structure used for recreational purposes including but not limited to playgrounds, sport fields, game courts, beaches, trails, picnicking areas, and leisure time activities.

PARK, PUBLIC - Any open space or recreational area, owned or controlled by a Corporation or by any Board, Commission or other Authority established under any statute of the State of Michigan.

PARKING, OFF-STREET - An identified area for two (2) or more parking spaces serving a principal use, including accessible travel lanes, aisle ways for accessing parking spaces.

PARKING SPACE - A defined area for the parking of one (1) vehicle exclusive of drives, travel lanes, aisles, or entrances.

PERFORMANCE STANDARDS - Standards that are established to ensure that a particular improvement, land use or development will not exceed certain thresholds that if exceeded are anticipated to have a negative impact on the community at-large or on adjacent property.

PERMITTED USE - Any use allowed by-right in a zoning district that is subject to the restrictions applicable to that zoning district and reviewed for approval by zoning permit or site plan review.

PERSON - The word "person" means an individual, corporation, partnership, association, or other legal entity.

PERSONAL SERVICE ESTABLISHMENT - A business where personal services are provided for profit and where the sale of goods is only accessory to providing such services.

PLANNED UNIT DEVELOPMENT - A type of development and development process characterized by the flexible application of zoning regulations to encourage unified site design, diversity in development techniques, use of open space, and mix of building types and land uses.

PLAT - A map of a subdivision of land pursuant to the Land Division Act, Public Act 288 of 1967.

PREMISE - All portions of contiguous land in the same ownership that are not divided by any public highway, street, or alley, and upon which is located a residence or place of business.

PRINCIPAL BUILDING/STRUCTURE - The primary building or structure containing, housing, being occupied by the principal use of the premises or property.

PRINCIPLE USE - The main use to which the premises are devoted and the main purpose for which the premises exist.

PRIVATE ROAD - A private road or street shall be defined as a street or drive which provides access to two or more adjacent properties which is constructed and maintained by the owner or owners, and which is not dedicated for the general public use.

PUBLIC UTILITY - Any person, firm, corporation, municipal department, board or commission duly authorized to furnish, under federal, state or municipal regulations, to the public such items as electricity, gas, steam, communications, telegraph, transportation, or water.

RECREATION VEHICLE - A vehicle primarily designed and used as a temporary living quarters for recreational, camping, or travel purposes including a vehicle having its own motor power, or mounted on or drawn by a motor vehicle.

RECREATION VEHICLE PARK - See “campground”.

RECYCLING FACILITY, LARGE COLLECTION - A facility for the collection and processing of recyclable materials. The facility is capable of accepting all material as accepted by a “small collection” facility as well as appliances, furniture, yard waste and other similar material. Acceptance of vehicles, construction equipment, agricultural equipment for scrap is not permitted. Processing shall be limited to the preparation of material for efficient shipment by baling, compacting, crushing, sorting, shredding, and cleaning.

RECYCLING FACILITY, SMALL COLLECTION - A self-serve facility for the collection of common household recyclable material, such as glass, metals, plastic containers, papers or other similar items in self-contained removable bins. No processing is permitted on site.

RESTAURANT - An establishment that is engaged in serving food and beverages consumed on its premises by customers seated at tables and/or counters and may be engaged in providing customers with take-out service or drive-through service.

RIGHT-OF-WAY - An area of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other similar use.

ROAD – See “street” as defined herein.

SCHOOL - An educational institution under the sponsorship of a private or public agency providing elementary or secondary curriculum, and accredited or licensed by the State of Michigan.

SETBACK - The horizontal distance between a principal or accessory building or structure and the front, side and rear lot line. See definition for “Yard, Minimum Required”.

SETBACK, MINIMUM REQUIRED - The minimum required horizontal distance between the building or structure and the front, side and rear lot lines. The minimum required front, side and rear setbacks on a lot establish the required yard and therefore buildable area of a lot. See definition for “Yard, Minimum Required”.

SHOPPING CENTER, PLANNED - A group of commercial uses, typically separated by common walls, that have been designed, developed and are managed as a unit by a single owner or tenant, or a group of owners or tenants and share such accommodations as parking, travel lanes and access to primary roads.

SIGN - Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combination thereof, by which anything is made known or that directs attention, or is specifically designed for purposes of advertising or identifying any establishment, product, good, or service, to an object, product, place, activity, person, institution, organization or business and which is visible from any public street, sidewalk, alley, park, public property or from other private property. The following definitions also apply to the definition of signage:

- a. **Animated Sign** - Any sign that uses movement or change of lighting to depict or create a special effect or scene. See “Flashing sign” and “Changeable Copy Sign”.
- b. **Awning Sign** - A sign that is printed or otherwise affixed to an awning that may be rolled or folded up against the wall to which it is attached.
- c. **Banner Sign** - A sign made of fabric or any non-rigid material with no enclosing framework.
- d. **Business Center** - A grouping of two (2) or more business establishments on one (1) or more parcels of property which may share parking and access and are linked architecturally or otherwise present the appearance of a unified grouping of businesses. A business center shall be considered one (1) use for the purposes of determining the maximum number of freestanding or ground signs.
- e. **Changeable Copy Sign (Automatic)** - A sign on which the copy changes automatically on a lamp bank or through mechanical means.
- f. **Changeable Copy Sign (Manual)** - A sign on which copy is changed manually in the field, e.g., reader boards with changeable letters.

- g. Construction Sign - A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.
- h. Directional/Information Sign - An on-premise sign giving directions, indicating traffic flow instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs.
- i. Flag - Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.
- j. Free-Standing Sign - A sign supported upon the ground by poles or braces and not attached to any building.
- k. Identification Sign - A sign whose copy is limited to the name and address of a building, institution, or person and/or to the activity or occupation being identified.
- l. Illegal Sign - A sign which does not meet requirements of this code and which has not received legal nonconforming status.
- m. Illuminated Sign - A sign illuminated in any manner by an artificial light source.
- n. Incidental Sign - A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", and similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.
- o. Maintenance - The cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.
- p. Marquee Sign - Any sign attached to or supported by a marquee (a permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building).
- q. Menu Board - A sign that is intended to service patrons using a drive-through facility.
- r. Nameplate - A non-electric on-premise identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

- s. Non-Conforming Sign - (1) A sign which was erected legally under previous ownership but which does not comply with subsequently enacted sign restrictions and regulations. (2) A sign, which does not conform, to the sign code requirements but for which a variance has been issued.
- t. Political Sign - For the purposes of this Ordinance, a temporary sign used in connection with a local, state, or national election or referendum.
- u. Portable Sign - A temporary sign that is not permanently affixed to a building face or to a pole, pylon, or other support that is permanently anchored in the ground.
- v. Projecting Sign - Any sign affixed to a building or wall in such a manner that its leading edge extends beyond the surface of such building or wall.
- w. Real Estate Sign - A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.
- x. Sandwich Board Sign - A temporary, portable sign consisting of two (2) advertising boards laid back-to-back and at least partially supported by each other.
- y. Subdivision Identification Sign - A free-standing sign identifying subdivision, condominium complex, or residential development.
- z. Wall Sign - A sign attached parallel to and extending not more than 8 inches from the wall of a building. This definition includes painted, individual letter, and cabinet signs.
- aa. Window Sign - A sign installed inside a window and intended to be viewed from the outside.

SITE PLAN - A drawing or illustration showing all salient features of a proposed development so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance.

SITE PLAN REVIEW - The submission of a site plan for review by the appropriate Board or Commission to establish conformance with this Ordinance prior to commencement and implementation of use.

SPECIAL LAND USE - See "Conditional Use".

STATE LICENSED RESIDENTIAL FACILITY - A structure constructed for residential purposes that is licensed by the State pursuant to Act No. 287 of Public Acts of 1972, as amended, being Section 331.681 to 331.694 of the Michigan Compiled Laws or Act No. 116 of the Public Acts of 1973, as amended, being Section 722.111 to 722.128 of the Michigan Compiled Laws.

STORY - That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

STORY, BASEMENT - For the purposes of this Ordinance, a basement shall be counted as a story if over fifty (50) percent of its height is above the level from which the height of the building is measured.

STORY, HALF - The part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half (1/2) the floor area of said full story, provided the area contains at least two hundred (200) square feet with a clean height of at least seven (7) feet six (6) inches.

STREET - A public or private traffic way having a right-of-way and which affords the principal means of vehicular access to the abutting property.

STRUCTURE - Anything constructed or erected, the use of which requires a temporary or permanent location on the ground or is attached to something having a permanent location on or below the ground.

SWIMMING POOL, COMMUNITY - A constructed or fabricated water containment improvement, including structures necessary and incidental thereto, owned and operated by an association of members for the benefit of such association with the use such pools is restricted to members and their guests.

SWIMMING POOL, SEASONAL - A fabricated water containment system that consists of an inflatable device, PVC mounted liner, or similarly mass-produced system that is owned and operated by a landowner of the parcel on which situated and for use only by the residents of the parcel on which situated and their guests. Such swimming pools are considered seasonal and provisions are provided herein concerning the location of such swimming pools and requirements for seasonal removal.

SWIMMING POOL, PRIVATE - A constructed or fabricated water containment improvement, including structures necessary and incidental thereto, owned and operated by a landowner of the parcel on which situated and for use only by the residents of the parcel on which situated and their guests.

TEMPORARY BUILDING/USE - A building or use permitted by the Zoning Official to exist during periods of construction of the main building, or site improvements.

THEATER - A place, either indoor or outdoor, where plays, operas or motion pictures are presented.

USE - The lawful purpose, for which land or premises or a building thereon is designed, arranged, intended, or for which it is occupied, maintained, let or leased.

VARIANCE - A variance is the modification of the regulations and/or literal provisions of this Ordinance by the Board of Appeals where strict enforcement of those regulations and/or provisions would cause undue hardship and/or practical difficulty as a result of special circumstances affecting a particular property that do not generally affect other properties or the community in general.

VETERINARIAN, LARGE ANIMAL - An establishment where agricultural animal patients (equine and traditional food animal species, such as cows, pigs, sheep, etc.) are examined and treated by a veterinarian. A large animal veterinary clinic may include pastures, barns, and arenas to accommodate overnight stays, observations and temporary treatments.

VETERINARIAN, SMALL ANIMAL - An establishment where domesticated, non-agricultural, animal patients are examined and treated by a veterinarian. A veterinary clinic may include pens or cages enclosed within the walls of the principal clinic building to accommodate overnight stays and temporary treatment.

VEHICLE FUELING STATION - A place where gasoline, motor oil, lubricants, and minor accessories related to the daily operation of an automobile are retailed directly to the public on the premises in combination with the retailing of convenience items typically found in a convenience market, carryout restaurant or supermarket.

VEHICLE REPAIR AND SERVICE FACILITY - An establishment for the repair or replacement of parts in a motor vehicle.

VEHICLE SALES AREA - An open area used for the display, sale or rental of new or used motor vehicles or trailers in operable condition where no repair work is done.

VEHICLE WASH FACILITY - A building or portion thereof containing facilities for washing automobiles, trucks, motorcycles, and other light load vehicles, using a chain conveyor, blower, steam cleaning device, or hand-held device.

WAREHOUSE - A building, structure or portion thereof used for storage of goods, merchandise or materials, but does not include self-storage facilities or storage in connection with a purely retail business when located on the same property.

WATERCOURSE - Any waterway or other body of water having well defined banks, including rivers, streams, creeks and brooks, whether continually or intermittently flowing, and lakes and ponds.

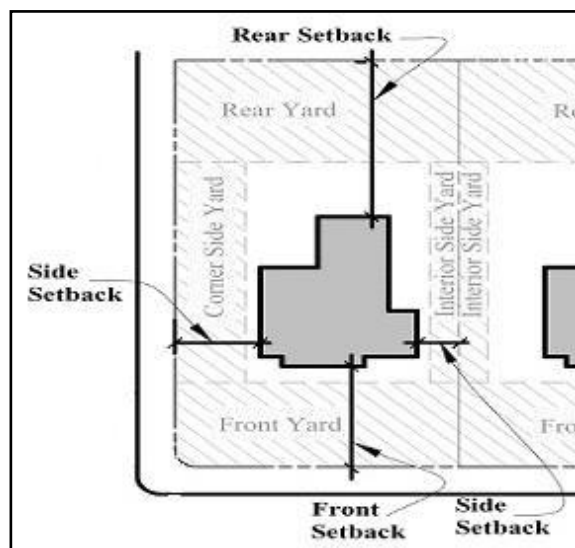
WELLHEAD PROTECTION OVERLAY - An overlay district intended to protect the underlying water source for use by those within the Village.

WETLANDS - Land that is generally or intermittently covered with water and poorly drained and due to surface and/or sub-surface soil characteristics are self-contained water resources. Terms in common include “bogs”, “marshes”, and “swamps”.

WETLAND, REGULATED - Wetlands regulated by the Michigan Department of Environmental Quality (MDEQ) pursuant to Public Act 451, as amended. Such lands generally are characterized by the presence of water at a frequency and duration to support aquatic life. In general, regulated wetlands are contiguous to an inland lake, pond, river or stream, or if not contiguous, then more than five (5) acres in size.

YARD, FRONT - An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the foundation.

YARD, MINIMUM REQUIRED - An open space of prescribed width or depth between a building, structure or use and a property or lot line on the same land with such buildings, structures, or use that is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. See illustration below:



YARD, REAR - An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the foundation of the main building. In the case of corner lots, there shall only be one rear yard, which shall be determined by the owner.

YARD, SIDE - An open space between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the foundation of the main building.

ZONING ADMINISTRATOR - An individual or entity appointed, hired, or contracted by the Village Council to administer this Ordinance.

ZONING DISTRICT - A portion of the Village within which specific regulations and requirements, or various combinations thereof apply as provided in this Ordinance.

ZONING LOT - A single tract of land that upon applying 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 or control and which tract satisfies the applicable requirements of this Ordinance in every respect. A zoning lot may, therefore, not coincide with a lot of record, but may include one (1) or more lots of record, or portions thereof.

ZONING PERMIT - A document provided by the Zoning Administrator signifying that a requested use or improvement is in compliance with the provisions of this Ordinance as to use, activity, bulk, and density.

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ARTICLE 3

ADMINISTRATION AND ENFORCEMENT

SECTION 301 ADMINISTRATION

- A. It is the intent and purpose of this Article to provide the procedures for the administration of the Village of Athens Zoning Ordinance (“Ordinance”), including but not limited to, the issuance of zoning permits, collection of fees and performance guarantees, public notice, and enforcement of the provisions of this Ordinance.

- B. The administration and enforcement of this Ordinance shall be the responsibility of the Village Council of the Village of Athens (“Village Council”) and Village of Athens Planning Commission (“Planning Commission”). The Village Council shall have the right to delegate said responsibility to appropriate officers, employees or contractors.

- C. The person administering and enforcing this Ordinance shall be known as the Zoning Administrator. That person may be an employee of the Village, a contractor for the Village, or an employee or contractor of an entity retained by the Village for such purposes of administration and enforcement of this Ordinance. The Zoning Administrator shall have the power of a police officer, whose jurisdiction is the enforcement of this Ordinance. In the absence of a Zoning Administrator, the Village President or other Village officer as designated by the Village Council shall assume all the powers and duties of the Zoning Administrator.

SECTION 302 ACTING IN OFFICIAL CAPACITY

- A. The Zoning Administrator and/or their assigns, office, employee or Council appointed individual charged with the enforcement of this Ordinance, while acting in their official capacity, in good faith and without malice, shall not render themselves liable personally for any act required in the discharge of official duties on behalf of the Village.

- B. Any suit instituted against any officer, employee or Council appointed individual because of an act performed by the officer in the lawful discharge of his duties and under the provisions of the Ordinance shall be defended by the legal representative of the Village until the final termination of the proceedings. Unless stipulated by agreement, the Zoning Administrator, or assigns, shall not be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of the Ordinance.

SECTION 303 DUTIES OF THE ZONING ADMINISTRATOR

- A. It shall be the responsibility of the Zoning Administrator to enforce the provisions of this Ordinance and in doing so shall perform the following duties:
1. The Zoning Administrator is charged with the responsibility of reviewing and approving zoning permits. All applications for zoning permit shall be submitted to the Zoning Administrator.
 - a. Upon submittal of a complete application, the Zoning Administrator shall have ten (10) business days in which to issue a zoning permit if all applicable provisions of this Ordinance have been complied with or deny if proposed improvements are not in compliance with the Ordinance.
 2. Receive and process all applications for site plan review, conditional use approval and requests for variances and other matters that the Village Council, Planning Commission or Board of Appeals is required to decide under this Ordinance.
 3. The Zoning Administrator shall maintain files of all applications for zoning permit and shall keep record of all permits issued.
 4. The Zoning Administrator shall be empowered to make inspections of structures or premises in order to carry out the enforcement of this Ordinance.
 - a. The Zoning Administrator may seek a search warrant through the Village Attorney if refused access to a property to perform an inspection to determine compliance with this Ordinance.
 5. The Zoning Administrator is empowered to issue appearance summons, seek the issuance of warrants for the arrest of alleged violators through proper legal action and bring civil or criminal action in the name of the Village against violators of the regulations and provisions of this Ordinance.
 6. The Zoning Administrator shall equally apply the provisions in this Ordinance to all property owners. Enforcement actions may be initiated by a complaint, or by the Zoning Administrator upon identification and verification of a violation.
 7. The Zoning Administrator shall keep a record of complaints of violation of any of the provision of this Ordinance and of the action taken regarding each complaint.
 8. The Zoning Administrator shall report to the Village Council periodically (but not to exceed one (1) year) and provide a report summarizing zoning permits issued and action taking concerning violations of the Ordinance.

SECTION 304 DUTIES OF THE PLANNING COMMISSION

- A. As a group of individuals appointed by the Village Council, it shall be the responsibility of the Planning Commission to perform the following duties:
 - 1. Recommend and adopt rules and guidelines for the proper administration and enforcement of the Ordinance.
 - 2. Conduct public hearings for issues requiring public hearing before the Planning Commission, review and approve site plans as prescribed in the Ordinance, and review all proposed requests for conditional use approval and/or amendments to the Ordinance for compliance with requirements of the Ordinance and recommend appropriate action to Village Council for approval, disapproval or modification.
 - 3. Act as a policy board on matters of land use and growth management, administration, and enforcement of the Ordinance, including opening for review the Village of Athens Master Plan (“Plan”) every five (5) years and draft changes, if deemed necessary, for consideration at public hearing.
- B. The Planning Commission shall also have the authority to review uses not specifically listed under the districts for their inclusion by similarity. The provisions for such consideration is found under Section 507.B.

SECTION 305 ZONING PERMIT PROCEDURES

- A. It is the intent and purpose of this section to create a review and permit process for the administration of this Ordinance. Such review and permitting process shall involve a written application for proposed improvement and written documentation that such improvement is in compliance with the Ordinance and therefore permitted. This “zoning permit” is subject to the following:
 - 1. The excavation for any structure shall not be commenced; the erection of, addition to, alteration of, or moving of any structure shall not be undertaken; or any land shall not be used, a previous use of land reinstated; or any existing land use expanded or changed to a different type or class; or the use or occupancy of any structure or premises, or part thereof, hereafter shall not be undertaken without the issuance of the proper and appropriate zoning permit.
 - 2. A zoning permit shall not be issued for petitioned improvements requiring site plan approval or for those uses requiring conditional use approval until the site plan or conditional use has been approved in compliance with the provisions of this Ordinance.

3. Except upon written order of the Board of Appeals no such permit shall be issued for any building or use of land where the construction, addition, alteration, or use thereof would be in violation of this Ordinance.
- B. There shall be submitted to the Zoning Administrator an application for zoning permit. An application for zoning permit is subject to the following:
1. Proof of ownership/equitable title shall be required with any application for a zoning permit in order to establish interest in property and right to proceed.
 2. An application for a zoning permit gives consent for the Zoning Administrator and/or their assigns, to enter and/or access property for proper inspection prior to issuing permit.
 3. All fees for inspection and the issuance of a zoning permit required under this Ordinance shall be collected by the Zoning Administrator in advance of review and consideration of issuance of the zoning permit. The amount of such fees shall be established by resolution of the Village Council and shall be in an amount sufficient to defray the cost of inspections and supervision necessary for the implementation and enforcement of this Ordinance.
 4. All applications for zoning permit shall require an accurate scale map showing the following:
 - a. The location, shape, area, dimensions, legal descriptions of the parcel, deed restrictions, location of easements, centerline of street and street right-of-way (or easement).
 - b. The location, setbacks, dimensions, height of the existing and/or proposed structures to be erected, altered or moved on the parcel.
 - c. The existing and intended use of structure(s) and property.
 - d. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users.
 - e. Any change to the contour of the land.
 - f. Identify surface water, waterways and drainage patterns.
 - g. Any application where the above information is not provided or is illegible shall be returned to the applicant for revision.
 5. The applicant's request for zoning permit must comply with the provisions of this Ordinance, as well as meet the rules and regulations set forth by other agencies and departments. The Zoning Administrator may withhold any

approval of a zoning permit pending verification that an applicant has received required local, county, state or federal permits.

- a. In the case of a zoning permit for a dwelling or other building intended for human occupancy, a written report from the Calhoun County Health Department certifying in writing the approval of a private sanitary sewage disposal system.

C. Expiration and Revocation of Zoning Permit

1. Any permit granted under this section shall become null and void unless development proposed shall have its first building or trades inspection within one hundred and eighty (180) days from the granting of a Zoning Permit.
2. Before being declared null and void, the Zoning Administrator shall notify the applicant of the intended action by sending the applicant a notice to the address indicated on the permit application at least ten (10) days before the permit is voided.
 - a. The permit shall be renewable upon reapplication and payment of the fee. The improvements covered under the reapplication are subject to the provisions of all ordinances in effect at the time of submittal.
3. The Zoning Administrator shall have the power to revoke or cancel any zoning permit in case of failure or neglect to comply with provisions of this Ordinance or in the case of any false statement or misrepresentation set forth in the application. The owner or agent shall be notified of such revocation in writing.

D. Uses and/or structures that have received a zoning permit to implement improvements shall not be commenced or occupied without first receiving a compliance review and approval from the Zoning Administrator for such commencement or occupancy.

1. Compliance review and approval shall be conducted by the Zoning Administrator following an inspection that confirms that all requirements of a previously issued and therefore governing zoning permit and this Ordinance have been met.
2. The compliance review and approval is not a Certificate of Occupancy as issued by the Building Inspector pursuant to the State Construction Code. Compliance review and approval precedes issuance of the Certificate of Occupancy.

SECTION 306 PUBLIC NOTICE

- A. All applications for development approval requiring a public hearing and notice shall comply with the Michigan Zoning Enabling Act No. 110 of the Public Acts of Michigan of 2006 (MCL 125.3101 et seq.), as amended (“Zoning Act”), as well as other provisions of this section and Ordinance.

- B. When the provisions of this Ordinance or the Zoning Act require that notice be published, the Village Clerk shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the Village or mailed and delivered as provided herein.
 - 1. All mail, personal and newspaper notices for public hearing shall contain the following information:
 - a. A description of the nature of the request shall be provided, including identifying if the request is for a map or text amendment, a conditional use or planned unit development, a variance, appeals or interpretation or for some other purpose.
 - b. A description of the location of the property that is the subject of the request. The notice shall include a listing of all known existing street addresses for the petitioned property or properties. If there are no street addresses, other means of identification (such as tax parcel identification number, nearest cross street and directions, or map showing the location of the property) may be used.
 - i. Street addresses are not required where eleven (11) or more adjacent properties comprise a petition to rezone or where the request is for an Ordinance interpretation not involving a specific property.
 - c. Indication of when and where the request will be considered by providing the date, time and location of the public hearing.
 - d. Inclusion of a statement describing when and where written comments will be received concerning the request. Also, public notices shall indicate that the public may appear at the public hearing in person, by counsel, or by personal representative.
 - e. Information concerning handicap and barrier-free access accommodations, if applicable.
 - 2. Public notice, containing the information above, shall be published in a newspaper of general circulation in the Village not less than fifteen (15) days before the date the subject of the public notice will be heard and considered for approval.

3. When the provisions of this Ordinance or the Zoning Act require that personal or mailed notice be provided, notice shall be provided to:
 - a. The owner(s) of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
 - b. Except for rezoning requests involving eleven (11) or more adjacent properties comprising one (1) petition or is a matter before the Zoning Board of Appeals that does not involve a specific property (e.g. interpretation or appeal of administrative decision), notice shall be provided to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request and to the occupants of all structures within three hundred (300) feet of property regardless of whether the property or occupant is within the zoning jurisdiction boundaries of the Village. If the name of the occupant is not known, the term “occupant” may be used in making notification.
 - c. All persons, organizations, entities and agencies having requested to receive notice pursuant to Section 306.B.
 - d. Such notice shall be provided not less than fifteen (15) days before the date the subject of the public notice will be heard and considered for approval.

C. Requirements specific to amendment of this Ordinance.

1. Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the legislative body for the purpose of receiving the notice of public hearing. The Planning Commission with the assistance of the Zoning Administrator and/or Clerk shall maintain a file of each affidavit of mailing for each mailing made under this Section.
2. For any parcel or lot for which a petition for change in zoning classification has been filed, a notice of such petition shall be posted by the petitioner for a period at least fifteen (15) days prior to the Public Hearing. The posted notice shall be on a sheet no less in size than eight (8) and a half by eleven (11) inch sheet of paper. The posted notice shall be enclosed or otherwise protected from the elements in a weather proof material and located at the public right-of-way(s) where the property is adjacent. The public notice shall contain large enough font size to be able to read from the public right-of-way. Such posted notice shall include the following content:

- a. The present and proposed zoning classification;
- b. The time and place of the Public Hearing; and
- c. The location where additional information may be obtained.

D. Registration to Receive Notice by Mail.

1. Any neighborhood organization, public utility company, railroad, or any other person or entity may register with the Zoning Administrator to receive written notice of all applications for approval, or written notice of all applications for development approval within the zoning district in which they are located.
2. The requesting party must provide the Zoning Administrator information in proper form to ensure notification can be made. The Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the Village Council.

SECTION 307 ENFORCEMENT, VIOLATIONS AND PENALTIES

A. The Zoning Administrator shall enforce the provisions of this Ordinance and shall inspect, or have inspected by an assign, each alleged violation.

1. A violation of the provisions of this Ordinance can be a “nuisance in fact” whereby a use, property or structure is not in compliance with the provisions of this Ordinance. Such violations include, but are not limited to, use or improvement without necessary approval or permit, placement of improvement(s) without respect to minimum and maximum dimensional requirements, non-compliance with improvements and conditions as approved by zoning permit, site plan or conditional use.
2. A violation of the provisions of this Ordinance can be declared to be a “nuisance per se”, which is a nuisance at all times and under any circumstances, regardless of its location or surroundings and are acts that are denounced as illegal by law, when perpetration of them invades rights of others. Such violations shall include placement of junk and debris, blight, unsafe and hazardous improvements, use of property without permit, and producing noise, fumes, dust or other noxious characteristics affecting the general public.

B. Whenever it is determined that a violation of this Ordinance exists, the Zoning Administrator shall have the the authority to take action, or cause action to be taken by a Village Police Officer, as a Municipal Civil Infraction. The Village also reserves the right, through the Zoning Administrator and Village Attorney, to pursue violation of this Ordinance as a criminal offense and prosecutable in a court of competent jurisdiction.

- C. Notwithstanding the requirements for noticing a violation of this Ordinance as set forth in the Municipal Civil Infraction Ordinance, a notice of violation may be issued in writing specifying all conditions found to be in violation.
 - 1. Such notice of violation shall be directed to each owner of, or a party in interest in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail return receipt requested, addressed to such owner or party in interest at the address shown on the tax records.

- D. In matters where the violation of this Ordinance is persistent and/or causing a nuisance to the general public, the Zoning Administrator, or assign, may prepare a report of their findings for the Village Attorney to initiate prosecution proceedings in a court of competent jurisdiction and seek injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove a particular violation of this Ordinance.
 - 1. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one hundred dollars (\$100) or imprisoned for not more than ninety (90) days, or both, and in addition, shall pay all costs and expenses involved in the prosecution of the case by the Village. Each day such violation continues shall be considered a separate offense.
 - 2. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this Ordinance.

- E. The Zoning Administrator may refuse to issue new zoning permits to a person who has failed to correct violations or to any person representing a firm, which has failed to correct violations of this Ordinance. A zoning permit may also be withheld if violations are identified on site upon application for zoning permit.

SECTION 308 REVIEW FEES AND PERFORMANCE GUARANTEES

- A. Review fees shall be established for application, permit and development review for proposed improvements requiring review under this Ordinance. The amount of such fees shall be established by resolution of the Village Council and shall be in an amount sufficient to defray the cost of inspections and supervision necessary for the implementation and enforcement of this Ordinance.
 - 1. Fees for review of development proposals, inspections and the issuance of permits required under this Ordinance shall be deposited with the Village Clerk in advance of processing any application or issuance of any permit.

2. Such fees may include, but are not limited to, all costs associated with conducting a public hearing or inspection, including the newspaper notice, postage, photocopying, staff time, Planning Commission, Council and/or Board of Appeals time, mileage and any costs associated with reviews by qualified professional planners and/or engineers. Such fees may be collected in escrow with any unexpended balance returned to an applicant according to the procedure described below:
 - a. For any application for approval of a site plan, conditional use, Planned Unit Development, variance, interpretation or appeal or other use or activity requiring a permit under this Ordinance, the Zoning Administrator may require the deposit of fees to be held in escrow in the name of the applicant.
 - b. The escrow fees shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the Village Council values to review the proposal. Professional review shall result in a report to the Village indicating the extent of conformance or non-conformance with this Ordinance and to identify any problems which may create a threat to public health, safety or the general welfare. The applicant may request a copy of the statement of expenses for the professional services rendered.
 - c. No application for approval for which an escrow fee is requested will be processed until the escrow fee is deposited with the Village Clerk. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request. If costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any permit issued by the Village in response to the applicant's request.
- B. In authorizing any site plan, conditional use, Planned Unit Development or variance, the body or official which approves the respective request, as designated by this Ordinance, may require that a performance guarantee or bond be furnished to ensure compliance with requirements, specifications and conditions imposed with the grant of such approval; to ensure the discontinuance of a temporary use by a stipulated time; or to provide sufficient resources for the Village to complete required improvements or conditions in the event the permit holder does not.
 1. Improvements that shall be covered by the performance guarantee or bond include, but are not necessarily limited to streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks.
 2. The performance guarantee shall meet the following requirements:

- a. The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the Village Clerk that names the property owner as the obligor and the Village and the obligee.
 - b. The performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity. If appropriate, based on the type of performance guarantee submitted, the Village may deposit the funds in an interest bearing account in a financial institution with which the Village regularly conducts business.
 - c. The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of the improvements or conditions. Additional guidelines for establishing the amount of a performance guarantee or bond may be prescribed by resolution of the Village Council.
 - d. The Zoning Administrator (upon the written request of the obligor, and pursuant to the procedure in the next subsection) shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement or condition.
 - e. As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the Village Clerk of completion of said improvements. Upon provided notice, the Zoning Administrator, or assigns, shall inspect all of the improvements and shall transmit recommendation to the Planning Commission and Village Council indicating approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections.
 - f. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.
3. The Zoning Administrator shall maintain a record of authorized performance guarantees.

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ARTICLE 4

GENERAL PROVISIONS

SECTION 401 INTENT AND PURPOSE

The intent and purpose of this Article is to establish general regulations and provisions that are applicable to all or some of the zoning districts herein.

SECTION 402 REQUIRED ACCESS/STREET FRONTAGE

- A. Any parcel or lot that is to be occupied by a use or a structure shall have the minimum lot width as prescribed in the district where it is located and frontage on and direct access to a public or private street that meets one of the following conditions:
 - 1. A public street which has been, or shall be accepted for maintenance by the Village of Athens (“Village”)
 - 2. A permanent and unobstructed private street reviewed, approved and built in accordance with Section 806.
- B. Any lot of record created prior to the effective date of this Ordinance that does not have frontage and access to a public or private street shall not be occupied except where access to a public or private street is provided by a public or private easement or other other right-of-way of no less than twenty (20) feet in width; or, where applicable, as determined by the Planning Commission and/or Village Council during the review and approval of a required site plan and/or conditional use permit.

SECTION 403 LOT OF RECORD AND PRINCIPAL STRUCTURE

- A. Every structure erected, altered, or moved shall be located on a lot of record as defined herein, and except in the case of approved multiple-family, commercial, office and industrial developments, there shall be no more than one (1) principal structure or use and its permitted accessory structures located on each lot or parcel in any district, unless specified elsewhere in the Ordinance.
- B. No building or structure on the same lot as a principal building or structure shall be used for dwelling purposes unless otherwise prescribed or permitted by this Ordinance herein.

SECTION 404 SETBACKS AND YARDS

- A. No part of a setback, yard or other open space required for any use or structure for the purpose of complying with the provisions of this Ordinance, shall be included as part of a setback, yard or other open space similarly required for any other use or structure.

- B. No lot or parcel shall be reduced or diminished so that setbacks, yards or other setback requirements are less than specified herein, nor shall the area of any lot or parcel be reduced below the minimum requirements established herein for the district in which such lot or parcel is located.

SECTION 405 STANDARDS FOR DWELLING STRUCTURES

- A. No site-built single-family dwelling or manufactured home located outside of a manufactured housing community shall be permitted unless said dwelling unit conforms to the following standards.
 - 1. The minimum requirement for habitable (excluding garage, uninsulated storage areas, and areas with less than a floor to ceiling height of seven (7) feet, six (6) inches) floor area for a single-family structure is seven hundred and fifty (750) square feet for two (2) bedrooms or less and an additional one hundred and fifty (150) square feet for each bedroom in addition to first two-bedrooms.

 - 2. Each dwelling unit shall have a minimum width across any front, side, or rear elevation of twenty-four (24) feet. Breezeways, garages, porches and other appurtenances shall not be considered part of the required twenty-four (24) feet.

 - 3. Each such dwelling unit shall be firmly attached to a perimeter foundation constructed on the site with the same or similar perimeter dimensions of the dwelling.

 - 4. Dwelling units shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.

 - 5. Each such dwelling unit shall be connected a private sanitary system approved by the Calhoun County Health Department.

 - 6. All homes shall have a roof overhang of not less than six (6) inches on all sides, or alternatively be equipped with window sills or roof drainage systems. The dwellings shall not have less than two (2) exterior doors with the second one being in either the rear or side of the dwelling. The slope of the roof pitch shall be at least three (3) on twelve (12).

7. Each such dwelling unit shall comply with all pertinent building and fire codes. In the case of a manufactured home, all construction and all plumbing, electrical apparatus, and insulation within and connected to said manufactured house shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development.
 8. No basement structure shall be used for occupancy unless a completed story is situated immediately above the basement structure and that above story is also utilized for dwelling purposes.
- B. For multiple-family dwellings, the following minimum required floor space per dwelling unit in each multiple-family structure shall be:
1. Efficiency apartments 400 square feet
 2. One bedroom apartments 600 square feet
 3. Two bedroom apartments 800 square feet
 4. Three bedroom apartments 1,000 square feet
 5. Plus an additional eighty (80) square feet for each bedroom in excess of three bedrooms in any dwelling unit.
- C. The foregoing standards of this section shall not apply to a manufactured home located in a licensed manufactured housing community except to the extent required by state or federal law or otherwise specifically required in this Ordinance. Manufactured homes that do not conform to the standards of this section shall not be used for dwelling purposes unless located within an approved manufactured housing community, or unless used as a temporary residence as otherwise provided in this Ordinance.

SECTION 406 ACCESSORY USES AND STRUCTURES

- A. Accessory structures and uses, except as otherwise permitted in this Ordinance, shall be subject to the following regulations.
1. An accessory structure, including carports and garages, which are attached to the side or front of the principal structure, shall comply in all respects with the requirements of this Ordinance applicable to the principal structure. For accessory structures attached to and completely to the rear of the principal structure, such attached accessory structure shall be considered a detached accessory structure for purposes of determining rear yard setbacks.

2. A detached accessory structure shall not have a side yard setback less than that required for the principal structure in the district unless all portions of such detached accessory structure is completely to the rear of the principal structure, in which case the accessory structure shall be located no closer than five (5) feet to the side lot line.
 3. A detached accessory structure shall not be located closer than five (5) feet to any rear lot line, except that when such accessory structure is a garage that is accessed at a right angle to an alley, in which case the accessory structure shall be setback no less than twelve (12) feet from the rear lot line or alley right-of-way or easement.
 4. No detached accessory structure shall be closer than ten (10) feet to any other principal or accessory structure on the lot or adjacent lot.
 5. Detached accessory structures are subject to all required front yard setback requirements applying to the principal building. No accessory structures other than those permitted elsewhere herein, shall be erected in the front yard between the principal structure and the right-of-way.
 6. A detached accessory structure or detached accessory structures in total shall not exceed the first-floor area of the principal structure on site.
 7. No detached structure accessory to a principal residential structure or use shall exceed fourteen (14) feet in height at the eave of the structure. Detached accessory structures for non-residential uses in non-residential districts may be constructed to equal the permitted maximum height of structures in said districts.
 8. Accessory structures shall not be erected on a lot or parcel in a residentially zoned district prior to the establishment of a principal structure. Where two or more abutting lots are held under one ownership in a residentially zoned district, the owner may erect an accessory structure on a lot or parcel separate from that one which the principal structure is located, provided that both lots are used as one with a single tax description. The lots or parcels on which the principal and accessory structures are located shall be considered for purposes of this Ordinance to be one zoning lot.
 9. Division or transfer of ownership of the lot or parcel containing the accessory structure from the principal use is not permitted in that such action shall cause a violation of the Ordinance by permitting an accessory structure to exist without a principal use.
- B. A swimming pool, whether above or below ground, shall be considered as an accessory structure for the purposes of determining location on property and required yard spaces. A swimming pool, whether seasonal or permanent, shall also require a zoning permit to be issued prior to installation. Additional standards include:

1. Swimming pools are to be fenced in accordance with the State Construction Code, as amended. Any required fencing pursuant to the State Construction Code shall also meet the standards and requirements under Section 408, herein and a zoning permit must to obtained.
 2. A swimming pool may be closer than the minimum required ten (10) foot separation between accessory structures if the other accessory structure is a deck or other structure intended to be associated with use of the swimming pool. The other accessory structure must be fenced in accordance with the State Construction Code requirements for fencing around swimming pools.
 3. A swimming pool shall not be used unless adequate public health measures are periodically taken to insure that the use thereof will not cause the spread of disease. The swimming pool shall be kept clean and the water used there shall be filtered and sterilized by chlorination or other generally accepted and effective treatment.
 4. Seasonal swimming pools are to be removed by November 1st of each year.
- C. For provisions related to the implementation and use of the Outdoor Furnaces and On-Site Wind Energy Systems, please see Section 421 and 422, respectively.

SECTION 407 PERMITTED YARD ENCROACHMENTS

- A. The minimum setback and yard requirements of this Ordinance are subject to the following permitted encroachments.
1. Terraces, patios, and similar accessory uses or structures not attached to a principal or accessory structure may project into a required side or rear yard provided that such uses or structures are without roofs and load bearing walls. Such structures or uses are not permitted in the required front yard setback.
 2. Enclosed and unenclosed roofed porches, decks, fire escapes, outside stairways and balconies attached to a structure shall be considered part of the structure to which they are attached and shall be subject to all principal and accessory structure yard requirements to which it is attached.
 3. Unenclosed porches, decks, fire escapes, outside stairways, and balconies without roofs that are attached to a structure and recreational structures affixed to the ground, may project or be located no closer than two (2) feet from the side or rear property line. Such structures are not permitted in the required front yard setback.

4. Architectural and utility elements, such as chimneys, flues, belt courses, leaders, sills, pilasters, cornices, eaves, gutters, and similar features may project into any required setback a maximum of two (2) feet.

SECTION 408 FENCES, WALLS AND SCREENS

- A. This Ordinance contains herein requirements for the screening and buffering of uses and structure from adjacent properties by use of landscaping, fencing and walls. Fences may also be voluntarily and used to create screening and buffering from adjacent properties and uses for purposes of privacy and containment. All fences, walls and screening shall meet the following general standards unless otherwise permitted herein:
 1. Within the the required front yard setback of a lot or parcel in a residential district, no fence, wall, or other non-living screening structure shall exceed three (3) feet in height. No such fence or wall located within a side or rear yard shall exceed six (6) feet in height. In a commercial, industrial, or research office district, no fence, wall, or other non-living screening structure shall exceed twelve (12) feet in height.
 2. On any corner lot in any district, no fence, wall, screen, hedge, sign, or other structure or planting shall obstruct the visibility of street vehicular traffic between the heights of three (3) feet and ten (10) feet in an area measuring thirty (30) feet from the point of intersection of the street right-of-way lines and the tangent connecting the thirty (30) foot extremities of the intersecting right-of-way lines.
 3. Solid board fences shall be constructed with wood posts not less than four (4) inches by four (4) inches. Masonry piers may be substituted for wood posts. Posts or piers shall be spaced not more than eight (8) feet on center. The finish side of every fence shall face away form the property on which it is located.
 4. Wrought iron, open mesh or slatted fencing, provided that the ratio of one (1) part open to six (6) parts of solid fencing is maintained.
 5. Masonry walls shall be designed and constructed so as not to modify natural drainage in such a way as to impact adjacent property. The outer face of such wall (the face away from the use that is to be screened) to be covered with brick, stone, embossed or pierced concrete block, or other decorative masonry material.
 6. Electrified or barbed wire, spikes, nails or similar on top or on the sides of any fence are prohibited unless otherwise prescribed herein. Such provision is not intended to prohibit traditional picket board fences. Barbed wire and barbed wire cradles may be placed on top of fences enclosing public utility buildings

or structures as deemed necessary in the interests of public safety by the Planning Commission.

7. Acceptable fencing material shall include wood, wood-like (plastic, vinyl, recycled material) and chain link. Woven wire or wire mesh and other similar types of agricultural fencing types are not permitted, **except that welded wire fencing shall be permitted in the A-1 Open Space and Water body Conservation District on the interior side or rear yard. (effective upon publication 4-15-12)**
8. No fence shall be approved which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by emergency services in case of fire to buildings in the vicinity or which will constitute a hazard to street traffic or to pedestrians.

SECTION 409 MOVING BUILDINGS

- A. No structure within or outside of the Village shall be relocated upon any parcel or lot within the Village unless the following standards and conditions are met:
 1. A zoning permit must be applied for and approved establish that the relocated structure conforms to all requirements of the respective zoning district.
 2. No structure within the Village shall be relocated, moved or demolished without inspection by the Building Inspector deeming such structure as safe and compliant with provisions of the State Construction Code.
- B. No structure being relocated to a parcel or lot within the Village shall be placed or stored until the aforementioned zoning permit and compliance with the State Construction Code is determined.

SECTION 410 HEIGHT REQUIREMENT EXCEPTIONS

- A. The following are exempted from height limit requirements herein, provided that no portion of the excepted structure may be used for human occupancy or be at a height greater than necessary to accomplish the purpose for which it is intended to serve:
 1. Those purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments, and do not exceed seventy-five (75) feet in height.
 2. Those necessary appurtenances to mechanical or structural functions, such as chimneys, smokestacks, water tanks, elevators, grain legs, penthouses, ventilators, bulkheads, radio towers, masts and aerials, television antennas, fire and hose towers, or other similar structures where the manufacturing process requires a greater height but do not exceed one hundred (100) feet in height.

3. Those uses accounted for as a use permitted only by conditional use permit approval where the height of such structure is governed by the conditional use regulations.

SECTION 411 ESSENTIAL SERVICES

Essential services shall be permitted as authorized and regulated by law and other ordinances of the Village, it being the intention hereof to exempt such essential services from the application of this Ordinance.

SECTION 412 TEMPORARY STRUCTURES AND USES

A. Temporary structures are permitted in all districts as described below and as authorized by a temporary zoning permit issued by the Zoning Administrator:

1. A temporary structure for residential occupancy may be placed during renovation or replacement of a principal and permanent structure damaged by fire (or some other cause beyond the control of the owner) to the extent that it is no longer safe for human occupancy, as determined by the Building Inspector.

- a. A temporary housing permit may be issued to allow a mobile home less than the twenty-four (24) foot required width for a single-family dwelling or travel trailer to be placed on the property and outside of the right-of-way. The following standards and conditions are applicable:

- i. Proposed water supply has been approved by Village and sanitary facilities have been approved by the Calhoun County Health Department.

- ii. All applicable dimensional requirements for setbacks, bulk and yard requirements within said district shall apply to temporary dwellings, except for side and rear yard setbacks.

- iii. The temporary structure must be removed when repair of damage is complete, but in no case shall it be located on the lot or parcel for more than ninety (90) days. An extension for sixty (60) days may be granted if significant progress is being made or in the event of unforeseeable circumstances.

2. Temporary structures incidental to construction of a commercial or industrial development, or a residential development having more than ten (10) dwelling units are permitted by application and approval of a zoning permit. Said temporary structure shall be removed within fifteen (15) days after construction is complete, but in no case shall the structure be allowed to occupy the subject property for more than three-hundred and sixty-five (365) days.
 3. No garage, barn, or accessory structure, or cellar, whether fixed or portable, shall be used or occupied as a dwelling. Travel trailers or motor homes may be occupied for a period not to exceed fifteen (15) days in one year unless in an approved travel trailer park or campground or unless found to be applicable under Item 1, above.
- B. Temporary uses are permitted in certain districts as described below and as authorized by a temporary zoning permit issued by the Zoning Administrator:
1. The display and sale of Christmas trees in a commercial district, at a church or other institutional establishment, is permitted by a temporary zoning permit, provided it is incidental and accessory to the principal use. The temporary zoning permit for the display and sale on an open lot shall be valid for a period not to exceed forty-five (45) days.
 2. Garage sales, rummage sales, yard sales, moving sales, and similar activities shall be considered temporary accessory uses within any residential zoning district without a temporary zoning permit as long as such sale period does not become excessive. Excessive shall mean exceeding four (4) sales events lasting no more than three (3) days for each event within a six (6) month period held in any one location.
 - a. All signs advertising a garage sale shall be removed within twenty-four (24) hours of the conclusion of said garage sale or similar activity.
 3. Outdoor display and sales of merchandise is permitted within a commercial district for sidewalk sales and special sales events. Such outdoor display and sales of merchandise shall only include merchandise customarily sold on the premises by a permanently established business on that parcel or lot and be located so as not to interfere with pedestrian and vehicular travel lanes.
 4. Temporary real estate offices are permitted within approved development projects. No cooking or sleeping accommodations shall be maintained. The permit shall be valid for not more than one (1) year, but is renewable.

SECTION 413 MAINTENANCE OF JUNK PROHIBITED

Unless permitted herein by site plan and/or conditional use approval, it shall be unlawful to have, possess, or maintain junk or inoperable or abandoned motor vehicles on any property in the Village, unless located within a completely enclosed structure, or fenced so as to not be visible from the public right-of-way or adjacent property.

SECTION 414 REGULATIONS OF OTHER AGENCIES

- A. All zoning permits, site plans, conditional uses, Planned Unit Developments, site condominiums, plats and other development projects shall conform with the provisions of this Ordinance and the regulations and standards of all local, county, state and federal agencies and regulations having jurisdiction.
 - 1. These agencies include, but are not limited to, the following:
 - a. Calhoun County Drain Commissioner
 - b. State Construction Code
 - c. State Fire Marshall and local Fire Code.
 - d. Soil Erosion and Sedimentation Ordinance Local Enforcing Agency
 - e. Michigan Department of Environmental Quality
 - f. Calhoun County Health Department.
 - g. All local, county, state and federal regulations related to loading/unloading, transport, storage, use and/or disposal of hazardous substances.
 - 2. The Zoning Administrator shall not issue a zoning permit for any land use which requires a county, state, or federal permits, until such permits have been obtained and satisfactory evidence has been submitted verifying the acquisition of the necessary permits.

SECTION 415 CONDOMINIUM SUBDIVISIONS

- A. A condominium development containing residential, commercial, office, industrial, or other structures or improvements for uses permitted in the zoning district shall be considered in accordance with Public Act 59 of 1978, Condominium Act (MCL 599.101 et. Seq.), as amended.
- B. A condominium is a method of division of property or land, and a method of transferring ownership. All condominium structures and units shall comply with

applicable regulations pursuant to the underlying zoning district and corresponding dimensional requirements in the schedule of regulations for that district.

- C. A condominium shall be considered a site plan, unless otherwise provided herein, for purposes of review and approval. All information requirements pursuant to site plan review process and procedure found herein are applicable.
- D. A site condominium subdivision is subject to the general standards and regulations required of a plat by this Ordinance and other ordinances of the Village.

SECTION 416 CONTINUED CONFORMANCE WITH REGULATIONS

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements for a building or use specified within this Ordinance, including those standards and conditions established through site plan and conditional use review and approval shall be a continuing obligation of the owner of such building or property on which such building or use is located.

SECTION 417 PREVIOUSLY APPROVED SITE PLANS & SPECIAL LAND USES

- A. Nothing in the Ordinance shall require changes to site plans or conditional use permits approved under previous version of the Ordinance, except where construction of structures and/or installation of use as approved under previous site plan or special use permit procedure has not been commenced within one-hundred eighty (180) days after the effective date of this Ordinance and the buildings, structures and/or installation of use shall be completed as authorized within two (2) years after the date of adoption of this Ordinance.
- B. If commencement or completion has not been achieved within the time specifications listed above, the site plan and special use permit shall automatically be null and void. Approval of a site plan or conditional use approval under this Ordinance is required to commence, complete or receive a certificate of occupancy.

SECTION 418 STRUCTURAL DAMAGE

- A. Any structure or building which may be in whole or in part destroyed by fire, windstorm, or other such cause, if rebuilt, shall be rebuilt in accordance with this Ordinance, except as otherwise permitted in this Ordinance, or shall be restored to a safe and healthy condition with all debris removed from the site within one-hundred and eighty (180) days from the occurrence of such damage.

- B. Nothing within this Ordinance shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition, any part of a building or premises declared unsafe or unhealthy.

SECTION 419 AIRPORT LAYOUT AND/OR APPROACH PLAN.

The guidelines set forth in airport layout and approach plans on file with the Zoning Administrator shall be utilized in the review and approval of zoning permits, site plans, conditional uses, variances, appeals and interpretations, and amendment to the Ordinance.

SECTION 420 HOME OCCUPATION

- A. A home occupation shall be permitted in all residential districts by zoning permit and shall be conducted entirely within the dwelling, as defined herein. Home occupations shall satisfy the following conditions:
1. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses outside the confines of the dwelling.
 - a. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
 2. The home occupation shall only apply to the person who resides in the dwelling. Additional employees, other than those who reside at the premises as part of the family, are not permitted.
 3. No outdoor storage shall be permitted.
 4. There shall be no change in the exterior appearance of the building or premises or other visible evidence of the conduct of such home occupation. An advertising sign is permitted pursuant to provisions provided in Article 12.
 5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected for a single-family dwelling. Any need for parking generated by the conduct of such home occupation shall be met off-street in a typical residential driveway of sufficient size.
 6. The regulation of home occupations as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance; but such flexibility is not intended to allow the essential residential character of residential districts.

7. Limited retail sales may be permitted on the premises, as an incidental, rather than principal activity of a home occupation. No advertising of the retail sale of products sold on the premises is permitted in newspaper, radio, television or other media.
8. The home occupation shall not occupy more than thirty (30) percent of the gross floor area of one floor of the dwelling where the home occupation is being conducted.
9. No exterior entrances directly to the space allocated for the home occupation shall be permitted. The entrance to the space allocated for the home occupation shall be from within the dwelling.
10. The home occupation shall not entail the use or storage of explosive, flammable, or otherwise hazardous materials.
11. There shall be no equipment or machinery used in connection with a home occupation which is industrial in nature, such as automobile repair, engine repair, machining, fabrication or similar and like processes. Small engine repair for non self-propelled equipment is permitted as long as other standards and conditions can be met.
12. Limited visits by customers shall be limited to the hours of 8:00 A.M. to 8:00 P.M.

SECTION 421 OUTDOOR SOLID FUEL BURNING FURNACES

- A. Due to the potential impact on the public health, safety and welfare of the citizens of the Village caused by emissions of smoke and particulates in a populated area (See “Model Ordinance for Outdoor and Open Burning- A guide for Michigan Counties, Cities, Villages and Townships” produced by the Michigan Department of Environmental Quality, September 2006), the following provisions shall apply to outdoor solid fuel wood/corn burning furnaces/boilers (“Outdoor Furnaces”):
 1. Outdoor Furnaces are permitted as an accessory structure and use to single-family residential structures located in the A-1, Open Space/Waterbody Conservation District. All appropriate zoning, building, and trade permits are required prior to installation.
 2. The Outdoor Furnace shall be listed by the Underwriters Laboratories, Inc. (UL) or other similar entity and shall only utilize solid fuels as recommended by the manufacturer of the furnace. The use of trash, plastics, gasoline, oil, rubber, garbage, petroleum treated products, pressure treated wood, leaves, paper products, cardboard, etc. are prohibited.

3. The following setbacks in addition to those required for typical accessory structures are required for locating an Outdoor Furnace on an appropriately zoned property within the Village:
 - a. An Outdoor Furnace shall be located no closer than one-hundred (100) feet to any residential or commercially zoned or utilized property.
 - b. An Outdoor Furnace shall be located no closer than two-hundred (200) feet to any property zoned or used for assembly purposes, including but not limited to a school, church, public park, etc.
4. The chimney or smokestack shall be no less than two (2) feet greater in height than the greatest eave height of a residentially or commercially occupied structure within one hundred (100) feet of the Outdoor Furnace, including the principal structure that it is accessory.

SECTION 422 ON-SITE WIND ENERGY SYSTEM

- A. On-site consumer-based, non-utility wind tower/generator/turbines (“On-Site Wind Energy Systems”) are permitted as an accessory use and structure in the Village subject to the following provisions and issuance of all appropriate zoning, building, and trade permits:
 1. The On-Site Wind Energy System must be professionally designed and bear the seal of professional licensed engineer. Such signature and seal shall also be provided in a written communication verifying compliance with the provisions of this Section and Ordinance.
 2. The structure shall not exceed a height of more than seventy-five (75) feet as measured from ground level at the base of the structure to the maximum height of any portion of the structure, such as the full extension of a vertical blade.
 3. The structure shall be setback no less than one (1) and a half (½) times the height of the maximum height of any portion of the structure from any property line.
 4. The minimum vertical blade tip clearance from grade shall be twenty (20) feet for a system employing a horizontal axis rotor. If a structure is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors.
 5. An On-Site Wind Energy System shall employ automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection.

6. The On-Site Wind Energy System shall be maintained in suitable working order and condition to limit noise and flying debris that would effect the personal use and enjoyment of adjacent property. The system shall not cause noise in excess of a normal conversation beyond an adjoining property line.
7. The system, structure and mechanics shall comply with all applicable state construction codes and comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.) and the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.) where applicable. An interconnected system shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Wholly on-site consumer-based systems are exempt from this requirement.

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ARTICLE 5

ZONING DISTRICTS AND SCHEDULE OF REGULATIONS

SECTION 501 ESTABLISHMENT OF DISTRICTS

- A. For the purpose of this Zoning Ordinance (“Ordinance”) the Village of Athens (“Village”) is hereby divided into the following zoning districts, which shall be known by the following respective titles:

A-1, Open Space/Waterbody Conservation District

R-1, Low-Density Residential District

R-2, Medium-Density Residential District

R-3, High-Density Residential District

MH, Manufactured Housing Community District

C-1, General Commercial District

I-1, Industrial District

IN, Institutional District

PUD, Planned Unit Development

WP, Wellhead Protection Overlay District

SECTION 502 ZONING DISTRICT MAP

- A. The boundaries of the respective districts provided in this Ordinance are defined and established as depicted on the map entitled “OFFICIAL ZONING MAP OF THE VILLAGE OF ATHENS, CALHOUN COUNTY, MICHIGAN” (“Zoning Map”).
1. The Zoning Map, with all notations, references and explanatory matter thereon, is part of this Ordinance, shall be published as part of this Ordinance and shall be of the same force and effect as if the districts shown were fully set forth herein.
 2. This Zoning Map and all amendments thereto, shall be filed with the Village Clerk for purposes of having an official Zoning Map on file with the Village. The Zoning Map held by the Village Clerk shall be the sole official Zoning Map and the final authority as to the zoning status for a lot, parcel, area or structure.
- B. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Zoning Map, such changes shall be made on the Zoning Map after an amendment has been approved by the Village Council.

SECTION 503 INTERPRETATION OF DISTRICT BOUNDARIES

- A. Where there is an uncertainty, contradiction, or conflict as to the exact location of any zoning district boundaries shown on the Zoning Map that can not be reasonably ascertained by the Zoning Administrator, interpretation concerning the location of district boundary lines shall be determined by the Board of Appeals.
1. The Zoning Administrator, in arriving at a decision on such matters, shall apply the following standards. These same standards shall be also used by the Board of Appeals in their review of district boundaries upon petition.
- a. Boundaries indicated as approximately following a street or highway, the center lines of said streets or highways shall be construed to be such boundaries.
 - b. Boundaries indicated as approximately following a section line, quarter section line or other survey line shall be construed as following such lines.
 - c. Boundaries indicated as approximately following lot, parcel or property lines shall be construed as following such lines.
 - d. Boundaries indicated as approximately following a corporate boundary line shall be construed as following such lines.
 - e. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the rails of the tracks, or in the case of multiple tracks, the midway point between the outside rails.
 - f. Boundaries indicated as following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines, and in the event of change in the shorelines shall be construed as moving with the actual shorelines.
 - g. Boundaries indicated as following the centerline of a stream, river, regulated drain shall be construed as following such centerline.
 - h. A boundary indicated as parallel to or an extension of a feature indicated in the above rules shall be construed as such.
 - i. A distance not specifically indicated shall be determined by the scale of the map.

SECTION 504 ZONING OF VACATED AREAS

Whenever any street, alley or other public right-of-way within the Village is vacated by official governmental action, the lands within that vacated area shall attach to and become a part of adjoining lands. Such vacated lands shall automatically without further action by the Village acquire and be subject to the same zoning regulations as are applicable to lands to which it is attached and shall be used for those uses as is permitted under this Ordinance.

SECTION 505 ZONING OF ANNEXED LANDS

Whenever any portion of any Township becomes part of the Village or whenever any territory is annexed to the Village, the then existing zoning regulations for the territory being incorporated into the Village shall remain in full force and effect for a period of three (3) months after incorporation or annexation unless the Village Council acts otherwise.

SECTION 506 FILL/CREATED LAND

Whenever any fill is placed in any lake or stream, the land created shall automatically and without further formal action by the Village shall be subject to the same zoning regulations as are applicable to lands to which the created land shall attach or be adjacent to. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land by which the lake or stream shares boundary with. Such fill shall require approval by appropriate governmental agencies including, but not limited to, the Drain Commissioner with jurisdiction, Michigan Department of Natural Resources and Michigan Department of Environmental Quality.

SECTION 507 ZONING DISTRICT USES

- A. Each district found herein is established for the public, health, safety and welfare of the general public and other intents and purposes as described in Article 1, Section 103 of this Ordinance. Uses are permitted by-right or by conditional use approval. Regulations are to be applied uniformly for each class of land, building, structure or uses within each district.
 - 1. A permitted use shall be permitted by-right only if specifically listed as such under a particular zoning district. Being permitted by-right does not exclude the necessity of a zoning permit, site plan review or other applicable reviews and permits.
 - 2. A conditional use shall be permitted only if specifically listed as such under a particular zoning district. Conditional uses are subject to public hearing and requirements particular to the use to mitigate possible impacts to adjacent

properties and the community. Uses permitted by conditional use are subject to reasonable conditions for similar purposes.

- B. A petitioned use of land, building, or structure not specifically listed under the provisions of any of the zoning districts herein described as a permitted or conditional use shall be considered by the Planning Commission for inclusion in such district based on the following:
 - 1. The Planning Commission shall assess the characteristics of the petitioned use for its nature, class, similarity and compatibility to other uses listed in the district where the petitioned use is proposed.
 - 2. The Planning Commission shall also assess if the petitioned use causes no greater negative impact than the other uses listed in the district where the petitioned use is proposed.
 - 3. If the petitioned use is found not to have these characteristics as set forth above, the Planning Commission or Village Council shall schedule a public hearing to consider the use as a potential amendment to the text of the Ordinance pursuant to the necessary provisions and requirements of this Ordinance.

- C. In the event that the State of Michigan, by whatever means, no longer governs, regulates, reviews under administrative rules or otherwise has under jurisdiction the development of property for public school purposes, the Village shall consider such use for public school purposes under the provisions established herein for the development of “private nursery, primary or secondary school”, including all requirements for parking, landscaping, site plan review, conditional use review, etc.

SECTION 508 INTENT OF DISTRICTS

- A. The intent and purpose of each district is set forth as follows:
 - 1. A-1, Open Space/Waterbody Conservation District - It is the intent and purpose of the A-1 district to recognize and value that the principal use of certain open areas within the Village is and ought to be the development, management and utilization of their inherent natural resources. The regulations of this district are intended to protect natural resources, natural habitats, waterways and water bodies, agriculture, recreation and the public health, safety and welfare by eliminating or reducing the destruction of these resources, the wasteful use of open land and the material change to natural systems, such as flood plains, wetlands, and ground water recharge areas. In addition, such regulations are also intended to prevent and minimize property loss and reduce the cost for emergency services due to flooding, soil erosion, etc.

2. R-1, Low-Density Residential District - It is the intent and purpose of this district to establish and preserve low-density single family detached home neighborhoods free from other uses except those that are both compatible with and convenient to the residents of such a district.
3. R-2, Medium-Density Residential District - It is the intent and purpose of this district to establish and preserve moderate density neighbors of one and two-family homes with suitable open space and free from other uses except those that are both compatible with and convenient to the residents of such district.
4. R-3, High-Density Residential District - It is the intent and purpose of this district to establish and preserve a district for high density residential use and associated facilities. Such district shall provide for various types of multiple-family residential dwellings and group developments to provide a wide range of choices of living environments. The district is intended to be located in areas of concentrated urban development on or near major streets where serviced by adequate public utilities and services, such as sewer, water, fire, police, etc. and where such district will not strain existing public utilities and services.
5. MH, Manufactured Housing Community District - It is the intent and purpose of the MH district to establish standards and regulations for the location of neighborhoods comprised of manufactured homes and associated facilities. The district is intended to be located in areas serviced by adequate public utilities and services, such as sewer, water, fire, police, etc. and where such district will not strain existing public utilities and services.
6. C-1, Commercial District - It is the intent and purpose of the C-1 district to preserve and encourage commercial and office uses that are convenient to the residents of the community while preserving the general residential character of the community, such as provisions for urban residential opportunities above first-floor commercial and office uses. The provisions of this district are intended to encourage commercial development in planned centers that are appropriately located to serve and be accessed by both pedestrian and vehicular modes of travel.
7. I-1, Industrial District - It is the intent and purpose of this district to establish and preserve areas for industrial and related uses of such a nature that they do not become a detriment to the community as well as conflict with or discourage other types of land uses because of noise, glare, odor, dust, vibration, pollutants or other similar characteristics.
8. IN, Institutional District - It is the intent and purpose of the IN district to establish and appropriately identify areas publicly owned and used for public

purposes, including but not limited to public schools, municipal building and use areas, and Village parks and designated open space.

9. PUD, Planned Unit Development - It is the intent and purpose of the PUD district to: encourage the use of the land in accordance with its natural characteristics and adaptability; conserve natural features; manage the expenditure of energy; encourage innovation in land use planning to bring about compatibility in design and of use; provide for usable and functional open space; provide enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the current and future citizens of the Village. In that the PUD can be utilized for the development of a variety of uses that are found in other districts, the intents and purposes of other districts are applicable given the proposed uses being presented with a PUD.
10. WP, Wellhead Protection Overlay Zone
 - a. The Village has determined that:
 - i. Certain groundwater underlying the Village is the sole source of the Village's drinking water;
 - ii. Groundwater aquifers are integrally connected with the surface water, lakes, and streams that constitute significant public health, recreational and economic resources of the Village and surrounding area; and
 - iii. Spills and discharges of petroleum products, sewage and hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.
 - b. Therefore, it is the intent and purpose of this overlay district to:
 - i. Preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the Village, and to protect them from adverse land use development or land use practices;
 - ii. Preserve and protect sources of drinking water supply for public health and safety;
 - iii. Conserve the natural resources of the Village and the surrounding area;

- iv. Provide a level of protection of the financial investment that the Village has in its drinking water supply; and
- v. Ensure that State of Michigan regulations that help protect groundwater are implemented consistently when new or expanded development proposals are reviewed.

SECTION 509

A-1, OPEN SPACE AND WATERBODY CONSERVATION DISTRICT

A. Permitted Uses

- | | |
|---|--|
| <ul style="list-style-type: none"> 1. Accessory Use 2. Family Day Care Home (in existing single-family structure or structure/use permitted by conditional use permit) 3. Essential Services and/or Structures 4. Government Facilities and Structures 5. Home Occupation(in existing single-family structure or | <ul style="list-style-type: none"> 6. Public and Private Conservation Areas (for the development, protection and conservation of open space, watersheds, water, soil, forest and wildlife resources) 7. Agriculture as defined by this ordinance (effective 4-15-12) |
|---|--|

B. Conditional Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> 1. Single-Family Dwelling 2. Campground 3. Golf Course/Country Club 4. Communication Tower 5. Commercial Recreation (Outdoor) 6. Nursery and Greenhouse | <ul style="list-style-type: none"> 7. Mineral & Material Extraction 8. Kennel 9. Community Center (effective 3/21/19) |
|--|--|

C. Dimensional Requirements

SCHEDULE OF REGULATIONS AND DIMENSIONAL REQUIREMENTS	Minimum Lot Size by Zoning District		Maximum Height of Structures		Minimum Yard Setback Per Lot/Parcel in Feet from the Road Right-of-Way or Property Line			Maximum Percentage of Lot Area Coverage	Maximum Ratio of Lot Depth/Width.
	Area in Sq. Ft. or Acres	Width in Feet	In Stories	In Feet	Front	Each Side	Rear	For All Structures	For All Parcels/Lots
A-1, Open Space & Waterbody Conservation District	1-acre	200	3	40	60	30	50	10%	4 to 1

DISTRICT USES AND REGULATIONS MAY ALSO BE SUBJECT TO SECTIONS 519 et seq.

SECTION 510

R-1, LOW-DENSITY RESIDENTIAL DISTRICT

A. Permitted Uses

- | | |
|---|------------------------------------|
| 1. Accessory Use | 5. Home Occupation |
| 2. Adult Foster Care Home | 6. Single-Family Detached Dwelling |
| 3. Family Day Care Home | 7. Public and Private Recreation |
| 4. Essential Services and/or Structures | |

B. Conditional Uses

- | | |
|---|---|
| 1. Church and Religious Institution | 6. Group Day Care Home |
| 2. Accessory Apartment | 7. Home Based Business |
| 3. Private nursery, primary or secondary school | 8. Community Center (effective 3/21/19) |
| 4. Kennel | |
| 5. Golf Course/Country Club | |

C. Dimensional Requirements

SCHEDULE OF REGULATIONS AND DIMENSIONAL REQUIREMENTS	Minimum Lot Size by Zoning District		Maximum Height of Structures		Minimum Yard Setback Per Lot/Parcel in Feet from the Road Right-of-Way or Property Line			Maximum Percentage of Lot Area Coverage	Maximum Ratio of Lot Depth/Width.
	Area in Sq. Ft. or Acres	Width in Feet	In Stories	In Feet	Front	Each Side	Rear	For All Structures	For All Parcels/Lots
R-1, Low-Density Residential District	13,000-sf.	82.5	2.5	35	See Section 519.A.6	10	40	20%	4 to 1

DISTRICT USES AND REGULATIONS MAY ALSO BE SUBJECT TO SECTIONS 519 et seq.

SECTION 511

R-2, MEDIUM-DENSITY RESIDENTIAL DISTRICT

A. Permitted Uses

- | | |
|---|------------------------------------|
| 1. Accessory Use | 5. Home Occupation |
| 2. Adult Foster Care Home | 6. Single-Family Detached Dwelling |
| 3. Family Day Care Home | 7. Two-Family Dwelling |
| 4. Essential Services and/or Structures | 8. Public and Private Recreation |

B. Conditional Uses

- | | |
|--|---|
| 1. Church and Religious Institutions | 6. Home Based Business |
| 2. Bed & Breakfast | 7. Kennel |
| 3. Private nursery, primary or secondary school. | 8. Community Center (effective 3/21/19) |
| 4. Accessory Apartment | |
| 5. Adult Group Home | |

C. Dimensional Requirements

SCHEDULE OF REGULATIONS AND DIMENSIONAL REQUIREMENTS	Minimum Lot Size by Zoning District		Maximum Height of Structures		Minimum Yard Setback Per Lot/Parcel in Feet from the Road Right-of-Way or Property Line			Maximum Percentage of Lot Area Coverage	Maximum Ratio of Lot Depth/Width.
	Area in Sq. Ft. or Acres	Width in Feet	In Stories	In Feet	Front	Each Side	Rear	For All Structures	For All Parcels/Lots
R-2, Medium-Density Residential District	10,000-sf.	66	2.5	35	See Section 519.A.6	8	35	30%	4 to 1

DISTRICT USES AND REGULATIONS MAY ALSO BE SUBJECT TO SECTIONS 519 et seq.

SECTION 512

R-3, HIGH-DENSITY RESIDENTIAL DISTRICT

A. Permitted Uses

- | | |
|---|---|
| <ul style="list-style-type: none"> 1. Accessory Use 2. Community/Association Building/Office 3. Essential Services and/or Structures 4. Home Occupation | <ul style="list-style-type: none"> 5. Multiple-Family Dwellings (Three (3) to Six (6) Units Per Structure) 6. Two-Family Dwelling 7. Public and Private Recreation |
|---|---|

B. Conditional Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> 1. Day Care Center 2. Adult Congregate Convalescent 3. Multiple-Family Dwellings (Seven (7) Units or more per Structure) 4. Recycling Facility (Small Collection) | <ul style="list-style-type: none"> 9. Private nursery, primary or secondary school. 10. Community Center (effective 3/21/19) |
|--|--|

C. Dimensional Requirements

SCHEDULE OF REGULATIONS AND DIMENSIONAL REQUIREMENTS	Minimum Lot Size by Zoning District		Maximum Height of Structures		Minimum Yard Setback Per Lot/Parcel in Feet from the Road Right-of-Way or Property Line			Maximum Percentage of Lot Area Coverage	Maximum Ratio of Lot Depth/Width.
	Area in Sq. Ft. or Acres	Width in Feet	In Stories	In Feet	Front	Each Side	Rear	For All Structures	For All Parcels/Lots
R-3, High-Density Residential District	15,000-sf. Per Project	100	2.5	40	35	8	35	40.00%	4 to 1

DISTRICT USES AND REGULATIONS MAY ALSO BE SUBJECT TO SECTIONS 519 et seq.

SECTION 513

MH, MANUFACTURED HOUSING COMMUNITY DISTRICT

A. Permitted Uses

- | | |
|---|---|
| <ul style="list-style-type: none"> 1. Accessory Use 2. Subject to Article 16, Community/Association Building/Office | <ul style="list-style-type: none"> 3. Subject to Article 16, Manufactured Housing Community Park 4. Public and Private Recreation 5. Home Occupation |
|---|---|

B. Conditional Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> 1. Adult Congregate Convalescent 2. Day Care Center | <ul style="list-style-type: none"> 3. Recycling Facility (Small Collection) |
|--|--|

C. Dimensional Requirements

SCHEDULE OF REGULATIONS AND DIMENSIONAL REQUIREMENTS	Minimum Lot Size by Zoning District		Maximum Height of Structures		Minimum Yard Setback Per Lot/Parcel in Feet from the Road Right-of-Way or Property Line			Maximum Percentage of Lot Area Coverage	Maximum Ratio of Lot Depth/Width.
	Area in Sq. Ft. or Acres	Width in Feet	In Stories	In Feet	Front	Each Side	Rear	For All Structures	For All Parcels/Lots
MH, Manufactured Housing Community District	15-acres per district (5,500-sf. per site)	200-ft. per dist.	1.0	20	See Art. 16	See Art. 16	See Art. 16	See Art. 16	4 to 1 per district.

DISTRICT USES AND REGULATIONS MAY ALSO BE SUBJECT TO SECTIONS 519 et seq.

SECTION 514

C-1, GENERAL COMMERCIAL DISTRICT

A. Permitted Uses

- | | |
|---|---|
| 1. Accessory Use | 5. Professional Offices (Doctors, Dentists, Attorneys, Architects, Engineers, Realtors, Etc.) |
| 2. Financial and Business Service Establishment (Banks, Credit Unions, Insurance Offices, Etc.) | 6. Food Services (Grocery, bakery, Restaurant, Deli, Eatery, etc.) |
| 3. Government Facilities and Structures | 7. Retail (Commodity Based Sales in Single Structure/ Building/ Unit) |
| 4. Personal Service (Salon, Barber, Fitness, Tailor, Etc.) | 8. Kennel |

B. Conditional Uses

- | | |
|--|--|
| 1. Amusement Center | 13. Mini-Storage Facility |
| 2. Adult Use | 14. Planned Shopping Center |
| 3. Commercial Recreation (Indoor) | 15. Communication Tower |
| 4. Contractors Establishment with Screened Outdoor Storage | 16. Veterinarian Clinic (Small Animal) |
| 5. Bar/Tavern/Club/Lodge | 17. Recycling Facility (Small Collection) |
| 6. Church and Religious Institution | 18. Motel/Hotel |
| 7. Day Care Center | 19. Commercial & Residential Mixed-Use |
| 8. Drive-Thru in Association with a Permitted or Conditional Use | 20. Reversion of existing structures to single-family and two-family dwellings and any use, building or structure accessory thereto, subject to requirements to Section 831. (2012 amendment effective upon publication 2/18/12) |
| 9. Funeral Home & Associated Facilities. | 21. Community Center (effective 3/21/19) |
| 10. Open Air Business | |
| 11. Theater | |
| 12. Vehicle Repair and Service; Vehicle Sales and Rental; and Vehicle Fueling Station/Vehicle Wash | |

C. Dimensional Requirements

SCHEDULE OF REGULATIONS AND DIMENSIONAL REQUIREMENTS	Minimum Lot Size by Zoning District		Maximum Height of Structures		Minimum Yard Setback Per Lot/Parcel in Feet from the Road Right-of-Way or Property Line			Maximum Percentage of Lot Area Coverage	Maximum Ratio of Lot Depth/Width.
	Area in Sq. Ft. or Acres	Width in Feet	In Stories	In Feet	Front	Each Side	Rear	For All Structures	For All Parcels/Lots
C-1, General Commercial District	4,000-sf.	80	3	45	20	5	5	25%	4 to 1

DISTRICT USES AND REGULATIONS MAY ALSO BE SUBJECT TO SECTIONS 519 et seq.

SECTION 515

I-1, INDUSTRIAL DISTRICT

A. Permitted Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> 1. Light Manufacturing, including the production, processing, cleaning, testing, repair, storage or distribution of retail type materials, goods, and products. 2. Construction Equipment Sales & Rental 3. Contractors Establishment with Screened Outdoor Storage 4. Kennel | <ul style="list-style-type: none"> 5. Government Facilities and Structures 6. Public Utility Structures/Sub-Station 7. Research and Testing Facilities 8. Warehousing 9. Mini-Storage Facility 10. Recycling Facility (Small Collection) |
|--|--|

B. Conditional Uses

- | | |
|--|---|
| <ul style="list-style-type: none"> 1. Manufacturing, including the production, processing, cleaning, testing, repair, storage or distribution of materials, goods, and products to be used in other manufacturing processes 2. Junk and Scrap Yard 3. Vehicle Repair and Service 4. Communication Tower 5. Commercial Recreation (Indoor) | <ul style="list-style-type: none"> 6. Private Road 7. Recycling Facility (Large Collection) 8. Vehicle Fueling Station/Vehicle Wash 9. Community Center (effective 3/21/19) |
|--|---|

C. Dimensional Requirements

SCHEDULE OF REGULATIONS AND DIMENSIONAL REQUIREMENTS	Minimum Lot Size by Zoning District		Maximum Height of Structures		Minimum Yard Setback Per Lot/Parcel in Feet from the Road Right-of-Way or Property Line			Maximum Percentage of Lot Area Coverage	Maximum Ratio of Lot Depth/Width.
	Area in Sq. Ft. or Acres	Width in Feet	In Stories	In Feet	Front	Each Side	Rear	For All Structures	For All Parcels/Lots
I-1, Industrial District	40,000-sf.	100	2	45	35	20	35	35%	4 to 1

DISTRICT USES AND REGULATIONS MAY ALSO BE SUBJECT TO SECTIONS 519 et seq.

SECTION 516

IN, INSTITUTIONAL DISTRICT

A. Permitted Uses

1. Federal, State, or Municipal Uses, including Public Schools, Parks, Service Centers, Offices, etc.

B. Conditional Uses

1. Communication Tower
2. Community Center (effective 3/21/19)

C. Dimensional Requirements

SCHEDULE OF REGULATIONS AND DIMENSIONAL REQUIREMENTS	Minimum Lot Size by Zoning District		Maximum Height of Structures		Minimum Yard Setback Per Lot/Parcel in Feet from the Road Right-of-Way or Property Line			Maximum Percentage of Lot Area Coverage	Maximum Ratio of Lot Depth/Width.
	Area in Sq. Ft. or Acres	Width in Feet	In Stories	In Feet	Front	Each Side	Rear	For All Structures	For All Parcels/Lots
IN, Institutional District	10,000-sf.	0	2	35	20	5	20	25%	4 to 1

DISTRICT USES AND REGULATIONS MAY ALSO BE SUBJECT TO SECTIONS 519 et seq.

SECTION 517

PUD, PLANNED UNIT DEVELOPMENT

A. Permitted Uses

1. All uses permitted in this Ordinance herein and subject to the provisions, processes and procedures outlined in Article 15.

B. Conditional Uses

1. All conditional uses permitted in this Ordinance herein and subject to the provisions, processes and procedures outlined in Article 15.

C. Dimensional Requirements

SCHEDULE OF REGULATIONS AND DIMENSIONAL REQUIREMENTS	Minimum Lot Size by Zoning District		Maximum Height of Structures		Minimum Yard Setback Per Lot/Parcel in Feet from the Road Right-of-Way or Property Line			Maximum Percentage of Lot Area Coverage	Maximum Ratio of Lot Depth/Width.
	Area in Sq. Ft. or Acres	Width in Feet	In Stories	In Feet	Front	Each Side	Rear	For All Structures	For All Parcels/Lots
PUD, Planned Unit Development District	*	*	*	*	*	*	*	*	*

*** Subject to PUD review and approval process as outlined in Article 15**

DISTRICT USES AND REGULATIONS MAY ALSO BE SUBJECT TO SECTIONS 519 et seq.

SECTION 518

WP, WELLHEAD PROTECTION OVERLAY DISTRICT

A. Permitted Uses

- 1. Subject to the provisions, processes and procedures outlined in Article 17, all uses permitted in the underlying zoning district, excepting the following:
 - a. Petroleum product manufacturing;
 - b. Junk or material salvage yards;
 - c. Oil and gas drilling;
 - d. Chemical and paint manufacturing;
 - e. Laundries and dry cleaners;
 - f. Electronic equipment manufacturing;
 - g. Electroplating and chemical coating.

B. Conditional Uses

- 1. Subject to the provisions, processes and procedures outlined in Article 17, all conditional uses permitted by the underlying zoning district, excepting the following:
 - a. Petroleum product manufacturing;
 - b. Junk or material salvage yards;
 - c. Oil and gas drilling;
 - d. Chemical and paint manufacturing;
 - e. Laundries and dry cleaners;
 - f. Electronic equipment manufacturing;
 - g. Electro-plating and chemical coating.

C. Dimensional Requirements

SCHEDULE OF REGULATIONS AND DIMENSIONAL REQUIREMENTS	Minimum Lot Size by Zoning District		Maximum Height of Structures		Minimum Yard Setback Per Lot/Parcel in Feet from the Road Right-of-Way or Property Line			Maximum Percentage of Lot Area Coverage	Maximum Ratio of Lot Depth/Width.
	Area in Sq. Ft. or Acres	Width in Feet	In Stories	In Feet	Front	Each Side	Rear	For All Structures	For All Parcels/Lots
WP, Wellhead Protection Overlay District	*	*	*	*	*	*	*	*	*

DISTRICT USES AND REGULATIONS ARE SUBJECT TO UNDERLYING DISTRICT AND POSSIBLY SUBJECT TO SECTIONS 519 et seq

SECTION 519 ADDITIONAL GENERAL REQUIREMENTS

- A. The following are additional general requirements per individual zoning district or for all districts.
1. All single-family, two-family and multiple family dwelling units in the R-1, R-2, R-3, and MH districts are required to be served by public sanitary sewer or a private sanitary treatment facility approved by the Michigan Department of Environmental Quality (“MDEQ”) and/or Calhoun County Health Department (“Health Department”) depending on number of dwelling units served. Private sanitary systems are not permitted where other ordinance or resolution requires, due to proximity or location, public sanitary sewer.
 2. Where feasible and not restricted by other agency or department having jurisdiction for the review and approval of private sanitary facility, all such systems shall be located on the parcel or lot so as to be convenient for connection to any future public sanitary sewer.
 3. Minimum required frontage is measured along only one street right-of-way and along a contiguous frontage along that street right-of-way.
 4. Where curvilinear street patterns or cul-de-sacs result in irregularly shaped lots with non-parallel side lot lines, no less than eighty (80) percent of the minimum lot width shall be required at the street right-of-way provided one hundred (100) percent of the minimum lot width is met at the required front yard setback.
 5. Minimum lot size excludes right-of-way.
 6. For development of lots in the R-1 and R-2 districts for single or two-family purposes, the minimum required front yard setback shall be the average of the existing structures immediately to the left and right of the proposed lot development or as can be reasonably assumed as applicable to the intent of this section.
 - a. In the case of a corner lot where a front yard is required from each street, the minimum required front yard setback shall be no less than the nearest structure on each street from a front yard is required.
 - b. In no case shall any structure be located closer than twenty (20) feet from the road right-of-way.
 7. For the use of existing structures or the redevelopment of lots in the C-1 district for commercial purposes, the minimum required front yard setback shall be the average of the existing structures immediately to the left and right of the proposed lot development or as can be reasonably assumed as applicable to the intent of this section.

8. In all residential districts, where the side yard abuts a non-residential district said side yard shall be at least twenty (20) feet. In all non-residential districts, where the side yard abuts a residential district said side yard shall be at least twenty (20) feet.
9. Excepting parcels forty (40) acres or more, all parcels and lots created within the zoning jurisdiction of the Village shall meet the minimum depth to width ratio of four (4) to one (1).

**SECTION 520 ADDITIONAL REQUIREMENTS FOR TWO-FAMILY &
MULTIPLE FAMILY USES**

- A. The following are additional requirements and standards for two-family (duplex) and multiple-family dwellings where permitted in the underlying district.
 1. Two-family dwellings (duplex) shall have a minimum lot size one and a half (1 ½) times the minimum lot area required in the district.
 2. Multiple-family dwellings, which are served by public sanitary sewers or private community systems/facilities as approved by MDEQ, shall comply with the following lot area requirements per dwelling unit in addition to the minimum required lot area as set forth under district where permitted:

a.	Efficiency unit	=	1,000 square feet
b.	One bedroom unit	=	1,500 square feet
c.	Two bedroom unit	=	2,000 square feet
d.	Three bedroom unit	=	2,500 square feet
 3. All private community system/facilities shall meet all applicable federal, state, and local standards and regulations. The system, facility and/or infrastructure shall be designed to readily connect into a future public sewer service without the need for reconstruction of any main or later sewer connections.
 4. Where two (2) or more multiple, row or terrace dwelling structures are erected on the same lot or parcel, a minimum distance between any two (2) structures shall be equal to the height of the highest structure. Maximum building length shall not exceed two hundred (200) feet.
 5. Multiple dwelling structures shall have a seventy-five (75) foot setback between the structure and a perimeter property line that abuts a single-family residential district.

**SECTION 521 ADDITIONAL REQUIREMENTS FOR INDUSTRIAL AND
MANUFACTURING USES**

- A. The following are additional requirements and standards for industrial and manufacturing uses in the I-1, Industrial District.
1. Due to the density of homes and businesses within the Village limits, the following uses are considered to be noxious and offensive by reason of the emission of odor, dust, smoke, fumes and particulates and therefore not deemed to be appropriate within the Village limits. A petition for use to implement any these uses will be considered as heavy manufacturing, thus requiring application for conditional use, and be required to supply detailed information proving zero emission of the aforementioned noxious and offensive emissions.
 - a. Abattoir or Slaughterhouse
 - b. Blast, Cupola, or Metal Furnace
 - c. Boiler Shop
 - d. Coke Ovens
 - e. Fat Rendering
 - f. Incinerators for Chemical, Organic, Medical or Household Waste
 - g. Lime Kilns
 - h. Manufacturing of acetylene gas, ammonia, asphalt or its products, asbestos, babit metal, bleaching powder, carbon, lampblack, graphite, celluloid, coat tar or it products, creosote or it products, disinfectant, emery cloth or sandpaper, explosives, fertilizer, glucose, glue, linoleum, matches, oil cloth, paint, oil, shellac, poison potash, printing ink, pulp or paper, rubber, starch, sulphuric acid, tar or asphalt roofing, turpentine, vinegar, yeast, petroleum refining, radium or uranium, rock washing or storage, salt works, sand blasting, soap works, smelting, tannery, wool pulling and scouring, wood or bone distillation.
 2. Any property or land located within the I-1, Industrial District shall also be considered as being located in a fire restricted district. It shall be unlawful for any person or persons to erect, construct, place or cause the same, within said fire restricted district, any structures, or addition to any structures of which any wood, or other combustible material is used on the exterior, except that wood may be used for window sash, window casings, door, door casings, and cornice.

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ARTICLE 6

SITE PLAN REVIEW

SECTION 601 PURPOSE AND JURISDICTION

- A. It is the purpose of this Article to specify improvements requiring site plan review and approval under this Ordinance prior to commencement and implementation of said improvement, as well as to identify the standards and data requirements necessary in the preparation of a site plan to be submitted for review and approval. The intent of this Article and the site plan review and approval process outlined herein is to coordinate and apply the provisions of this Ordinance to develop the Village of Athens (“Village”) in an orderly fashion to protect the public health, safety and welfare of the citizens, residents and businesses of the community.
- B. Unless otherwise specifically addressed, the Planning Commission shall have the authority to review, approve, approve with conditions, or deny a preliminary and final site plan as required by this Ordinance.
- C. Prior to issuance of a zoning permit, building permit or commencement of earth moving or construction for any of the following, site plan review and approval is required for the following:
1. In residential districts, all non-residential uses or uses permitted by-right that are determined to have a greater impact to traffic, noise and dust than a single-family residence, such as, but not limited to churches, adult foster care, home based business, etc. Site plan review and approval by the Planning Commission is required. Additions less than four hundred (400) square feet may be able to be considered under administrative site plan review at the discretion of the Zoning Administrator.
 2. Proposed single-family residential development consisting of more than one (1) lot or parcel where road frontage and access is to be provided by a proposed shared drive, service road, private or public road. Site plan review by the Planning Commission is required if three (3) or more lots or parcels are proposed or planned. Administrative site plan review is required for two (2) lots or parcels planned or proposed.
 3. Multiple-family structure(s) consisting of three (3) or more units shall require site plan review and approval by the Planning Commission.
 4. Any use, structure or addition in a non-residential zoning district less than four hundred (400) square feet shall require administrative site plan review. Multiple use areas, structures or additions shall not exceed twelve hundred

(1,200) square feet over a period of three (3) years unless a site plan review is conducted and approval granted by the Planning Commission.

5. Any proposed use requiring more than five (5) parking spaces shall require site plan review and approval by the Planning Commission. If the proposed use is a change of use for an existing structure, the proposal shall be reviewed pursuant to Item 9, below.
 6. All uses requiring conditional use review and approval. Pursuant to Section 702, preliminary site plan review is required by the Planning Commission and Village Council for approval of a conditional use. Following approval of the conditional use and preliminary site plan, the proposed use must receive final site plan review and approval by the Planning Commission.
 7. A Manufactured Housing Community shall require review and approval of a site plan by the Planning Commission.
 8. Development petitioned as a Planned Unit Development shall require a site plan reviewed and approved by the Planning Commission.
 9. Change of use of property or structure whereas the proposed permitted by-right use is more intensive than the existing or last known conforming or non-conforming use (e.g. greater parking space requirements, greater anticipated patronage, more employees, greater buffering requirements, etc.) can be reviewed and approved as an administrative site plan. Upon review of the site plan by the Zoning Administrator, if it is found that the increase in intensity of use may present parking, traffic, or conflicting land use or other issues, review and approval of the site plan may be required by the Planning Commission.
 10. Following approval by the Board of Appeals, the expansion of a non-conforming use or structure may require site plan review and approval by the Planning Commission if the expansion is determined by Zoning Administrator to create a more intensive use of property. If a proposed use or structure is determined to be less or equally intensive in use or the expansion of structure inconsequential, a zoning permit may be required in lieu of a site plan.
 11. All site condominium and condominium subdivisions developed pursuant to Public Act 59 of 1978, Condominium Act (MCL 559.101 et. Seq.) shall require review and approval of a site plan by the Planning Commission.
- D. The Zoning Administrator shall not issue a zoning permit for commencement of a use for any of the above structures or uses until a final site plan has been approved and is in effect. No grading, removal of vegetation, cut, fill or excavation, or installation of infrastructure shall be commenced until a final site plan has been approved and is in effect, unless otherwise provided by this Ordinance.

SECTION 602 SITE PLAN REVIEW COORDINATION

Prior to approving a site plan submitted under this Article, the review and recommendation of the Calhoun County Drain Commissioner, Calhoun County Health Department, Michigan Department of Environmental Quality, and any other appropriate technical reviews may be required as deemed appropriate by the Zoning Administrator, Planning Commission or (where applicable) the Village Council.

SECTION 603 SITE PLAN REVIEW APPLICATION

- A. An application for administrative, preliminary, or final site plan may be filed with the Village to commence the site plan review process.
 - 1. An applicant may file for final site plan review and approval without filing for preliminary site plan review and approval.
 - 2. The Planning Commission shall have the authority to require submittal of a preliminary site plan separate from a final site plan where, in its opinion, the complexity and/or size of the proposed development so warrants. The Zoning Administrator shall also have the discretion to require that an administrative site plan be reviewed by the Planning Commission when the proposal presents parking, traffic or conflicting land use issues.
 - 3. A preliminary and final site plan shall not be combined for any development consisting of more than three (3) phases.

- B. Any person with a legal interest in a property may apply for site plan review and approval. All site plans shall be submitted to the Zoning Administrator and must contain the following to be accepted for review and approval:
 - 1. A completed application signed by the owner; if the owner is a corporation, a corporate officer must sign the application; if the owner is a partnership, a general partner must sign the application; if the owner is an individual, each individual owner must sign the application. If the owner(s) is not the applicant, the applicant must provide a statement from the owner that the applicant has permission to proceed. Such statement shall include a detailed description of the proposal.
 - 2. Payment of review fees as adopted and published by the Village Council.
 - 3. Ten (10) copies of the site plan drawing(s) must be provided for site plan review by the Planning Commission. Additional copies may be requested by the Zoning Administrator as necessary to submit to other agencies as set forth in Section 414. For administrative site plan review, five (5) copies of the site

plan drawing shall be provided. Additional copies may be required at the discretion of the Zoning Administrator.

4. All items as required by the sections corresponding to the particular review and approval process. If information is noted as required and it is determined by the applicant to not be applicable, the applicant shall provide such determination in writing and provide explanation as to the applicability of the information.
- C. Upon receipt of an application for site plan review and approval, the Zoning Administrator and/or their assigns shall review the application for completeness. Upon determination of a complete application for preliminary or final site plan, the Zoning Administrator shall place the application on the next available Planning Commission meeting agenda for review. The application must be submitted and deemed complete no less than twenty (20) days before the next available Planning Commission meeting to be considered for placement on the agenda.
 - D. Where it is found, for either structure or property being petitioned for site plan review, that a violation of this Ordinance exists, the Village reserves the right not to process petitions for review and approval of additional improvements until such time that the violation is corrected or action is taken by the Board of Appeals to bring the violation into compliance with the provisions of this Ordinance.
 - E. Upon scheduling of a site plan for review and approval, the Clerk shall provide public notice under Section 306.A.1 & 2, where applicable.
 - F. By submittal of an application for site plan review and approval, the applicant grants permission to the Zoning Administrator and/or members of the Planning Commission the right to enter and access property under petition to review condition and situation of the property in order to make informed decisions.

SECTION 604 PRELIMINARY SITE PLAN

- A. A preliminary site plan submitted for review and approval shall contain in proper form all of the following data prior to its submission to the Planning Commission for review.
 1. A site plan shall consist of drawings and plans showing all proposed and necessary improvements at a scale not greater than one (1) inch equals twenty (20) feet, nor less than one (1) inch equals one hundred (100) feet, and of such accuracy that the Planning Commission can readily interpret the plan. Large projects requiring presentation on separate sheets within the aforementioned range of scales shall be provided with appropriate match lines.
 2. Location (vicinity map) and description of site; dimensions and area.

3. Name, address, and phone number of the property owner; applicant's name, address, and phone number, and interest in property, owner's signed consent for preliminary site plan approval, if the applicant is not the owner. Name and address of designer. A detailed site plan shall be prepared and sealed by an architect, landscape architect, engineer, community planner or land surveyor, unless waived by the Planning Commission or the Zoning Administrator for review of administrative site plans.
4. Scale, north arrow, dates of plan, dates of revisions.
5. Proposed structures and uses areas; location, outline, general dimensions, distances from proposed structure to property lines and other structures, number of floors, etc.
6. General topography, soil information, general grading and drainage patterns.
7. Location and size of open space, conservation or recreation areas.
8. Proposed streets/drives, general alignment, right-of-way, and easements (where applicable), surface type, construction cross-section and width.
9. Proposed parking, including dimensions of spaces and aisles, angle of spaces, surface type, barrier free spaces, number of spaces and a table showing preliminary parking calculations.
10. Table showing zoning classification of the subject property, required yards and a project description to include such information as use, number of structures, units, anticipated gross square footage, anticipated usable floor area, employees by shift and other related information to assess compliance with this Ordinance.
11. Location and size of required future transition and landscape strips, if applicable.
12. Existing building/structures and drives and existing natural and man-made features to be retained or removed.
13. Adjacent land uses and zoning, location of adjacent buildings and drives/streets within fifty (50) feet of development site boundary.
14. General description of proposed water, sanitary sewer, and storm water catchments and drainage systems, as well as general location of existing and anticipated easements.

15. Where large equipment or machinery is to be installed as part of the development, the location, type, fuel, dimensions, and data describing the generation of the noise, vibration and emission from this equipment shall be described.
- B. The Planning Commission shall study the preliminary site plan and shall approve, approve with conditions, postpone or reject the preliminary site plan. The Planning Commission or assign shall advise the applicant in writing of its actions on a preliminary site plan.
 - C. Approval of a preliminary site plan by the Planning Commission shall indicate its acceptance of the general character of the proposed development and of the proposed layout of buildings, streets, drives, parking areas, and other facilities and areas.
 1. The Planning Commission may, at its discretion, and with appropriate conditions attached, authorize issuance of permits by the Zoning Administrator for grading and land balancing on the basis of an approved preliminary site plan.
 2. The conditions to be attached to such an authorization shall include, but are not limited to, provisions for control of soil erosion and sedimentation, written exemption to the Village from any liability if a final site plan is not approved, and the furnishing of surety for restoration of the site if work does not proceed to completion.
 - D. Approval of a preliminary site plan shall be valid for a period of one hundred eighty (180) days from the date of approval and shall expire and be of no effect unless an application for a final site plan for all or part of the area included in the approved preliminary site plan is filed within that time period.
 1. If a final site plan is submitted for only a part of the area included in the approved preliminary site plan, successive final site plans shall be filed no later than two (2) years from the date of approval of the previously approved final site plan.
 2. If such period is exceeded, the Zoning Administrator shall place the issue as an item on the next available meeting of the Planning Commission. The Zoning Administrator and/or assigns shall review with the Planning Commission the changed conditions in the area and possible revisions to the Ordinance since initial approval. The Planning Commission may extend the expiration period if good cause can be shown for the delay, or may allow for the preliminary site plan to expire necessitating a new application for preliminary site plan in compliance with changed conditions and current Ordinance.

SECTION 605 FINAL SITE PLAN

- A. A final site plan submitted for review and approval shall contain in proper form all of the following data prior to its submission to the Planning Commission for review.
1. Information as required under Section 604.A.1-4.
 2. Legal description of site, property dimensions and lot area. Where a metes and bound description is used, lot line angles or bearings shall be indicated on the site drawings and the lot line dimensions and angles or bearings shall be based upon a boundary survey prepared by a registered surveyor, and shall correlate with the legal description.
 3. Existing topography (contour interval of two (2) feet) and all existing natural features, including but not limited to trees, wooded areas, streams, marshes, ponds and other wetlands. A clear indication of all natural features to remain and to be removed shall be provided. Groups of trees shall be shown by an approximate outline of the total canopy, individual deciduous trees of twelve (12) inches in diameter or larger and individual evergreen trees ten (10) feet in height or greater are to be accurately located on the site plan.
 4. Existing buildings, structures, and other improvements, including drives, utility poles and towers, light fixtures/lighting plan, easements, pipelines, excavations, ditches (elevations and drainage directions), bridges, culverts; clear indication of all improvements to remain and to be removed; deed restrictions, if any.
 5. Owner, use, and zoning classification of adjacent properties and location and outline of buildings, drives, parking lots, other improvements on adjacent properties within fifty (50) feet of development site boundary.
 6. Name of existing streets, on or adjacent to the site, and associated rights-of-way and/or easements.
 7. Table showing zoning classification of the subject property, required yards and a project description to include such information as use, number of structures, units, anticipated gross square footage, anticipated usable floor area, employees by shift and other related information to assess compliance with this Ordinance.
 8. Location of exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall also be specified on the site plan.

9. Location and exterior dimensions of all proposed buildings and structures and their location to be referenced to property lines or to a common base point. Distances between buildings, building height in feet, number of stories, finished floor elevations and contact grade elevations shall also be shown.
10. Grading plan, showing finished contours at two (2) foot intervals and correlated with existing contours so as to clearly indicate cut and fill required. All finished contour lines are to be connected to existing contour lines at or before the property lines.
11. Storm water management plan in compliance with any municipal standards as established by the Village.
12. Location and alignment of all proposed streets and drives and their rights-of-way (where applicable) are to shown. The site plan shall also clearly indicate surface type and width with a typical cross section of same showing surface, base, and sub-base materials, dimensions, and slope. The location and typical details of curbing and turning lanes (where applicable) with details, including location, width, surface elevations and grades of all entries and exits and curve-radii shall be provided.
13. Right-of-way expansion(s) where applicable; reservation or dedication of right-of-way to be clearly noted, dedication of right-of-way where applicable shall be executed, or provisions made for same, prior to approval of the final site plan by the Planning Commission.
14. Location and dimensions of proposed parking lots and spaces, including number of spaces in each lot, orientation and angle, barrier free spaces, aisle ways, drainage pattern of parking lot, and typical cross-section showing surface, base, and sub-base materials.
15. Location, width, and surface of proposed sidewalks and pedestrian ways meeting municipal standards.
16. Location, use, size and proposed open space, conservation areas and recreation areas and maintenance provisions for such areas.
17. Location and type of proposed screens and fences, including height, typical elevation and vertical section of screens showing materials and dimensions.
18. Location of proposed outdoor trash container enclosures, including their size, typical elevation, description of trash hauler approach and vertical section of enclosure showing materials and dimensions.
19. Location, type, size, area, height, and sketch of proposed signs. Note that a separate permit is necessary for erection of sign.

20. Landscaping plan in compliance with Article 10.
 21. Location and dimensions of proposed retaining walls, including typical vertical sections.
 22. Location, type, direction, and intensity of outside lighting.
 23. Additional Requirements for Residential Developments.
 - a. Density calculations by type of unit by bedroom counts.
 - b. A complete schedule of the number of lots/sites, lot area per dwelling unit and type of dwelling units.
 - c. Amount and location of recreation spaces, including proposed recreational facilities, community building and other accessory uses, such as swimming pools, clubhouses, etc.
 - d. Typical building facades and elevations.
 24. Additional Requirements for Non-Residential Developments.
 - a. Total and usable floor area.
 - b. Loading/unloading areas.
 - c. Number of employees at peak usage.
 - d. Typical building facades and elevations.
- B. The Planning Commission shall study the final site plan and shall approve, conditionally approve, postpone, or reject the final site plan. The Planning Commission may specify reasonable conditions, changes, or modifications to the final site plan as needed to maintain compliance with the Ordinance and to meet the Standards for Review outlined in Section 607.
- C. Following Planning Commission approval or conditional approval of the final site plan, a revised final site plan including all necessary revisions as required or conditioned by the Planning Commission shall be provided to the Zoning Administrator for compliance review.
1. Upon determination of compliance of the final site plan with the Planning Commission's approval or conditional approval, two (2) copies of the final site plan, with any conditions contained within, shall be maintained as part of

the Village records for future compliance review and enforcement. One (1) copy shall be returned to the applicant.

2. Each copy shall be signed and dated with the date of approval by the Zoning Administrator to substantiate the identification of the approved final site plan.
 3. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Village records as a part of the final site plan.
- D. Approval of a final site plan authorizes issuance of zoning and building permits, provided all other requirements for issuance of either permit have been met. In the case of uses without buildings or structures, approval of a final site plan authorizes issuance of a zoning permit.
- E. The approval of the final site plan shall expire and be of no effect unless a use is commenced and/or a building permit shall have been taken out within one hundred eighty (180) days of the date of approval of the final site plan. Approval of a final site plan shall expire and be of no effect two hundred seventy (270) days following the date of approval unless construction has begun on the property and is diligently pursued in conformance with the approved final site plan.

SECTION 606 ADMINISTRATIVE SITE PLAN REVIEW

- A. An administrative site plan submitted for review and approval shall contain in proper form all of the data required for a preliminary site plan set forth in Section 604 above.
1. Where the Planning Commission is named in the provisions of Section 604, the Zoning Administrator shall be assumed.
 2. The Zoning Administrator may request additional information as necessary to perform an adequate review and make a responsible decision. Such additional information may be from information requirements for a final site plan under Section 605.
 3. An administrative site plan review shall have the full force and effect of a final site plan approved by the Planning Commission and therefore subject to the provisions of this Ordinance regarding approved final site plans.

SECTION 607 STANDARDS FOR REVIEW

- A. In reviewing either a preliminary, final or administrative site plan, the Planning Commission or Zoning Administrator shall consider certain standards in its review and approval of the application. These standards as outlined below are provided with

the same basic intent of the Ordinance as a whole in order to protect the public health, safety and welfare of the community.

1. That all required information has been provided.
2. That the proposed development conforms to all regulations of the Ordinance for the district in which it is located and to the Master Plan.
3. That the site plan, including all engineering drawings, meets specifications for fire and police protection, water supply, sewage disposal, storm drainage, and other public facilities and services as determined by the Village or other agency with competent jurisdiction.
4. That the applicant may legally apply for the site plan review and approval.
5. That the movement of the vehicular and pedestrian traffic within the site and in relation to access streets and sidewalks will be safe and convenient. That parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. Vehicular movement and traffic patterns shall conform to applicable fire safety and emergency vehicle access requirements of the Authority providing such services.
6. That the proposed development will be harmonious with, and not harmful, injurious, or objectionable to, existing and future uses in the immediate area. If the site plan is not found to meet the standard, reasonable conditions of approval may be applied to meet the standard.
7. That natural resources will be preserved and that the development as proposed will not cause soil erosion or sedimentation. If the site plan is not found to meet the standard, the Planning Commission may discuss reasonable conditions that may be applied to meet the standard.
8. That the proposed development is adequately coordinated with improvements serving the subject property and other neighboring or adjacent developments. If the site plan is not found to meet the standard, reasonable conditions for approval may be applied to meet the standard.
9. That the proposed development respects natural topography and minimizes the amount of cutting and filling required. Organic, wet, or other soils that are not suitable for development are to be left undisturbed, or engineered to be utilized in an acceptable manner meeting the intent of this Ordinance.
10. That the proposed development properly respects flood ways and flood plains on or in the vicinity of the subject property.

11. 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 watercourses in the area. Site plans shall conform to the published storm water standards of the Calhoun County Drain Commission and shall conform to the Calhoun County Soil Erosion and Sedimentation Control Ordinance.
12. Loading, unloading areas and trash receptacles shall be adequately screened. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. The site plan shall provide reasonable privacy for all dwelling units located therein or adjacent to the proposed site.
13. That phases of development are in logical sequence so that any phase will not depend upon a subsequent phase for adequate access, public utility services, drainage, or erosion control.
14. Construction, structures and buildings (including both principal and accessory) shall be in harmony with the general character of the area.

**SECTION 608 COMPLIANCE WITH AND AMENDMENT TO APPROVED
SITE PLAN**

- A. Property subject to site plan approval shall be developed in strict compliance with the approved final site plan (including approved administrative site plan) and any amendments thereto which have received the approval of the Planning Commission (or Zoning Administrator in the case of an administrative site plan approval). If construction and development does not conform to the approved final site plan, the owner shall be cited with a violation of the Ordinance under Section 307 and a cease and desist order petitioned from a Court of competent jurisdiction.
- B. No changes shall be made to an approved final site plan prior to, during or after construction except upon mutual agreement between the applicant and the Village and by application to the Zoning Administrator according to the following procedures:
 1. Minor changes to an approved final site plan involving changes in the location of buildings and structures within five (5) feet of location identified on the site plan, adjustment of utility location, walkways, traffic ways, parking areas, and similar minor changes may be approved by the Zoning Administrator provided they would not otherwise violate a requirement of this Ordinance or require a variance from the Board of Appeals.

- a. The Zoning Administrator shall advise the Planning Commission in a written communication the rationale for permitting the minor change and file such written communication with the approved site plan.
 - b. The Zoning Administrator may, at their discretion, require that a proposal under this Section be reviewed as a site plan by the Planning Commission. Such reasoning shall be adequately documented to the applicant.
2. Major changes or amendments to an approved final site plan involving movement of building or structure more than five (5) feet, change in the number and location of accesses to public streets and alleys, a reduction of more than two (2) parking spaces, an increase in the gross floor area or heights of buildings, a reduction in the open space, or similar major changes, shall require the approval of the Planning Commission, in the same manner as the original application was submitted and reviewed.

SECTION 609 PERFORMANCE GUARANTEE

- A. In approving a final site plan the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond be furnished by the applicant and/or property owner to ensure compliance with an approved final site plan. Such guarantee shall be deposited with the Village Clerk prior to issuance of any zoning or building permits. In the case of an administrative site plan approval, the Zoning Administrator may require the same.
- B. In fixing the amount of such performance guarantee, such performance items shall be limited to reasonable improvements required to meet the standards of this Ordinance and to protect the natural resources or the health, safety and welfare of the residents of the community. Items included under the performance guarantee include, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project that is the subject of zoning approval nor to improvements for which a performance guarantee, or some other form of surety, is required pursuant to State law.

ARTICLE 7

CONDITIONAL USE REVIEW AND APPROVAL

SECTION 701 INTENT AND PURPOSE

- A. It is the intent of this Article to provide a set of procedures and standards for the review of specific uses of land or structures for the protection of the health, safety and general welfare of the inhabitants of the Village of Athens (“Village”) in the review and approval of certain specified types of land use activities that because of their particular and unique characteristics require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Such uses, on account of their peculiar characteristics or the nature of use and services offered can not be reasonably considered as a permitted use and therefore are subject to certain standards, specific requirements and reasonable conditions associated with the characteristics and nature of the use.

- B. Use of land and/or structures possessing these characteristics may be authorized within certain zoning districts by the issuance of a conditional use approval. The Village Council upon recommendation of the Planning Commission shall have the authority to grant conditional use approvals.

- C. By such a procedure, the Planning Commission and Village Council shall have additional criteria in which to review the specific use as well as the opportunity to review the circumstance of the use in relation to surrounding properties and retain the ability to impose conditions and safeguards upon each use that are deemed necessary for the protection of the public welfare.

- D. Uses requiring conditional use approval are specifically cited as such under the districts outlined in Article 5. Certain uses have additional provisions for their review and implementation outlined in Article 8 of this Ordinance.
 - 1. These additional provisions were created in response to the particular and unique characteristics of the use to mitigate impact and protect the continued viability and personal enjoyment of adjacent properties and their use.

 - 2. Some uses listed under the districts do not have additional provisions provided for in Article 8. These uses are still eligible for review and approval as a conditional use and subject to the standards set forth herein.

SECTION 702 CONDITIONAL USE APPLICATION

- A. Any person with a legal interest in a property may apply for conditional use review and approval. An application and required information shall be submitted to the

Zoning Administrator and must contain the following to be accepted for review by the Planning Commission and Village Council:

1. A completed application signed by the owner; if the owner is a corporation, a corporate officer must sign the application; if the owner is a partnership, a general partner must sign the application; if the owner is an individual, each individual owner must sign the application. If the owner(s) is not the applicant, the applicant must provide a statement from the owner that the applicant has permission to proceed. Such statement shall include a detailed description of the proposal.
 2. Payment of review fees as adopted and published by the Village.
 3. Ten (10) copies of a preliminary site plan showing information as required under Section 604. A narrative report shall accompany the preliminary site plan providing a description of the project, discussing the concept and feasibility of the project. Additional copies may be requested by the Zoning Administrator as necessary.
 4. It shall be incumbent upon the applicant to also furnish adequate evidence in support of the proposed conditional use complying with the provisions of this Ordinance. It shall be the obligation of the applicant to furnish sufficient evidence, or proof, of present and future compliance with the provisions of the Ordinance.
- B. Upon receipt of a petition for conditional use approval, which includes a preliminary site plan, the Zoning Administrator and/or their assigns shall review the application for completeness. An application that does not contain the information required by this Ordinance shall be returned to the applicant and shall not constitute an official application for conditional use approval.
1. An application that contains the information required by this Ordinance shall be scheduled for a public hearing before the Planning Commission. The application must be submitted no less than thirty (30) days before the next available Planning Commission meeting to be considered for placement on the agenda.
 2. Upon notification of a complete application from the Zoning Administrator, the Clerk shall provide public notice for the public hearing at which the application for conditional use approval and a preliminary site plan will be heard. The Clerk shall provide public notice under Sections 306.A & B.
 3. By submittal of a petition for conditional use review and approval, the applicant grants permission to the Zoning Administrator and/or assigns, members of the Planning Commission and Village Council the right to enter

and access property under petition to review condition and situation of the property in order to make informed decisions.

- C. Until a petition for conditional use, including final site plan approval as prescribed herein, has been approved and until proper zoning and building permits have been granted pursuant to the conditional use approval, there shall be no excavation of land, construction of structure or infrastructure, or shall there be made any use of land related to the petition for the conditional use unless in accordance with the provisions set forth in Section 604.C.

SECTION 703 PROCEDURE FOR REVIEW AND DECISION

- A. The Planning Commission shall conduct a public hearing regarding the petitioned conditional use. Following the public hearing, the Planning Commission shall review the petitioned conditional use and preliminary site plan and shall take one of the following actions:
 - 1. Recommendation of Approval - Upon finding that the preliminary site plan meets the criteria and standards set forth in Sections 604 and 607, the provisions specific to the use being petitioned for as found in Article 8, and the petitioned conditional use meets the basis of determination provisions under Section 704.A, the Planning Commission shall recommend approval (with or without conditions) of the conditional use and preliminary site plan to the Village Council.
 - a. The Planning Commission shall make findings based on the particular facts of the petition and the analysis of conformance and compliance with the provisions of this Ordinance. These findings shall be described in a statement of conclusions formulating the basis for the decision.
 - b. If conditions are determined to be necessary to the approval of the conditional use petition, the conditions shall be determined based upon the provisions of Section 704.C.
 - 2. Postponement - Upon finding that the petition for conditional use approval does not meet the criteria and standards set forth in in Sections 604 and 607, the provisions specific to the use being petitioned for as found in Article 8, and the petition does not meet the basis of determination provisions under Section 704.A, but the petition could meet such criteria if revised, the Planning Commission may postpone action until requested revisions are submitted. If revisions are not submitted within three (3) months of the action to postpone by the Planning Commission, the petition shall automatically be null and void.

3. Recommendation of Denial - Upon finding that the petition for conditional use approval and preliminary site plan do not and cannot meet the criteria and standards set forth in Sections 604, 607, 704.A and specific provisions set forth in Article 8, the Planning Commission shall recommend denial of the petition to the Village Council. In doing so, the Planning Commission shall define its rationale in a statement of conclusions formulating the basis for the decision.
- B. Upon receiving a recommendation from the Planning Commission, the Village Council shall review the petition for conditional use, including the preliminary site plan, and the recommended conditions and revisions forwarded by the Planning Commission. Taking into consideration the recommendations of the Planning Commission and the criteria and standards set forth in Section 704.A, the Village Council may accept or reject the recommendation of the Planning Commission and shall approve, deny, or postpone the petition for conditional use approval. The Village Council may also refer the petition back to the Planning Commission for additional consideration.
 - C. If the petition for conditional use and the preliminary site plan is approved (with or without conditions) a final site plan must be approved pursuant to the provisions of Article 6 prior to commencement of use of land or structure for which the conditional use was approved. The final site plan shall be in compliance with the provisions of the conditional use approval, including conditions, revisions and informational requirements. The final site plan shall be in substantial compliance with the preliminary site plan, although minor changes and modifications are anticipated as necessary.

SECTION 704 BASIS OF DETERMINATION AND CONDITIONS

- A. The Planning Commission and Village Council shall review the particular circumstances of a petition for conditional use review and approval in terms of the following standards, and shall grant its recommendation of approval or approval only upon a finding of compliance with each of the following standards (including applied conditions) as well as applicable standards established elsewhere in this Ordinance.
 1. The proposed use, activities, processes, materials, equipment and conditions of operation will not be detrimental to the public welfare, persons or property by reason of excessive noise, fumes, dust, glare, traffic or objectionable odors.
 2. Essential public facilities and services such as roads, fire and police protection, drainage facilities, refuse disposal, schools are adequate for the proposed use or are capable of being adequately provided for.

3. Requirements for additional public services and facilities that will be created by the proposed use will not be detrimental to the economic welfare of the community.
 4. All standards set forth in this Ordinance will be complied with, including any standards set forth in this Ordinance for a particular use.
 5. All administrative requirements pertaining to the issuance of a conditional use approval have or will be complied with.
 6. The proposed use, activities, processes, materials and equipment and conditions of operations shall be consistent with the goals, objectives and policies of the Master Plan.
 7. The proposed land use or activity is compatible with the adjacent uses of land and natural environment.
- B. The Planning Commission has the ability to recommend conditions necessary to insure compliance with the preceding standards and other provisions of this Ordinance. Such conditions shall be enforced by the Zoning Administrator and shall be recorded in the record of the approval of the conditional use. The Village Council shall have the ability to remove or add conditions without referral of the application back to the Planning Commission for additional review and recommendation.
- C. Conditions applied to a conditional use approval shall adhere to the following standards and criteria:
1. Ensure that public services and facilities affected by a proposed use or activity will be capable of accommodating increased service and facility requirements.
 2. Promote and ensure compatibility with adjacent uses of land and to protect through screening and buffering.
 3. Protect and conserve natural resources and energy and to protect the environment and health, safety and welfare of the residents and future residents of the community.
 4. Promote the use of land in a socially and economically desirable manner and to protect the social and economic well-being of those who will use the land or activity, residents and property owners immediately adjacent to the proposed land use or activity, and the community as a whole.
 5. Be related to the valid exercise of the police power, and to the proposed use or activity.

6. Meet the intent and purpose of this Ordinance and provisions outlined herein; be related to standards established in the Ordinance for the land use or activity under consideration; and be necessary to ensure compliance with the standards outlined as the basis for determination.

SECTION 705 PERFORMANCE GUARANTEE

- A. In reviewing a petition for conditional use, the Planning Commission may recommend and the Village Council may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond be furnished by the applicant and/or property owner to ensure compliance with an approved conditional use, including conditions ultimately approved. Such guarantee shall be deposited with the Village Clerk prior to issuance of any zoning or building permits.
- B. In fixing the amount of such performance guarantee, the Village Council shall limit it to reasonable improvements required to meet the standards of this Ordinance and to protect the natural resources or the health, safety and welfare of the residents of the community. Items included under the performance guarantee include, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project that is the subject of zoning approval nor to improvements for which a performance guarantee, or some other form of surety, is required pursuant to State law.

**SECTION 706 CONDITIONAL USE EFFECTIVE DATE, TRANSFER
AND EXPIRATION**

- A. The approved conditional use shall become effective upon determination of compliance with the final site plan as set forth under Section 605.C.
 1. Land subject to a conditional use approval may not be used or occupied for petitioned purposes until after a zoning permit for same has been issued pursuant to this Ordinance.
 2. No zoning or building permit shall be issued until compliance with the Village Council's approval of the conditional use has been substantiated on the final site plan.
- B. In order to ensure continued compliance with the terms of this Ordinance and an approval for a conditional use issued under it, each conditional use shall be attributable only to the applicant and/or property owner who retained interest at the time of filing for conditional use approval unless such conditional use is transferred from the present landowner or operator to a subsequent owner or operator.

1. The Zoning Administrator shall be notified of the transfer from one party to another and be provided documentation that the individual receiving the transfer assumes full responsibility, obligation, and commitment to maintain compliance with the conditional use and final site plan as approved or be subject to the provisions of Section 707.
- C. A conditional use shall be valid for as long as the use, permitted development and conditions continue in accordance with the recorded terms stated therein.
1. For property under an approved conditional use, the provisions set forth in Section 605.E regarding commencement of construction must be met. If the permit holder fails to meet the provisions of Section 605.E, the conditional use approval shall expire and shall be of no further force and effect.
 2. The Planning Commission shall assess, at the request of the owner of property affected by the conditional use, if an extension is warranted due to unique or unusual circumstances that are beyond the control of the applicant and make recommendation to the Village Council.

SECTION 707 COMPLIANCE WITH CONDITIONAL USE

- A. It shall be the duty and obligation of the party responsible for the conditional use to at all times be in compliance with the requirements of this Ordinance and the stipulations of the conditional use approval under which their particular use is governed.
- B. The development, of which the site plan and use are governed by the conditional use approval, is subject to inspection by the Zoning Administrator or their assigns, to verify compliance with the approval and this Ordinance.
- C. Failure to maintain compliance shall constitute a violation of this Ordinance and be subject to the penalties and remedies provided in Section 307 as a nuisance per se.

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ARTICLE 8

CONDITIONAL USE SPECIFIC PROVISIONS

SECTION 801 CONDITIONAL USES AND SPECIFIC PROVISIONS

The following provisions apply to certain uses of land permitted by conditional use as listed in zoning districts provided under Article 5. The review and approval process is as provided under Article 7 of the Ordinance. Some of the uses permitted by conditional use in Article 5 do not have specific standards and are considered generally under the review procedures and standards of approval provided under Article 7. The provisions provided for the following uses shall be applied in addition to any other applicable provisions, standards or regulations contained elsewhere in this Ordinance unless specifically noted.

SECTION 802 ADULT GROUP HOME

- A. It is the intent and purpose of this section to establish specific standards for group homes in order to ensure that the residential character of the neighborhood, as well as the expected personal enjoyment of property by owners of residential structures in the neighborhood, is protected and encouraged.

- B. Dimensional Standards
 - 1. The property petitioned for such use shall have a minimum area of one thousand five hundred (1,500) square feet per resident, but shall not be less than the minimum area required in the underlying district.

 - 2. A group home shall be located no closer than one thousand five hundred (1,500) feet to another group home.

- C. Performance Standards
 - 1. The property and structure shall be developed and maintained in a manner compatible and consistent with the character of the neighborhood where it is located.

 - 2. All licenses required by the State of Michigan shall be maintained and a copy provided annually to the Zoning Administrator.

 - 3. Interior layout of the structure and provisions for community gathering spaces shall be provided so as to allow a resident of the facility the opportunity to spend the majority of non-sleeping hours outside of the residents bedroom.

 - 4. The structure shall have an identified area designed to provide privacy for visiting individuals.

SECTION 803 ADULT USES

- A. It is the intent and purpose of this section to ensure that adult uses, which may have serious objectionable operational characteristics, will not intervene or interfere with the stable and continuous growth of the community and surrounding areas because of their potentially disruptive effect and impact on the personal enjoyment of adjacent property by adjacent property owners and their patrons. Regulation of the location of these uses is necessary to ensure that the adverse effects of such businesses will not cause or contribute to the blighting or downgrading of the residential neighborhoods or commercial centers.

The location and the manner of which such uses are implemented could act to discourage economic investment in the immediate vicinity of the adult use, affect property values, encourage residents and businesses to move or avoid the community, increase crime and contribute a blighting affect on the surrounding area. The following provisions are established to prevent the concentration of such uses and the proximity of such uses to institutional and neighborhood uses.

- B. Dimensional Standards

- 1. An adult use establishment shall be located, as measured horizontally between the nearest point of each property, no closer than one thousand (1,000) feet from:
 - a. any other adult use;
 - b. a public, private or parochial nursery, primary or secondary school, licensed child care facility, group home, public or private park and/or playground, or common area intended for recreational use;
 - c. any residential district or use; or
 - d. an amusement center or similar facility, such as a billiard hall, theater, recreational retail, etc., that are frequented by persons under the age of eighteen (18).
- 2. An adult use establishment shall not exceed a gross floor area of three thousand (3,000) square feet and must be located within a free-standing building. A shared or common wall structure or shopping center is not considered to be a free-standing building.

- C. Performance Standards

- 1. The site layout and structure shall be designed, constructed and maintained so that display, decoration or signage depicting or describing activities or merchandise within the structure cannot be observed by a pedestrian, occupant of a vehicle, or from an adjacent land use. Such provisions are intended to

protect minors from viewing material, message or depiction that is by law or reasonably assumed to be considered as not being age-appropriate.

2. No person shall reside or permit any person to reside within the same structure or premises of an adult use establishment.
3. Additional screening and buffering above and beyond provisions outlined elsewhere in this Ordinance for non-residential land uses may be applied by the Planning Commission or Village Council if it is found that such screening and buffering is necessary to meet the intent of this section and this Ordinance.
4. The Planning Commission and Village Council may consider other appropriate conditions, such as hours of operation or the holding of special events, that may be appropriate pursuant to the intent and purpose of this section.

SECTION 804 AMUSEMENT CENTER

- A. It is the intent and purpose of this section to establish standards for a broad category of principal uses, such as arcades, billiard/pool halls, where persons congregate for purposes of recreation. Due to the potential of these uses to attract activities, such as loitering, vandalism and truancy, the following standards are set forth to avoid and/or mitigate potential nuisances. It is not the intent of this section to regulate such uses that are accessory to a principal use, such as a pool table in a bar or skill/vending machines in a restaurant.
- B. Dimensional Standards
 1. Amusement centers shall not be located closer than fifty (50) feet from a single-family structure located on property that is zoned for single-family residential purposes or one hundred (100) feet from a property utilized as a public or private school.
- C. Performance Standards
 1. The amusement center shall have available access to a pedestrian sidewalk, as well as provide accommodations for bicycle racks for non-motorists.
 2. No organized betting or gambling shall be allowed on the premises.
 3. Children under the age of sixteen (16) may not remain on the premises after 10:00 P.M. nor during normal school hours. The petitioner shall outline a process and procedure for addressing truancy issues.

4. The operator shall demonstrate the ability to prevent problems related to potential noise, litter, loitering, crowds or similar types of issues that could potentially create a need for law enforcement. The petitioner shall outline the process and procedure for addressing such operational issues.

SECTION 805 BED AND BREAKFAST

- A. It is the intent and purpose of this section to ensure that the commercial nature of a bed and breakfast is harmonious and compatible with a residential neighborhood where it may located.
- B. Performance Standards
 1. Each premise shall be principally occupied and operated by the owner of the premise.
 2. The bed and breakfast facility may have up to six (6) bedrooms used for transient guests.
 3. Parking shall be arranged so as not to create a negative impact on adjacent properties or necessitate on-street parking. Parking spaces and street entry shall be paved.
 4. No transient occupant shall reside on the premises for more than fourteen (14) consecutive days and not more than thirty (30) days in any one (1) year.
 5. The exterior appearance of the structure shall not be substantially altered from its original residential character prior to conversion to a bed and breakfast.
 6. Retail sales are not permitted beyond limited souvenir and personal hygiene items for overnight patrons. Meals shall not be served to the public at large but only to patrons. No receptions, private parties or activities for which a fee is paid shall be permitted.

SECTION 806 PRIVATE ROAD

- A. It is the intent and purpose of this section to establish standards for private roads that are petitioned to provide access, road frontage and/or minimum lot width requirements for parcels given the parameters of the zoning district in which the parcels are located. It is the intent of this section to ensure the long-term viability of a private road by setting forth requirements for location, construction and continual maintenance. Private roads are intended to provide access to lots created by simple land division, not for development of plats or site condominiums.

B. Dimensional Standards

1. A private road shall not extend more than six hundred (600) feet from the public road right-of-way from which it attains access to the top of the approved turn-around, or cul-de-sac. The Planning Commission may consider lengths in excess of the above but no greater than nine hundred (900) feet where it be shown that unusual topographic conditions exist or where significant natural features can be retained by allowing a greater distance.
2. A private road shall have a recorded easement of at least sixty-six (66) feet. A complete statement of all the terms and conditions of the proposed rights-of-way including copies of all agreements or intended agreements regarding the maintenance and improvements of the rights-of-way and drives shall be submitted with petition for conditional use approval.
3. A seventy-five (75) foot radius right-of-way with fifty (50) foot radius drive surface shall be provided for cul-de-sacs.
4. The sub-base of the private road shall be constructed at a width of twenty-four (24) feet with a minimum of six (6) inches of sand meeting Michigan Department of Transportation (“MDOT”) Class II standards and surfaced with six (6) inches of gravel, crushed limestone, stone, or concrete meeting MDOT Class 22A and 23A standards. All base and sub-base material shall be compacted.
5. The private road shall be paved with a top course of at least four (4) inches of asphalt meeting established standards from MDOT.
6. Prior to construction, all organic or unstable material from the road bed shall be removed.

C. Performance Standards

1. A private road shall not serve more than six (6) parcels.
2. Any parcel having access onto the private road shall meet all regulations and standards regarding yard and setback requirements according to the zoning district in which it is located.
3. The connection between the public road right-of-way and the private road shall conform to the standards and specifications set forth by the Village under separate rules and regulations regarding intersection with a public right-of-way. If intersecting with a county maintained road, then the requirements of the Calhoun County Road Commission (“CCRC”) shall be met.

4. All parcels that have access from a private road shall have their individual addresses posted on each property and also posted together at the entrance of the private road where it intersects with the public road.
5. The private road shall be adequately drained so as to prevent flooding or erosion. Ditches shall be located within the rights-of-way and drainage shall be constructed so that the runoff water shall be conveyed to existing water courses or water bodies.
 - a. The discharged water shall not be cast upon the land of another property owner unless the water is following an established water course and all requirement of other Village Ordinances, standards and requirements are adhered to.
 - b. Connection to county designated drains shall be approved by the Calhoun County Drain Commissioner (“CCDC”) prior to the issuance of a permit. Connection to culverts and ditches within public road rights-of-way shall be approved by the Village or the CCRC, in cases of a county road, prior to the issuance of a permit.
6. The private road easement shall provide adequate space for ingress, egress, drainage, and installation and maintenance of public and private utilities.
7. A maintenance agreement must be provided for review and approval. Following any approval, such agreement shall be filed and recorded with the Calhoun County Register of Deeds. All parcels accessing the private road shall be part of the agreement.
 - a. The agreement will specifically address the liability and responsibility of the parties subject to the agreement to maintain the private road pursuant to the specifications provided for in this Ordinance and other applicable ordinances, including but not limited to the responsibility of removing snow, maintaining width and surface for ingress and egress of emergency vehicles, ensuring adequate drainage, etc.
8. Prior to the granting of land divisions for parcels that are served by the private road or prior to use of the private road following construction, the applicant shall provide a certification letter from a professional engineer registered in the State of Michigan that the private road was constructed in compliance with the provisions of this Ordinance.

SECTION 807 CAMPGROUND

- A. It is the intent and purpose of this section to establish standards for public or privately owned and operated campgrounds providing temporary recreational quarters for campers on a daily, weekly or seasonal basis, while also preventing or mitigating

potential impacts to the personal enjoyment of adjacent property and to ensure that such facilities are compatible with surrounding land uses.

B. Dimensional Standards

1. The minimum site area for a campground shall be five (5) acres.
2. A minimum forty (40) foot setback for structures shall be maintained around the perimeter of the site. If underlying zoning district prescribes a greater setback, the larger of the two (2) setbacks shall be required. This area shall be used for purposes of screening and buffering when adjacent to property zoned or utilized for residential purposes.
3. Required yards may be utilized for access drives and parking provided that a minimum buffer of ten (10) feet is maintained from a side or rear property line and twenty (20) feet from a public road right-of-way. When located adjacent to residential or institutional property, the side and rear yard buffer shall include a fence, wall, or hedge no less than four (4) feet in height.
4. Each individual campsite within the campground shall contain a minimum of four hundred (400) square feet and have available a designated area for grilling or campfire and a picnic table.
5. A common use area shall be provided the area of which shall be no less than two hundred (200) square feet per campsite.

C. Performance Standards

1. A permanent structure for commercial and retail activity is permitted only if accessory to the principal campground use. The size and intensity of such to be reviewed and approved by the Planning Commission and Village Council in direct proportion to the number and type of camping facilities provided.
2. No vehicle fueling station or propane filling station shall be permitted. Propane tank exchange is acceptable.
3. The campground shall be seasonal and only open for camping from April 1st to November 1st of every year. There shall be no permanent storage of tents, campers, travel trailers at the site unless in an approved storage area.
4. One permanent dwelling structure occupied by the owner, manager or an employee shall be permitted.
5. Toilet and bathing facilities shall be provided pursuant to the requirements of the Calhoun County Health Department (“CCHD”), the Michigan Department of Natural Resources (“MDNR”) or other agency responsible for review and approval of such facilities.

SECTION 808 CEMETERIES, CREMATORIES AND/OR MAUSOLEUMS

- A. It is the intent and purpose of this section to establish standards for the internment of the dead. Such standards recognize that the development of such use is for a substantial period of time and therefore necessary to ensure that such facilities are compatible with surrounding land uses.

- B. Dimensional Standards
 - 1. The minimum development site for cemeteries, crematories, and/or mausoleums shall be ten (10) acres.

 - 2. No more than five (5) percent of the site area may be occupied by enclosed structures.

 - 3. All burial plots and all structures shall be set back no less than twenty (20) feet from a street right-of-way or property line.

 - 4. Adequate stacking and travel lanes shall be provided on the site for funeral processions to discourage parking and idling in the public road right-of-way. Such stacking and travel lanes shall be located at least fifty (50) feet from any side or rear lot line.

 - 5. A ten (10) foot buffer containing screening plant materials is to be retained or provided adjacent to all interior lot lines.

- C. Performance Standards
 - 1. All ingress and egress to the site shall be from a paved street.

 - 2. All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the Calhoun County Health Department and the State of Michigan.

SECTION 809 CHURCHES AND RELIGIOUS INSTITUTIONS

- A. It is the intent and purpose of this section to establish standards for the development of property and structures for purposes of assembly of patrons for religious purposes because such assembly can involve a significant number of vehicles and pedestrians and occur at various times of the day.

- B. Dimensional Standards
 - 1. All structures for purposes of assembly, education or gathering shall be set back no less that forty (40) feet from any side or rear yard where the adjoining property is zoned, used and planned for residential use.

C. Performance Standards

1. All ingress and egress to the site shall be from a paved street.
2. In the event that education facilities and/or programs are offered, student and participant drop-off shall occur on site and be located in designated areas exclusive of travel lanes.

SECTION 810 COMMERCIAL RECREATION (OUTDOOR)

A. It is the intent and purpose of this section to establish standards for outdoor commercial recreational uses. These uses can exhibit characteristics, such as noise, traffic and hours of operation that could impact the personal enjoyment of adjacent properties and established uses unless certain standards and conditions are considered. Such uses include, but are not limited to miniature golf courses, driving ranges, amphitheaters, survival games, batting cages, and animal, automobile, motorcycle, golf cart racing.

B. Dimensional Standards

1. The minimum site area for such uses shall be no less than two (2) acres. The Planning Commission and Village Council shall have the ability to require additional site area upon finding that the minimum acreage can not appropriately accommodate the intended use without causing negative impacts to the use and personal enjoyment of adjacent property.
2. Side and rear yards shall be at least thirty (30) feet. The first ten (10) feet of such yards shall be kept free of off-street parking and shall be landscaped.
3. No spectator seating shall be located within thirty (30) feet of any lot line.
4. Where parking areas are located less than thirty (30) feet from land zoned or used for residential purposes, a minimum five (5) foot high wall, fence or solid landscaping shall be provided between the parking area and residential property lines.
5. Racing tracks and drive-in theaters shall be enclosed and the entire periphery with an obscuring screen fence at least eight (8) feet in height. Fences shall be of permanent finished construction that is painted or otherwise finished neatly, attractively and inconspicuously. Such fence does not eliminate the need for vegetative buffers and berming to reduce the impact of noise, dust and wind-blown debris depending on the type of use.
6. Not more than seventy-five (75%) of the land area shall be covered by recreational uses.

7. All such recreational uses shall be located at least five-hundred (500) feet from any other similar use.
8. Adequate trash receptacles shall be provided as needed throughout the site. No temporary sanitary facility or trash receptacle shall be located within fifty (50) feet of any property utilized for residential purposes.

C. Performance Standards

1. Accessory uses, such as refreshment stands, limited retail selling items related to the above uses, maintenance buildings, office for management functions, spectator seating and service areas, including locker rooms and rest rooms are permitted and shall be proportional to the activities and number of patrons anticipated.
2. Outside storage shall be screened and buffered dependent upon the present and anticipated future use of adjacent property.
3. Sites shall be periodically cleared of debris so that litter does not accumulate or be distributed to adjacent properties.
4. Central loudspeakers and paging systems are prohibited where audible from residentially zoned or used property. The petition shall identify all noise generators to be implemented as part of the development and provide relative information concerning the intensity, duration and distance of travel for the generated sounds.
5. Operating hours for all uses shall be determined by the Planning Commission and Village Council based on the nature of the use and the nuisance potential to adjoining property owners. The maximum range of hours per day shall be from 7:00 A.M. to 10:00 P.M.

SECTION 811 COMMERCIAL RECREATION (INDOOR)

A. It is the intent and purpose of this section to establish standards for indoor commercial recreational uses. These uses can exhibit characteristics, such as noise, traffic and hours of operation that could impact the personal enjoyment of adjacent properties and established uses unless certain standards and conditions are considered. Such uses include, but are not limited to bowling alleys; ice or roller blade rinks; indoor sporting activities (such as tennis, soccer, etc); and athletic clubs; etc.

B. Dimensional Standards

1. Minimum site area for such uses shall be no less than one (1) acre.

2. Front, side and rear yards shall be at least thirty (30) feet unless a greater setback is required by the underlying zoning district.

C. Performance Standards

1. All ingress and egress to the site shall be from a paved street.
2. Accessory uses, such as refreshment stands, food service, and retail shops selling or renting items related to the above uses are permitted proportional to the anticipated number of patrons and intensity of use.
3. Operating hours for all uses shall be determined by the Planning Commission based on the nature of the use and the nuisance potential to adjoining property owners. The maximum range of hours per day shall be from 6:00 A.M. to 12:00 A.M.

SECTION 812 COMMUNICATION TOWERS

A. It is the intent and purpose of this section to establish standards for the implementation of communication towers, including but not limited to, wireless (cellular) communication towers, television broadcasting and receiving towers, and radio broadcasting and receiving towers. These standards aim to prevent the over development and concentration of such towers, mitigate the impact on adjacent land uses and to prevent such structures from remaining in the community following technological obsolescence.

B. Dimensional Standards

1. The parcel in which the communication tower is proposed to be located shall have a minimum lot area of one (1) acre.
2. From residentially planned, zoned or utilized property, a communication tower shall be setback one-half ($\frac{1}{2}$) the height of the tower. From non-residentially planned, zoned or utilized property, a communication tower shall meet principal structure setbacks of the underlying zoning district.
3. The base of the communication tower and wire/cable supports shall be fenced with a minimum six (6) foot chain link fence.
4. All communication towers shall be located at least one hundred (100) feet from any residential dwelling unit.
5. Minimum spacing between communication towers of a similar nature shall be one (1) mile, including from those towers located in other jurisdictions.

6. Heights of communication towers shall not exceed three hundred (300) feet from grade unless such height increase can be substantiated as necessary for the intended operation and in support of a larger network.
7. An access drive servicing the proposed communication tower and accessory facilities shall be a minimum of twelve (12) feet wide and be constructed and maintained in a manner similar to the standards set forth herein for private road, excepting the paving of drive.

C. Performance Standards

1. The petitioner shall demonstrate the need for the communication tower and how such facility participates in a greater network. The petitioner shall also describe co-location opportunities in the vicinity of the proposed communication towers.
2. All communication towers constructed shall be engineered and constructed to accommodate additional users of similar technologically.
3. The communication tower shall be located so that there is sufficient radius of clear land around the tower so that its collapse would be completely contained on the property.
4. All towers shall be equipped with an anti-climbing device to prevent unauthorized access to the structure.
5. All towers must meet the standards of the Federal Aviation Administration, Federal Communications Commission, Michigan Aeronautics Commission and be in compliance with the Michigan Tall Structures Act.
6. Accessory structures are limited to uses associated with operation of the tower.
7. Towers shall not be artificially lighted unless required by the Federal Aviation Administration.
8. Existing on-site vegetation shall be preserved to the maximum extent practicable.
9. A maintenance plan and any applicable maintenance agreement shall be presented with the petition for approval. Such plan shall be designed to ensure the long term, continuous maintenance of the facilities petitioned.
10. There shall not be display advertising or identification of any kind intended to be visible from the ground or other structures.

11. The tower and antenna shall be painted to match the exterior treatment of the structure. The chosen paint scheme should be designed to minimize off-site visibility.
12. The petitioned communication tower shall be evaluated for cost of removal and an appropriate security posted to ensure the possible future removal of the communication tower upon abandoning of the use for which it was originally intended.

SECTION 813 ADULT CONGREGATE CONVALESCENT

- A. It is the intent and purpose of this section to establish standards for adult congregate convalescent facilities (including but not limited to assisted-living facilities, nursing homes and convalescent centers) while mitigating potential impacts to the use and personal enjoyment of adjacent property and to ensure that such facilities are compatible with surrounding land uses.
- B. Dimensional Standards
 1. A minimum lot size of no less than two (2) acres.
 2. No principal structure shall be closer than thirty (30) feet to any lot line unless a greater setback is required by the underlying zoning district.
 3. No more than fifty (50) percent of the site area shall be covered by principal and accessory structures.
 4. Parking areas shall not be located within twenty (20) feet of any property zoned or used for residential purposes.
- C. Performance Standards
 1. All ingress and egress to the site shall be from a paved street.
 2. Recreational facilities shall be provided appropriate to the needs of the resident population.
 3. All licenses required by the State of Michigan shall be maintained and a copy provided annually to the Zoning Administrator.
 4. The interior layout and provision for community gathering spaces shall be provided so as to allow a resident of the facility the opportunity to spend the majority of non-sleeping hours outside of the residents bedroom.

5. The structure shall have an identified area designed to provide privacy for visitors of the resident.
6. Appropriate areas shall be provided for access by emergency vehicles.

SECTION 814 ACCESSORY APARTMENT

- A. It is the intent and purpose of this section to establish standards for the permitting of accessory apartments in single-family neighborhoods for use by extended family, or licensed caregiver, as a means of providing care for either the occupant of the accessory apartment or the principal structure who may be elderly or by some other reason require daily assistance and care. An accessory apartment shall be an addition to or conversion of a portion of the principal residential structure on the property and shall not include self-contained, mobile travel trailers or mobile homes.
- B. Dimensional Standards
 1. Dwelling units shall meet all applicable floor areas as outlined in Section 405.
- C. Performance Standards
 1. Separate sale or ownership of the accessory apartment, by whatever means of property or land transfer, from the primary dwelling on a lot or parcel is prohibited.
 2. The property owner may reside in either the accessory apartment or the principal dwelling unit. Under no circumstance shall a non-relative, other than a licensed caregiver, occupy the accessory apartment, nor shall there be paid rent for use of the accessory apartment.
 3. Adequate provision for wastewater disposal per the Calhoun County Health Department.
 4. Dwellings modified in conjunction with an accessory apartment shall retain the appearance of a single family detached dwelling.
 5. For the tenure of the current property owner, a legally recorded deed restriction shall be filed with the Calhoun County Register of Deeds that the person occupying said structure is related, or a licensed caregiver, and that one of the subject persons requires daily assistance from the other person.
 6. The Village Council may impose any other reasonable conditions deemed necessary to protect the use and personal enjoyment of adjacent properties, cohesiveness of the neighborhood, and to protect the value of other properties.

SECTION 815 GOLF COURSES AND COUNTRY CLUBS

- A. It is the intent and purpose of this section to establish standards for the development and use of golf courses and country clubs, as well as their associated accessory uses (driving ranges, dining halls, associated retail sales and service, maintenance structures and outdoor storage, etc.) to mitigate potential impacts to the use and personal enjoyment of adjacent property. These potential impacts can include noise, traffic, trespass, and hazards.
- B. Dimensional Standards
1. Minimum site area shall be ten (10) acres for a nine (9) hole course and twenty (20) acres for an eighteen (18) hole course.
 2. All principal or accessory buildings and parking areas shall be not less than one hundred (100) feet from any lot line of a residentially zoned or utilized property that is not part of the golf course development concept.
 3. A golf driving range accessory to the principal use of the golf course is permitted provided the area devoted to this use shall maintain a seventy-five (75) foot front yard and a one hundred (100) foot side and rear yard setback. The area shall be buffered by natural vegetation, fencing or other device to minimize projectiles entering onto adjoining properties.
- C. Performance Standards
1. The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.
 2. Major accessory uses such as a dining area and bar shall be housed in a single structure that is associated with the club house. Minor accessory uses strictly related to the operation of the golf course itself such as a maintenance structure or retail sales and services may be located in separate structures.
 3. All ingress and egress to the site shall be from a paved street.
 4. No outdoor loudspeaker or call system shall be audible to adjoining property.
 5. No dwelling units shall be provided on the premises except for living quarters for a resident manager, watchman, or caretaker.
 6. Toilet facilities for use by patrons shall be conveniently located. Such facilities shall be approved or permitted by the Calhoun County Health Department.

SECTION 816 GROUP DAY CARE HOMES / DAY CARE CENTERS

- A. It is the intent and purpose of this section to establish standards for group day care homes and day care centers to meet the necessary demands of the community for adult and child care while also preventing or mitigating potential impacts to the use and personal enjoyment of adjacent property and to ensure that such facilities are compatible with surrounding land uses.
- B. Dimensional Standards
1. A group day care home or day care center shall be located no closer than one thousand five hundred (1,500) feet to any of the following facilities:
 - a. Another licensed group day care home or day care center.
 - b. A licensed group home.
 - c. A licensed facility offering substance abuse treatment and rehabilitation service to seven (7) or more people.
 - d. A community correction center, resident home, halfway house or other similar facility that houses persons under the jurisdiction or supervision of the State of Michigan Department of Corrections.
 2. Appropriate fencing for the safety of attendees of the group day care home and the day care center shall be maintained and outdoor recreation areas shall be enclosed by a fence that is designed to discourage climbing, and is at least four (4) feet in height, but no higher than six (6) feet.
- C. Performance Standards
1. The property is to be maintained in a manner that is consistent with the visible characteristics of the neighborhood where located.
 2. Hours of operation shall not exceed sixteen (16) hours within a twenty-four (24) hour period. Activity between the hours of 10:00 P.M. and 6:00 A.M. shall be limited so that the drop-off and pick-up of attendees is not disruptive to neighboring residents.
 3. A readily identifiable drop-off and pick-up area shall be provided off of a public street and shall be of sufficient size so as to not create congestion on the site or within a public right-of-way.
 4. All licenses required by the State of Michigan shall be maintained and a copy provided annually to the Zoning Administrator.
 5. All ingress and egress to the site shall be from a paved street.

SECTION 817

JUNK AND SCRAP YARD

- A. It is the intent and purpose of this section to establish standards for use of property for the purposes of storing, separating and selling junk and scrap without causing impact to the use and personal enjoyment of adjacent property. The term junk and scrap yard shall not include general trash, rubbish and debris nor be considered a transfer station for such uses.
- B. Dimensional Standards
1. The minimum lot or parcel size for a junk or scrap yard shall be ten (10) acres.
 2. A solid fence, wall or earthen berm at least eight (8) feet in height shall be provided around the perimeter of the site or all sides of the area used to manage, process or store material. Such fence, wall or berm shall be of sound construction, painted or otherwise finished neatly and inconspicuously.
 3. All enclosed areas shall be set back at least fifty (50) feet as a buffer from any lot line. The buffer area shall be appropriately landscaped.
- C. Performance Standards
1. Junk and scrap yards shall not be located adjacent to residentially zoned properties, schools, day care facilities, churches, hospitals, or convalescent or nursing homes.
 2. Ingress and egress to the facility shall be only from a paved street. Access to an unpaved road may be utilized if found that such access point will further minimize impacts on other properties.
 3. Adequate parking and unloading facilities shall be provided at the site so that no loaded vehicle at any time idles or parks on a public right-of-way awaiting entrance to the site.
 4. All activities shall be confined within an enclosed area. There shall be no stocking of material above the height of the fence, wall, or berming, except that movable equipment used on the site may exceed that height. No equipment, material, or lighting shall be used or stored outside the enclosed area.
 5. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
 6. All vehicular travels areas and loading areas within any junk yard shall be paved or consist of gravel that is oiled, watered, or chemically treated to limit the nuisance caused by wind-borne dust on adjoining lots and public roads.

SECTION 818 RECYCLING FACILITY

- A. It is the intent and purpose of this section to establish standards for the use of property for purposes of collecting materials for recycling. The two (2) types of recycling facilities addressed in this Section are “small collection” and “large collection”. Definitions for the two (2) types are provided under Article 2.
- B. Dimensional Standards
1. Small collection facilities shall not occupy more than five hundred (500) square feet and, if applicable, encumber no more than five (5) parking spaces in an existing parking lot.
 2. The minimum lot area for large collection facilities shall be no less than twenty (20,000) square feet.
 3. No area used for the storage, disposal or placement of recyclable materials shall be located closer than thirty (30) feet of a property zoned or utilized for residential purposes, or if greater, the same setback for a principal structure pursuant to the zoning district where located.
- C. Performance Standards
1. Ingress and egress shall be only from a paved street. For large collection facilities, access to an unpaved road may be utilized if found that such access point will further minimize impacts on other properties.
 2. All areas subject to vehicular use shall be paved. For those areas utilized for storage, gravel surfacing may be utilized depending upon the nature of the business, storage and the anticipated intensity of the use.
 3. Depending on the intensity of the use, its proximity to other uses and the types of material and equipment stored, additional screening and buffering standards to mitigate the impact of the petitioned use may be required above and beyond minimum requirements in Article 12 of this Ordinance.
 4. Small collection facilities shall only accept glass, metals, plastic containers, papers or other similar items. Large collection facilities shall accept items as accepted by small collection facilities, but also larger items, such as appliances, furniture, yard waste and other similar material. Acceptance of vehicles, construction equipment, agricultural equipment for scrap is not permitted.
 5. All exterior storage of material shall be in sturdy containers or enclosures that are covered, secured and maintained in good condition. Containers are to be fabricated of material that is water proof and rust proof, covered and secured

when the site is not attended, and be of a capacity sufficient to accommodate materials accepted.

6. All areas shall be kept free of litter, debris and other undesirable material that could be considered detrimental to personal use and enjoyment of adjacent property.
7. The operations of large collection facilities shall be screened from view. A solid fence, wall or earthen berm at least eight (8) feet in height shall be provided around the perimeter of the site or all sides of the area used to manage, process or store material. Such fence, wall or berm shall be of sound construction, painted or otherwise finished neatly and inconspicuously.
8. Large collection facilities shall not have hours of operation beyond the hours of 9:00 A.M. and 7:00 P.M. Large collection facilities must have an attendant on-site during the hours of operation.
9. Small collection facilities are not to employ power-driven processing equipment. A large collection facility may employ power-driven processing equipment, but only for the purpose of effectively storing the material, such as compaction, shredding and baling. Such power-driven processing equipment must be proved by the petitioner to not create a negative impact on the use and enjoyment of adjacent property.

SECTION 819

MINI-STORAGE FACILITY

- A. It is the intent and purpose of this section to establish standards for the use of property for self storage facilities, including mini-storage units accessible by vehicle and climate controlled storage within a structure. The intent of the standards is to prevent and mitigate possible impacts of these uses on adjacent properties from congestion, traffic, debris and noise.
- B. Dimensional Standards
 1. The minimum lot size shall be one (1) acre.
 2. A mini-storage unit shall not exceed ten (10) feet in width or twenty (25) feet in depth.
 3. There shall be a minimum of thirty five (35) feet of travel area if the driveway is two-way between storage units for parking, loading and fire lane purposes.
 4. When adjoining a residential district, a six (6) foot high wall, fence, or dense vegetation strip shall be erected and maintained along the connecting interior lot line.

5. A ten (10) foot landscaped buffer shall be required adjacent to any public streets.

C. Performance Standards

1. All ingress and egress to the site shall be from a paved street.
2. All personal and business storage shall be within an enclosed structure. There shall be no outside storage of household or similar items. Vehicles, recreational vehicles, and boats may be stored in a defined area dedicated for such use.
3. Storage of goods shall be limited to personal or business property and not to include any perishable items no matter there method of containment. No business or enterprise shall be operated from the facility, or commercial distribution allowed requiring the regular delivery or pick-up of goods.
4. No storage of hazardous, toxic, corrosive, flammable or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.
5. All mini-storage units shall have defined travel lanes and loading areas. All travel lanes and loading areas are to be paved. Outdoor storage areas for recreation vehicles, vehicles and boats may be graveled.
6. No retail, wholesale, fabrication, manufacturing or service activities may be conducted from the storage units by the lessors or lessees.

SECTION 820

MOTEL AND HOTEL

- A. It is the intent and purpose of this section to establish standards for motels and hotels due to their potential to create noise, traffic and other impacts on adjacent properties because of the transient nature of their customers.

B. Dimensional Standards

1. The minimum lot size shall be one (1) acre with a minimum width of one hundred fifty (150) feet, provided that there shall be at least eight hundred (800) square feet of lot area for each room.
2. The maximum lot coverage of all structures, including accessory structures, shall not exceed fifty (50) percent of the site area.
3. The front ten (10) feet of the lot shall be landscaped buffer zone, unpaved, and shall not be used for off-street parking. Off-street parking shall be setback twenty (20) feet from the property line of any residentially zoned or used

property, unless a fence or masonry wall no less than four (4) in height is constructed then said setback shall be five (5) feet.

4. The minimum floor area of each heated and air conditioned guest unit shall be two hundred and fifty (250) square feet.
- C. Performance Standards
1. All ingress and egress to the site shall be from a paved street.
 2. All parking associated with the petitioned use shall be contained in an off-street parking lot that is paved.
 3. Accessory uses may include meeting rooms, conference room, dining area, bar, recreational use and gift shops.
 4. No kitchen or cooking facilities shall be provided in guest units. Small refrigerators are permitted. All guest units shall have a full bath.
 5. No guest shall establish permanent residence at the motel.

SECTION 821 OPEN AIR BUSINESS

- A. It is the intent and purpose of this section to establish standards for the use of property for open air businesses, such as landscaping supplies, agricultural equipment, lumber yards, home and garden centers, mobile home sales and flea markets.
- B. Dimensional Standards
1. Minimum lot area for open air businesses shall be twenty thousand (20,000) square feet.
 2. No loading and unloading activities shall be permitted within fifty (50) feet of the lot line of a property zoned or utilized for residential purposes.
 3. All structures shall have a front yard setback of fifty (50) feet unless such petitioned use utilizes an existing structure or legal non-conforming structure.
 4. No more than two (2) driveways onto a street shall be permitted per site. Driveway approach width shall not exceed thirty-five (35) feet.
 5. Not more than fifty (50) percent of the lot shall be covered by structures and outdoor display of materials and goods.

C. Performance Standards

1. All areas subject to vehicular use shall be paved. For those areas utilized for display, the Planning Commission and Village Council may allow for an alternative surface depending upon the nature of the business, product to be displayed and the anticipated intensity of the use.
2. Storage yards associated with home and garden centers, lumber yards and landscaping supply shall be screened appropriately to obscure the view from public streets and adjacent properties.
3. Storage or display of goods and materials shall not occur in the required setbacks with the exception of the front yard whereas such storage and display of goods and materials shall not be closer than ten (10) feet from the right-of-way.
4. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse affect on adjacent properties, water bodies, wetlands and drainage ways.
5. All repair, assembly, disassembly or maintenance of vehicles, equipment or other items to be displayed shall occur within an enclosed structure.

SECTION 822 PRIVATE NURSERY, PRIMARY OR SECONDARY SCHOOL

A. It is the intent and purpose of this section to establish standards for the development of private, parochial or other schools to mitigate potential impacts on adjacent properties. Schools, whether private or public, can become activity centers for the community and have the potential to generate noise and congestion at various times of the day and week.

B. Dimensional Standards

1. The minimum lot or parcel size shall be one (1) acre.
2. No more than forty (40) percent of the site area shall be covered by structures.
3. No more than sixty (60) percent of the site shall be covered with impervious surface.
4. The principal structure shall be no closer than fifty (50) feet from any lot line or right-of-way.
5. Service structures and facilities shall not be located within fifty (50) feet of a residentially zoned property.

6. Parking areas and travel lanes shall not be located within thirty (30) feet of a residentially zoned property.
7. No parking shall be allowed within the twenty five (25) feet of the right-of-way.

C. Performance Standards

1. All ingress and egress to the site shall be from a paved street.
2. Student drop-off and vehicular turn-around facilities shall be appropriately provided to prevent on-site congestion and to mitigate impact to off-site traffic.
3. Appropriate buffering and screening shall be necessary where improvements, such as structures and recreation areas, are within close proximity to residential development.

SECTION 823 VEHICLE FUELING STATION/VEHICLE WASH

A. It is the intent and purpose of this section to develop standards for the siting and use of vehicle fueling stations and vehicle washes to mitigate potential impacts on adjacent property. The use of property for such purposes can include characteristics, such as noise, fumes, traffic and lighting that can potentially impact the use and personal enjoyment of adjacent property.

B. Dimensional Standards

1. In addition to the minimum lot size of the district, vehicle fueling stations shall have an additional one thousand (1,000) square feet of lot area for each pump over four (4) pumps provided on site.
2. All structures, fueling pumps and/or wash bays shall be located not less than thirty (30) feet from any lot line or street right-of-way. Accessory facilities, such as pay phones, vacuums, or air pumps shall meet the same setback.
3. All access drives, parking and paved areas shall maintain a ten (10) foot setback from an adjoining property line.
4. The maximum widths of all driveways at the right-of-way shall be no more than thirty (30) feet.
5. No more than two (2) ingress/points at no less than forty (40) feet apart at their closest edge shall be permitted.

C. Performance Standards

1. Sales of new and used vehicles of any type are not permitted.
2. Convenience retail within a fully enclosed structure is permitted in conjunction with the operation of a fueling station. Retail items shall not be displayed outside unless directly related to the operation of a vehicle. Propane exchange cages are permitted adjacent to the principal structure as long as such location does not interfere with pedestrian paths.
3. Areas of vehicle travel and parking shall be surfaced with concrete or paved to control dust and provide adequate drainage.

SECTION 824 VEHICLE REPAIR AND SERVICE

A. It is the intent and purpose of this section to address those uses that involve the maintenance, service and repair of automobiles and recreational vehicles. These uses, although typical in a community, potentially can impact the use and personal enjoyment of adjacent properties depending on the intensity of use, the type of repair and service offered, and the layout of the intended development in relation to adjacent properties.

B. Dimensional Standards

1. In addition to the minimum lot size of the district, automobile repair and service stations shall have an additional one thousand (1,000) additional square feet of lot area for each additional bay over two (2) bays used for repair and service.
2. All access drives, parking and paved areas shall maintain a ten (10) foot setback from an adjoining property line.
3. The maximum widths of all driveways at the right-of-way shall be no more than thirty (30) feet.
4. No more than two (2) ingress/points at no less than forty (40) feet apart at their closest edge shall be permitted.

C. Performance Standards

1. Primary ingress and egress to the development shall be only from a paved street.
2. Depending on the intensity of the use, its proximity to other uses and the types of repairs and vehicles being repaired, screening and buffering standards

greater to those cited elsewhere in this Ordinance may be required to mitigate the impact of the petitioned use.

3. Hydraulic hoists, service pits, lubricating, greasing, washing, and repair equipment and operations shall be located within a completely enclosed structure.
4. Storage of vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall be limited to a period of not more than fourteen (14) days and then only for the purpose of temporary storage pending transfer to another facility. Such storage shall not occur in front of the building.
5. Vehicle travel lanes and parking shall be surfaced with concrete or paved to control dust and provide adequate drainage. Identified storage areas may be gravel at the discretion of the Planning Commission and Village Council depending upon the intensity of the use anticipated..
6. Vehicle service and repair facilities without the distribution or sale of gasoline may also offer the sale of vehicles in conjunction with a conditional use for vehicle sales and rental.
7. No public address system shall be audible from any abutting residential parcel.
8. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground and infiltrating into the groundwater system.

SECTION 825 VEHICLE SALES AND RENTAL

- A. It is the intent and purpose of this section to address those uses that involve the sale, rent and display of motorized vehicles, such as automobiles, trucks, tractors and recreational vehicles. These uses potentially can impact adjacent properties depending on the intensity of use, the type of sales offered, and the layout of the intended development in relation to adjacent properties, lighting and advertising. If the petitioned use also includes service and repair, the standards set forth in other sections regarding vehicle service and repair shall also be met.
- B. Dimensional Standards
 1. All access drives, parking and paved areas shall maintain a ten (10) foot setback from an adjoining property line.

2. The maximum widths of all driveways at the right-of-way shall be no more than thirty (30) feet.
3. No more than two (2) ingress/points at no less than forty (40) feet apart at their closest edge shall be permitted.

C. Performance Standards

1. Ingress and egress shall only be from a paved street.
2. Depending on the intensity of the use, its proximity to other uses and the types of repairs and vehicles being repaired, screening and buffering standards greater to those cited elsewhere in this Ordinance may be required to mitigate the impact of the petitioned use.
3. Areas of vehicle travel and parking shall be surfaced with concrete or paved to control dust and provide adequate drainage.
4. No public address system shall be audible from any abutting residential parcel.
5. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground and infiltrating into the groundwater system.

SECTION 826 VETERINARIAN CLINIC

A. It is the intent and purpose of this section to establish standards for the use of property as veterinarian clinics, both large and small. Due to treatment and housing of animals, veterinarian clinics have the potential to impact the use and personal enjoyment of adjacent properties and these standards are intended to mitigate those potential impacts.

B. Dimensional Standards

1. Structures where animals are kept, dog runs, paddocks, and/or exercise areas shall not be located closer than one hundred (100) feet to any adjacent residentially zoned or used property or any structure used by the general public.

C. Performance Standards

1. Between the hours of 10:00 P.M. and 7:00 A.M., no animals shall be permitted occupy a run, paddock or other open area and must be housed in a fully enclosed structure with appropriate sound proofing and waste disposal.
2. An adequate, enclosed method of refuse storage and disposal shall be maintained so that no public nuisance shall be created at any time.

SECTION 827 PLANNED SHOPPING CENTER

- A. It is the intent and purpose of this section to establish standards for Planned Shopping Centers, which due to the intensity of use and clustering of services, could have the potential to impact the use and personal enjoyment of the adjacent properties due to traffic, congestion and noise.
- B. Dimensional Standards
 1. A landscaping strip of no less than ten (10) feet in width is required along all sides of the site abutting a residentially zoned or used lot and/or an institutional use and along all public rights-of-way.
 2. Irrespective of setbacks established by the zoning district in which the proposed use is located, no structure shall be located closer to any property line of the shopping center than a distance equal to twice its height.
- C. Performance Standards
 1. Ingress and egress to the development shall be only from a paved street.
 2. Uses permitted in the Planned Shopping Center include those permitted by right in the underlying district. Other uses are not permitted. If a use is list as a conditional use in the underlying district, a separate conditional use approval is necessary in order to implement or operate.
 3. Areas of vehicle travel and parking shall be surfaced with concrete or paved to control dust and provide adequate drainage.

SECTION 828 HOME BASED BUSINESS

- A. It is the intent and purpose of this section to establish standards for service type businesses that are operated from an owner occupied residence and are beyond the scope and intensity of a typical home occupation. Such increase in intensity and scope may include additional employees who live outside the home and the use of an accessory structure for the storage of equipment and materials. The standards are intended to protect the essential character of the neighborhood and adjacent properties from the petitioned non-residential activities, while also allowing for entrepreneurial

start-up activities. It is fully intended for home based businesses to ultimately grow out of the residential site and to develop elsewhere within the Village's non-residential districts.

B. Dimensional Standards

1. The minimum lot size is one (1) acre.
2. The nonresidential use shall only be permitted in a dwelling unit and/or one (1) existing accessory structure. The use shall occupy no more than one (1) existing accessory building that is in addition to the residential dwelling unit on the same lot.
3. The use shall occupy no more than twenty five (25) percent or eight hundred (800) square feet (whichever is less) of the floor area of the dwelling unit, but may occupy all of the accessory structure.
4. Irrespective of setbacks of the underlying district, no accessory structure or area of land utilized for or a home based business shall be permitted within ten (10) feet of any adjoining lot line.
5. No more than two (2) employees may be permitted on the premises other than members of the immediate family residing on the premises.

C. Performance Standards

1. The dwelling on the site shall be occupied by the owner of the business.
2. The home based business shall only be incidental to the primary residential use, be of a service nature, and not be principally used for retail sales.
3. A home based business shall not include on-premise sales activities or manufacturing. The Planning Commission shall make determination as to whether proposed use fits the intent and purpose of the Ordinance.
4. No equipment or process shall be used that creates noise, vibration, glare, vermin, animal waste, fumes, odors or electrical interference detectable to the normal senses outside the the boundaries of the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
5. No storage or display within the dwelling unit or accessory structure shall be visible from adjacent property. The use shall not entail the use or storage of explosive, flammable, or otherwise hazardous waste.

6. The outdoor storage of goods and/or materials are prohibited, with the exception of large equipment, which at the discretion of the Planning Commission may be located within a buffered and screened area.
7. No traffic shall be generated by the use in significantly greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the use shall be met off the street and other than in a required front yard, although motor vehicles may be parked in an existing driveway, if it is of sufficient size.

**SECTION 829 CONTRACTOR'S ESTABLISHMENT WITH
 OUTSIDE STORAGE**

- A. It is the intent and purpose of this Section to establish standards for the use of property for contractor's establishments with outside storage, such as excavation, asphalt and concrete, plumbing and similar operations.
- B. Dimensional Standards
 1. Minimum lot area shall be two (2) acres.
 2. No loading and unloading activities shall be permitted within thirty-five (35) feet of the lot line of a property zoned for residential purposes.
 3. Irrespective of the setbacks set forth in the underlying district, all structures shall have a front yard setback of fifty (50) feet unless such petitioned use utilizes an existing structure.
 4. No more than two (2) driveways onto a street shall be permitted per site.
 5. Not more than fifty (50) percent of the lot shall be covered by structures and outdoor storage of material and equipment.
- C. Performance Standards
 1. All areas subject to vehicular use shall be paved. For those areas utilized for storage, gravel surfacing may be utilized depending upon the nature of the business, storage and the anticipated intensity of the use.
 2. Storage or display of material and equipment shall not occur in the required front yard setback.
 3. Depending on the intensity of the use, its proximity to other uses and the types of material and equipment stored, additional screening and buffering standards to mitigate the impact of the petitioned use may be required above and beyond minimum requirements in Article 10 of this Ordinance.

4. All repair, assembly, disassembly or maintenance of vehicles, equipment or other items shall occur within an enclosed structure.

SECTION 830 NURSERY AND GREENHOUSE

- A. It is the intent and purpose of this section to establish standards for nursery and greenhouses for the purpose of growing or maintaining products for retail and/or wholesale sales of product on or off-site. The standards are intended to prevent or mitigate potential negative impacts in residential or nonresidential use areas.
- B. Dimensional Standards
 1. Minimum lot area shall be one (1) acre.
 2. The storage or materials display areas shall meet all the yard setback requirements applicable to a principal structure in the underlying zoning district.
- C. Performance Standards
 1. All loading activities and parking areas shall be provided on the same premises.
 2. The storage of any soil, fertilizer, or similar loosely package materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
 3. No public address systems shall be audible from any adjacent parcel containing a residential dwelling or residential zoned. Moreover, there shall be no broadcast of continuous music or announcements over any loudspeaker or public address system.

SECTION 831 CENTRAL BUSINESS MIXED-USE

- A. It is the intent and purpose of this section to establish standards for the mixed-use of property in the central business area of the Village to permit residential opportunities in conjunction with non-residential operations, such as retail and office uses. Such residential opportunities, include apartments, studios, lofts and condominium units and other similar dwelling units on the second floor of structures having first-floor non-residential use. Home occupations are also permitted in association with these residential opportunities.
- B. Dimensional Standards
 1. Dwelling units shall meet all applicable floor areas as outlined in Section 405.

C. Performance Standards

1. Principal ingress and egress to dwelling units shall be exclusive from primary ingress and egress to non-residential use occupying the same building.
2. Dwelling units shall not occupy a structure, or be accessible from another structure, that contains an adult use as regulated herein.
3. Each dwelling unit shall have an appropriate amount of allocated off-street parking spaces available. On-street parking shall not be utilized for calculation purposes in meeting the minimum requirements for allocated parking.

- D. Existing structures that were originally constructed for single-family dwellings and converted to non-residential operations may be converted back to residential use subject to compliance with this Section. (2012 amendment effective upon publication 2/18/12)

SECTION 832 MINERAL EXTRACTION

- A. It is the intent and purpose of this section to establish standards for use of property for the purposes of mineral extraction and to mitigate the impact of the use on the use and personal enjoyment of adjacent property. The phrase mineral extraction shall not include oil and gas exploration and extraction.

B. Dimensional Standards

1. The minimum lot or parcel size for mineral extraction operation shall be five (5) acres.
2. A solid fence, wall or earthen berm at least eight (8) feet in height shall be provided around the perimeter of the site or the perimeter of the area used to extract, manage, process or store material.
3. No mining or mineral extraction, management, processing or storage shall be conducted within twenty (20) feet of any property line.

C. Performance Standards

1. Adequate parking and unloading facilities shall be provided at the site so that no vehicle at any time idles or parks on a public right-of-way awaiting entrance to the site.

2. All vehicular travel areas and loading areas shall be paved or consist of gravel that is oiled, watered, or chemically treated to limit the nuisance caused by wind-borne dust on adjoining lots and public roads.

ARTICLE 9
AMENDMENTS

SECTION 901 INITIATION OF AMENDMENTS AND FEES

- A. The regulations and provisions stated in the text of the Village of Athens Zoning Ordinance (“Ordinance”) and the boundaries of zoning districts shown on the Zoning Map may be amended by the Village of Athens (“Village”) from time to time pursuant to the Michigan Zoning Enabling Act No. 110 of the Public Acts of Michigan of 2006, as amended, (MCL 125.3101 et seq.)
 - 1. Amendments may be initiated by the Village Council, the Planning Commission, or by petition of one or more persons having an interest in a property to be affected by a proposed amendment.

- B. The Village Council shall establish by resolution fees for zoning amendment petitions. Such fee shall be paid in full at the time of petition and no part of such fee shall be returnable or refundable to the petitioner.

SECTION 902 AMENDMENT PROCEDURE

- A. On an application provided by the Zoning Administrator, the petitioner shall deliver a petition for amendment to the Village Council not less than twenty (20) days before a regularly scheduled meeting of the Village Council. Ten (10) copies of the petition for amendment accompanied by ten (10) copies of documents and explanatory matter as requested herein are to be provided.
 - 1. The Zoning Administrator, and/or assigns shall review each petition to ensure compliance with the provisions of this Ordinance prior to receipt of the petition by the Village Council.

 - 2. Any petition procedurally not in compliance with this Ordinance shall be returned to the petitioner. Any petition procedurally not in compliance with this Ordinance shall not constitute a legitimate filing of the petition.

- B. The Village Council shall accept the petition upon a determination of completeness and refer the petition to the Planning Commission for public hearing and recommendation at the next available meeting of the Planning Commission where all public notice requirements can be met.

SECTION 903 PLANNING COMMISSION PUBLIC HEARING, REVIEW AND RECOMMENDATION

- A. The petition shall be submitted to the Planning Commission by the Zoning Administrator for a scheduled public hearing. The Planning Commission shall conduct at least one (1) public hearing on each petition for amendment.
- B. Notice of the public hearing shall be provided pursuant to Section 306, herein.
- C. Any person having an interest in any amendment may present testimony or evidence in support of or opposition thereto, and, if in writing, such communication shall be submitted to the Zoning Administrator no less than three (3) days before the hearing at which time the petition will be considered.
- D. The Planning Commission shall hold a public hearing and take action to recommend approval or denial of the proposed amendment based upon the petition's conformity with the Master Plan and based on assessment of the following findings of fact:
 - 1. What, if any, identifiable conditions related to the petition have changed which justify the petitioned amendment?
 - 2. What, if any error in judgment, procedure, or administration was made in the original Ordinance which justifies the petitioned amendment?
 - 3. What are the precedents and the possible effects of such precedent that might result from the approval or denial of the petition to amend the Ordinance?
 - 4. What is the impact of the amendment on the ability of the Village and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the petition is approved?
 - 5. Does the petitioned amendment adversely affect the environmental conditions or value of the surrounding property?
 - 6. Does the petitioned zoning change generally comply with the adopted policies of the Master Plan?
 - 7. Are there any significant negative environmental impacts which would reasonably occur if the petitioned amendment and possible resulting development was implemented?
- C. The Planning Commission shall not forward a recommendation to the Village Council unless all of the aforementioned and other factors identified by the Ordinance are considered. The Planning Commission shall submit a summary of the comments received at the public hearing, a finding of fact, and the proposed amendment, including any zoning maps, and other related material to the Village Council.

SECTION 904 REVIEW AND ACTION BY VILLAGE COUNCIL

- A. After receiving the recommendation(s) of the Planning Commission, the Village Council, at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the petitioned amendment.
 - 1. The Village Council may accept or reject the Planning Commission's recommendation. If the Village Council rejects the recommendation, the petition is not required to be remanded back to the Planning Commission for review prior to Village Council action on the petition.
 - 2. The petition may be remanded back to the Planning Commission for additional review at the discretion of the Village Council.
- B. The Village Council may hold additional public hearings if it considers it necessary. Notice of a public hearing by the Village Council shall be published in a newspaper of general circulation in the Village. The notice shall be given not more than fifteen (15) days nor less than five (5) days before the public hearing before Village Council.

SECTION 905 CONDITIONAL REZONING

- A. As part of a petition to amend the zoning designation of property, an owner of land may voluntarily offer in writing certain standards, stipulations, prohibitions, or measurable criteria regarding the use and development of the property as a condition to the approval of the amendment.
- B. In reviewing and approving an offer of conditions, the Planning Commission may recommend and Village Council may establish a time period during which the conditions apply to the land under petition.
 - 1. If the conditions are not satisfied within the time specified, the Village Council may rezone the property to its former zoning classification or other classification. The time period specified may be extended upon the application of the property owner and approval of the Village Council.
 - 2. Village Council shall not add to or alter the conditions during the time period specified.
- C. It shall not be required of the property owner to offer conditions as a requirement set forth by the Planning Commission or Village Council in order to obtain the amendment. The lack of an offer of conditions shall not otherwise affect a petitioner's rights under Public Act 110 of 2006, Michigan Zoning Enabling Act, as amended, (MCL 125.3101 et seq.), the Ordinance, or any other laws of this state.

**SECTION 906 EFFECTIVE DATE AND NOTICE OF ORDINANCE
ADOPTION**

- A. Except as otherwise provided under Section 907, an amendment shall take effect upon the expiration of seven (7) days after publication as required below or at such later date after publication as specified by the Village Council.
 - 1. Following adoption of an amendment by the Village Council, the amendment shall be filed with the Clerk and a notice of adoption published in a newspaper of general circulation in the Village within fifteen (15) days after adoption.
 - 2. The notice required under this section shall include the following information:
 - a. A summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment;
 - b. The effective date of the ordinance or amendment; and
 - c. The place where and time when a copy of the petition and amendment may be purchased or inspected.

- B. A copy of the notice shall also be mailed to the airport manager of an airport entitled to be noticed under the Michigan Zoning Enabling Act No. 110 of the Public Acts of Michigan of 2006, as amended, (MCL 125.3101 et seq.).

SECTION 907 PROTEST OF AMENDMENT

- A. An amendment to the Ordinance or Zoning Map is subject to a protest petition. If a protest petition is filed, approval of the amendment shall require a two-thirds (2/3) vote of the Village Council.

- B. The protest petition shall be presented to the Village Council before final legislative action on the amendment and shall be signed by one (1) or more of the following:
 - 1. The owners of at least twenty (20) percent of the area of land included in the proposed change.

 - 2. The owners of at least twenty (20) percent of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.

 - 3. Publicly owned land shall be excluded in calculating the twenty (20) percent

ARTICLE 10

LANDSCAPING, BUFFERING AND SCREENING

SECTION 1001 INTENT AND PURPOSE

- A. The intent and purpose of this Article is to promote the public health, safety, and general welfare through the implementation of landscaping, buffering and screening as part of the development process of land by:
1. Minimizing noise, air, and visual pollution by requiring landscaping for each development for which site plan, conditional use, site condominium and subdivision plat review is required.
 2. Protecting and preserving the appearance, character, and value of the community and its residential neighborhood areas.
 3. Buffering incompatible land uses, including off-street parking for such uses, so as to minimize negative impacts or influences and to provide clear and distinct separation.
 4. Providing separation between pedestrian and vehicular travel and movement in a development area and well as separating same between development area and abutting public rights-of-way.
 5. Encouraging an appropriate mixture of plant material, such as evergreen and deciduous trees and shrubs, to protect against insect and disease infestation and produce aesthetic and cohesive design.
 6. Preventing soil erosion and soil depletion by providing adequate open space for purposes of retention, detention and natural infiltration.
 7. Protecting and preserving the appearance, character, and value of the community and its natural resources by encouraging the integration of existing woodlands and other natural features in landscape plans

SECTION 1002 LANDSCAPING PLAN

- A. These requirements shall apply to all uses for which site plan review is required under Article 6 and 7 and any other use or implementation of use so specified in this Ordinance, including petitioned site condominiums and subdivision plats.
- B. A landscape plan shall be required to be submitted as part of an application for site plan, conditional use, plat or site condominium approval or as a separate plan depending on the situation and the petitioned development. Whether separate, or part

of other site plan drawings, the landscape plan shall include, but not necessarily be limited to, the following:

1. Location, spacing, size, and common name for each plant type proposed for use within a required landscape area.
 2. Presentation at an appropriate scale depending on the size of the proposed development and given what is deemed adequate to convey important information.
 3. On parcels of more than one (1) acre, existing and proposed contours on-site and twenty (20) feet beyond the site boundary at intervals not to exceed two (2) feet.
 4. Typical cross-sections including slope, height, and width of berms exceeding three (3) feet in height, type of ground cover, or height and type of construction of walls.
 5. Construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
 6. Text or drawing detail showing appropriate installation and establishment of proposed plant materials.
 7. Identification of existing trees and vegetative cover to be preserved.
 8. Identification of grass and other ground cover and method of planting.
 9. Identification of landscape maintenance program including a statement that all diseased, damaged, or dead materials shall be replaced in accordance with the standards of this Ordinance at the next available planting season.
- C. An approved landscape plan shall be considered a permanent record and integral part of the of a site plan, conditional use, site condominium or plat. Any revisions to, or removal of plant materials will be viewed as a violation of this Ordinance and the agreed upon terms of the approval of the site plan, conditional use, site condominium or plat from which the landscaping plan was approved.
- D. The owner of the property shall be responsible for all maintenance thereon. Landscaping shall be kept in neat and orderly manner, free from debris and refuse.

SECTION 1003 LANDSCAPING STANDARDS

- A. All landscaping shall be installed in a manner consistent with accepted planting procedures and the approved landscaping plan, including quantity, size, type and location of plantings proposed.

1. Minor deviations from the approved landscaping plan may be permitted by the Zoning Administrator upon determination that the deviation does not substantially impact the overall concept of the landscape plan and the intended development.
 2. If the deviation is determined to be major, the landscaping plan shall be reviewed via the site plan approval process utilized to approve the original landscaping plan.
- B. In consideration of landscaping material proposed to be implemented as part of a development, the following shall apply:
1. All plant material shall be consistent with the size and description set forth in the current edition of "American Standard for Nursery Stock" sponsored by the American Association of Nurseryman, Inc., and approved by the American National Standards Institute, Inc. as well as:
 - a. Be typical of species or variety;
 - b. Be healthy and vigorous in appearance, free from disease and pests, and shall have a well-developed root systems; and
 - c. Be chosen according to soil, local climate conditions and environmental factors.
 2. The following plant materials shall not be considered as being of a desirable quality, and therefore are not permitted. This does not preclude the use of existing trees and other vegetation if it can be shown that their removal would result in a substantial loss of screening and buffering of adjacent lands or public rights-of-way. The following vegetation types are not desirable:
 - a. Acer negundo - Box Elder
 - b. Ulmus varieties - Elm varieties
 - c. Aesculus varieties - Horse Chestnut
 - d. Populus varieties - Poplar Varieties
 - e. Salix varieties - Willow Varieties
 - f. Catalpa varieties - Catalpa Varieties
 - g. Ailanthus altissima - Tree of Heaven
 - h. Fraxinus - Ash

3. Minimum sizes of plant material shall be in accordance with the following:
 - a. Standard deciduous trees shall have a minimum caliper of two (2) inches four (4) feet from ground level at the time of planting.
 - b. Small deciduous ornamental trees shall be a minimum of five (5) feet in height from ground level at the time of planting.
 - c. Coniferous trees shall be a minimum of five (5) feet in height from ground level at time of planting.
 - d. Shrubs shall be a minimum of two (2) feet in height from ground level at the time of planting or two (2) feet in spread if plants are low spreading evergreens.
 - e. Vines shall be a minimum of thirty (30) inches in length after one (1) growing season and may be used in conjunction with fences, screens, or walls to meet opacity requirements.
 4. Lawn as ground cover shall be planted in species of grass normally grown as permanent lawns in the region. Lawn may be implemented as sod or seeded and mulched. Ground cover types in lieu of lawn in whole or part shall be implemented in such a manner as to present a finished appearance.
- C. In consideration of existing plant material that is to be retained as part of a development proposal, the following shall apply:
1. Existing plant material that is determined to remain on site to meet minimum landscaping requirements of this Ordinance or required to be retained on site via site plan or conditional use approval is to be protected by placing fences or barriers around the perimeter of the retained plant material during construction.
 2. No vehicle or other construction equipment shall be parked or stored within the drip line of any tree intended to be retained. Subject to review and approval, other protective techniques may be used.
- D. Landscaping berms used for screening and buffering shall be constructed with slopes not to exceed a one (1) on three (3) gradient with side slopes designed and planted to prevent erosion. Berms shall also be constructed with a top surface of at least three (3) feet, extending the length of the berm, unless deemed by the Planning Commission to be inconsistent with the landscaping concept. Berm slopes shall be protected with sod, seed, shrubs or other form of natural ground cover.
- E. Fencing shall meet the general standards and requirements set forth under Section 408, herein.

SECTION 1004 SPECIFIED LANDSCAPING AREAS

A. Screening Between Conflicting Land Uses

1. Between a residential land use and a non-residential or higher-intensity residential land use, whether it be planned, zoned or utilized, there shall be provided and maintained one (1) of the following:
 - a. An obscuring wall, screening fence or landscape barrier having a minimum height of five (5) feet unless a greater height is specified elsewhere in this Ordinance due to the specific nature of the use.
 - b. A buffer zone at least ten (10) feet in width consisting of earthen berms and/or living materials so as to substantially screen the uses from each other. The width, contents and landscaping material may be increased if specified elsewhere in this Ordinance due to the specific nature of the use.
2. Landscape barriers shall maintain a minimum opacity of at least seventy-five (75) percent year round. Opacity shall be measured in any two (2) square yard area of landscape screen between one (1) foot above established grade and the minimum height requirement of the required screen or buffer.
 - a. Opacity shall be achieved within three (3) years of the time of planting. The applicant shall agree, by notation on the final site plan, to install additional plantings after the expiration of three (3) years, if the landscaping has not screened areas as required.

B. Parking Lot Landscaping

1. Separate landscape islands shall be required within parking lots of eighteen (18) spaces or greater. No more than sixteen (16) spaces in a row are permitted without a landscape island.
 - a. Landscaping islands shall be no less than eight (8) feet in width and contain one (1) deciduous or coniferous tree. Other plantings, such as shrubs and flower beds, within landscaping islands may also be provided, but shall not be provided in lieu of a tree.
 - b. Landscape islands shall be curbed or, at the discretion of the Planning Commission, be implemented in a manner whereas vehicle interference or damage to the landscape area, travel lanes or parking area is prevented.
 - c. Where size or configuration of parking lot would prevent maintenance or impede traffic flow as a result of requiring landscaped islands

within parking lots, the Planning Commission may approve alternative landscaping along the parking lot perimeter.

2. Landscape strips a minimum of five (5) feet (not including vehicle overhangs that are assumed to be two (2) feet from edge of curb) are required to be provided between paved parking surfaces and property lines.
 - a. For every eight (8) parking spaces proposed there shall be one (1) deciduous or coniferous tree and two (2) shrubs planted in the landscape strip.
 - b. A minimum distance of three (3) feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of pavement.

C. Greenbelts

1. Within the required front yard setback of the zoning district, a greenbelt shall be provided and landscaped in accordance with the following requirements:
 - a. Excluding that number associated with parking lot perimeter landscaping, a minimum of one (1) deciduous or one (1) coniferous tree, plus three (3) deciduous and/or coniferous shrubs for every forty (40) lineal feet, or fraction thereof, of frontage abutting a public road right-of-way.
 - b. The area utilized for access from public rights-of-way through required greenbelts shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.

D. Site Landscaping

1. In addition to any landscaping required by this section, twenty (20) percent of the site area, excluding existing right-of-way, shall be landscaped.
2. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area but shall not exceed five (5) percent of the site area.

E. Mechanical Equipment

1. When located outside of a non-residential structure, equipment such as air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents or chimneys, are to be screened to the height of the particular piece of equipment, as follows:

- a. Roof-mounted equipment is to be screened by architectural features from the view of abutting streets and parcels.
- b. Equipment at grade adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing to prevent visibility from the street or surrounding properties.

F. Outdoor Storage in Commercial and Industrial districts

1. Outdoor storage of products or equipment in commercial and industrial districts is to be screened on all sides by a solid wall or fencing so as to provide security and limit the visual impact of a active commercial or industrial process from view of the public right-of-way or residential land uses.
2. Outdoor storage of products for sale in a commercial development may not be required to be screened from the public road right-of-way unless there exists a significant number of residences along that right-of-way that would be impacted. All side and rear storage areas shall be appropriately screened.

G. Screening of Trash Containers

1. Commercial bins and containers for waste and trash disposal shall be enclosed on all sides with a fence or masonry wall and a durable gate at least as high as the container, but no less than four (4) feet in height. The wall and fence shall be constructed of material that is compatible with the architectural materials used in the development of the site.
2. Commercial bins and containers shall be consolidated to minimize the number of collection sites, and located so as to reasonably accommodate the buildings they serve and situated so as not to cause nuisance or offense to occupants of buildings.
3. Commercial bins and containers (as well as constructed enclosures) shall be located away from public view where possible.
4. Concrete pads of appropriate size and construction shall be provided for containers and bins or groups of containers and bins. Aprons shall be provided for loading of bins with a capacity of one and a half (1-1/2) cubic yards or more.
5. For storage of recyclable materials, the enclosure area and pad size shall be increased to accommodate the extra materials and bins and containers.

SECTION 1005 MODIFICATION

- A. The Planning Commission may reduce or modify the foregoing requirements where cause can be shown that no good purpose would be served and that the modification would neither be injurious to the surrounding neighborhood now or in the reasonably anticipated future. The modification shall meet the spirit and purpose of this section.

- B. In situations where landscaping requirements are being considered for property where the adjacent property is vacant, the Planning Commission may also defer landscaping until such time adjacent property is petitioned for development. Deferred landscaping shall be shown on the site plan, but not implemented until such time that landscaping
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ARTICLE 11

OFF-STREET PARKING AND LOADING

SECTION 1101 INTENT AND PURPOSE

- A. It is the intent of this Ordinance that vehicle parking shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles for the use of occupants, employees and patrons of each structure, premise and use commenced, constructed, operated, altered or enlarged under the provisions of this Ordinance.

SECTION 1102 MEASUREMENT STANDARDS

- A. Unless specifically cited otherwise, the term “floor area” or “usable floor area” shall indicate the overall floor area excepting those areas used for incidental storage, mechanical installations, and other areas not commonly intended to be occupied other than for accessory and maintenance purposes.
- B. Where such use or structure utilizes benches, pews or similar group seating, each eighteen (18) inches of such seating shall be counted as one (1) seat.
- C. When units of measurement determining the number of required parking spaces result in a fractional space, any fraction to and including one-half ($\frac{1}{2}$) shall be disregarded and fractions over one-half ($\frac{1}{2}$) shall require one (1) parking space.
- D. In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned and which is most similar to the use not listed shall apply. Such determination shall be made by the Zoning Administrator using a standard of “similar” and “comparable.” The Zoning Administrator may, at their discretion, submit for consideration to the Board of Appeals.
- E. Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications result in an increase in capacity for use, parking shall be accounted for, provided and maintained in the proper ratio to the increased floor area or capacity.
- F. No parking lot or conglomeration of parking spaces utilized for a specific use implemented prior to the effective date of this Ordinance shall be reduced below the requirements of this Ordinance unless accommodation is made for joint use of parking or off-street parking located within the maximum required distance.
- G. Whenever four (4) or more vehicle parking spaces are required for a given use, the plans and specifications for the construction or alteration of an off-street parking area shall be submitted to the Zoning Administrator before a zoning permit can be issued.

1. Such plans and specifications shall indicate the location, basis of capacity calculation, size, site design, surfacing, surface markings, lighting, drainage, curb cuts, entrances, exits, landscaping, and any other information essential to the complete design and construction of the parking area.

SECTION 1103 DEVELOPMENT STANDARDS

A. Location of Parking Areas

1. For all residential and non-residential structures and uses in residential zoning districts, required parking shall be provided on the premises with the structures or uses they are required to serve. At the discretion of the Planning Commission, existing on-street parking spaces and parking spaces located in municipal parking lots may be counted toward meeting minimum parking spaces. The Planning Commission may require a study by the applicant of on-street parking capacity.
2. For non-residential structures and uses, required parking spaces shall be provided within three hundred (300) feet of the structure or use they are required to serve. For residential structures and uses, required parking spaces shall be provided within one hundred and fifty (150) feet of the structure or use they are required to serve.
 - a. When a distance limit is specified it shall be the walking distance measured from the nearest point of the parking facility to the nearest normal entrance of the building or use that such facility is required to serve.

B. Use of Parking Areas

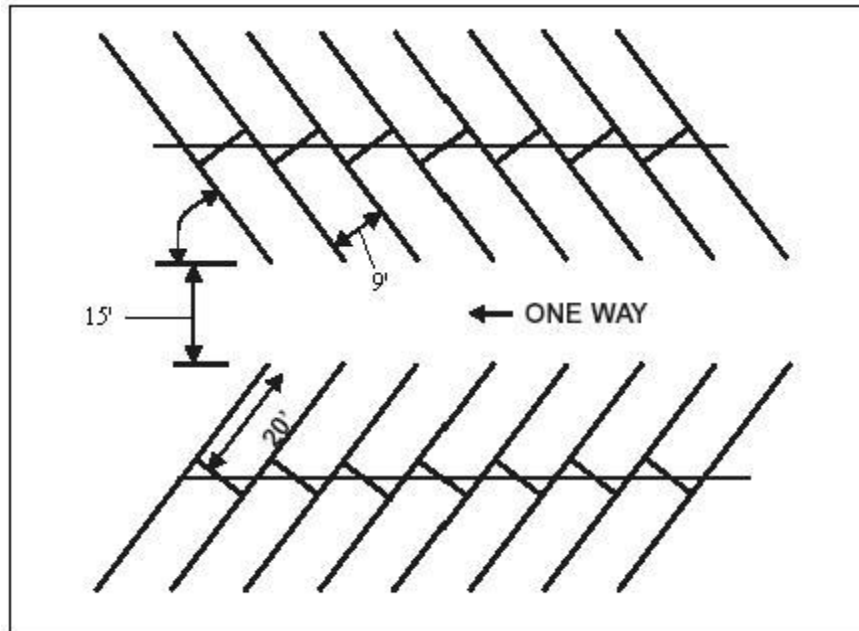
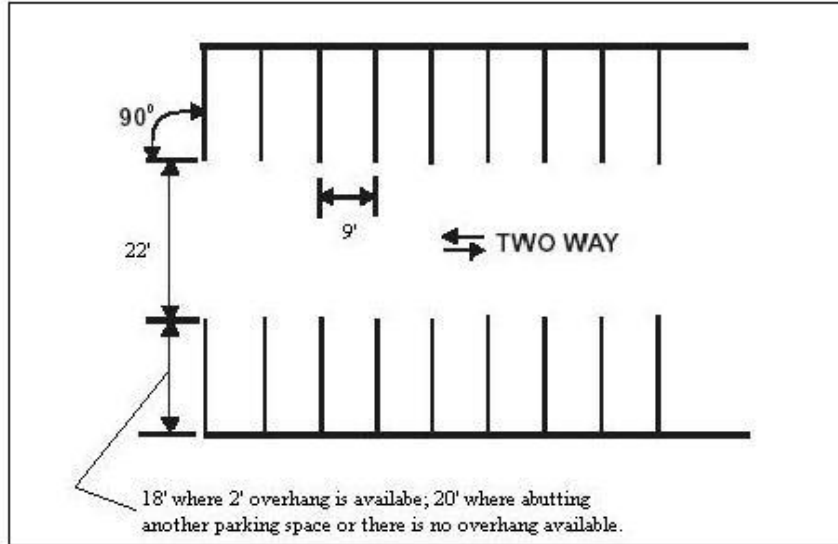
1. No commercial repair work, servicing or selling of any kind shall be conducted in any designated parking space or area unless otherwise permitted by other provisions of this Ordinance.
2. Parking spaces serving non-residential uses (excluding on-street parking spaces) shall only be used only for the parking of vehicles used to service the establishment that it is accessory to or by its patrons, unless otherwise permitted by other provisions of this Ordinance.
3. Subject to the following provisions, parking serving residentially zoned property shall be limited to passenger vehicles, one (1) unoccupied recreational vehicle and one (1) light delivery commercial vehicle that is classed as a one (1) ton or less and has a single rear axle.

- a. Parking spaces serving and being located on a single or two-family residential lot shall be readily identifiable as a parking space and constructed of typical material (gravel, pavement or concrete).
 - b. The square footage of vehicles parked on a single or two-family residential lot or property outside of an enclosed structure shall not exceed ten (10) percent of the overall lot square footage. Each vehicle, excluding a recreational vehicle, that is stored outside of a fully enclosed structure shall be assumed to utilize one hundred and sixty-two (162) square foot of lot area. A recreational vehicle shall be assumed to utilize twice the aforementioned square footage.
 - c. On single and two-family residential lots, the long-term (more than one week) parking or storage of recreational vehicles shall not be permitted in the required front yard of the lot. Where said lot is a corner lot, a recreational vehicle shall be stored beyond the building line of the structure on a least one of the frontage streets.
 - d. The parking of commercial vehicles is permitted if a bus or other commercial vehicle associated with a school or church is legitimately located in a residentially zoned area.
- C. The joint use of parking facilities by two or more uses may be permitted by the Planning Commission whenever such use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design, and construction are met.
1. In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time of day. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.
 2. A copy of an agreement between property owners for joint use shall be filed with the application for zoning and building permits and be recorded with the Register of Deeds of Calhoun County. The agreement shall be perpetual and include a guarantee for continued use even upon transfer of ownership.
 3. If one of the uses that is participating in the joint parking agreement changes operational hours or changes to another use with operational hours that are not “distinctly different” than the other use that is party to the original agreements, then the new use must provide for additional parking spaces so that each use of property shall have adequate parking as if implemented singularly.

SECTION 1104 PARKING DEVELOPMENT STANDARDS

- A. All non-residential and multiple-family off-street parking areas shall be designed, constructed, and maintained in accordance with the following standards and requirements.
1. Parking areas shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles. Parking demarcation shall be implemented with a durable paint or other material so as not be removed during snow removal and parking lot cleaning.
 2. Adequate ingress and egress to the parking area by means of clearly delineated and defined drives and access shall be provided.
 - a. Drives for ingress and egress to the parking area shall be so located as to secure the most appropriate development of the individual property, but also to encourage simple and uncongested turning movements.
 - b. Each entrance to and exit from an off-street parking area provided for a non-residential use shall be from its closest edge at least ten (10) feet from any adjacent property within a residential district.
 - c. Backing directly onto a public street from a non-residential use shall be prohibited.
 3. Each parking space within an off-street parking area shall be provided with adequate access by means of maneuvering lanes. As provided below, the width of required maneuvering lanes may vary depending upon the proposed parking pattern.
 - a. For a ninety (90) degree parking pattern, a two-way maneuvering lane shall have a minimum of twenty-two (22) feet.
 - b. For a forty-five (45) degree parking pattern, a one-way maneuvering lane serving two parking bays shall have a minimum width of fifteen (15) feet and a two-way maneuvering lane shall have a minimum width of twenty-two (22) feet.
 - c. For a forty-five (45) degree parking pattern, a one-way maneuvering lane serving one parking bay shall have a minimum width of twelve (12) feet and a two-way maneuvering lane shall have a minimum width of twenty-two (22) feet.
 - d. For a parallel parking pattern, a one-way maneuvering lane shall have a minimum width of twelve (12) feet and a two-way maneuvering lane shall have a minimum of twenty-two (22) feet.

4. All parking spaces shall have usable parking areas at least nine (9) feet wide and twenty (20) feet in length. Parking spaces abutting an open space, sidewalk or curb may be eighteen (18) feet in length to take into account vehicle overhang. See Illustrations below:



5. Parking areas with a capacity of four (4) or more vehicles shall be paved and provide adequate drainage.
- a. The Planning Commission and/or Village Council may permit such area to be graveled in review of a petition for site plan or conditional use approval or may consider at the request of the Zoning Administrator.

- b. Such request must be accompanied by a detailed use description of the subject area so as to limit the use to that area as so stated. The applicant shall provide a statement that it is understood that a change in the use or intensity of the use may require paving at a later date and that this statement shall be disclosed to future owners and parties leasing or renting the subject area.

6. Parking Lot Lighting

- a. Except for single-family and two-family residential lots, adequate lighting shall be provided throughout the hours when the parking area is in operation. Where there are security concerns, lighting hours may be extended for all or part of the parking area at the discretion of the Planning Commission and/or Village Council.
- b. Lighting shall be designed and constructed in such a manner to ensure that direct or directly reflected light is confined to the development site and shall not illuminate property beyond the perimeter of the development site. Illumination shall not exceed 0.1 foot candles beyond the site perimeter.
- c. Lighting fixtures shall be down-directed having one hundred (100) percent cut off with no protruding lenses. Direct light and/or glare shall not be emitted at angles above the horizontal plane.
- d. Lighting poles shall not exceed the height of typical street lighting in the general vicinity of the proposed use. In the event that no street lighting is located in the general vicinity, the height of lighting poles shall not exceed the typical height of street lighting within the Village.

B.

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Il single and two-family residential off-street parking areas serving and being located on a residential lot shall be readily identifiable as a parking space and constructed of typical material (gravel, pavement or concrete). See Section 1103.B.3 for additional requirements.

SECTION 1105 PARKING SPACE REQUIREMENTS

A. The number of required off-street parking spaces for land uses shall be provided as follows.

1. Residential Uses

- a. One and Two-Family Dwellings: two (2) spaces per dwelling unit.

- b. Multiple Dwellings: Two (2) spaces for each dwelling unit plus one space per each five (5) dwelling units for guest parking.
- c. Convalescent/Nursing Homes: One (1) space per four (4) persons of licensed capacity plus one (1) space per employee.
- d. Group Homes: One (1) space per employee plus one (1) space for every three (3) residents of the home.
- e. Manufactured Housing Community: Two (2) spaces for each lot, dwelling unit or site plus one (1) space per five (5) lots, sites or dwelling units for guest parking.

2. Institutional Uses

- a. Assembly Uses (Auditoriums, Churches, Stadiums, Gyms, Theaters, with Fixed Seats): One (1) space for each four (4) seats.
- b. Private Schools: One (1) space for every two (2) employees, plus one (1) space for every ten (10) students of maximum occupancy.
- c. Hospital: One (1) space for each three (3) patient beds, plus one (1) space for each two (2) employees on the largest shift, plus one (1) space for each visiting doctor.
- d. Libraries, Museums, Post Offices: One (1) space for every eight hundred (800) square feet of floor area plus one (1) space for every two (2) employees on the largest shift.

3. Commercial Uses

- a. Day care center: One (1) space for each employee on the largest working shift plus one (1) space per four (4) persons of licensed capacity.
- b. Retail Sales: One (1) space per two hundred (200) feet of usable floor area.
- c. Dance Halls, Pool and Billiard Rooms: One (1) space per every three (3) persons of determined maximum capacity of structure.
- d. Fast-Food Restaurants & Drive-Thru: One (1) space for every four (4) seats plus one (1) space for each employee on the largest shift.
- e. Kennels (commercial): One (1) space for each five (5) animals of the facility's capacity, plus one (1) space for every two (2) employees.

- f. Laundromat: One (1) space for every three (3) washing or drying machines.
 - g. Motels and Hotels: One (1) space for each sleeping unit plus two (2) spaces for each employee on the largest shift.
 - h. Restaurants, Cafeterias, Taverns, Bars: One (1) space for every three (3) seats.
 - i. Supermarket, Self-Service Food Store: One (1) space for every two-hundred (200) square feet of usable floor area.
4. Office and Services Uses
- a. Offices: One (1) space for every two-hundred (200) square feet of usable floor area.
 - b. Barber Shops and Beauty Parlors: Two (2) spaces for each beauty and/or barber chair.
 - c. Clinics: Two (2) spaces for each examination or treatment room, plus one (1) space for each employee on the largest shift.
 - d. Funeral Homes and Mortuaries: One (1) space for every forty (40) square feet of usable floor area, including chapels and assembly rooms.
5. Automotive Uses
- a. Automobile Service and Repair Stations: Two (2) spaces for each repair and service stall, plus one space per every two (2) employees on the largest shift.
 - b. Automotive Sales: One (1) space per two hundred (200) square feet of usable floor area.
6. Recreational Uses
- a. Golf Clubs, Tennis Clubs or Other Similar Recreation Clubs: Four (4) spaces per green plus one (1) space for every two (2) employees on the largest shift.
 - b. Miniature Golf Courses, Batting Cages, and Driving Ranges: Three (3) spaces per hole, cage or driving range plus one (1) space for each employee on the largest shift.
7. Industrial Uses

- a. Industrial or Manufacturing Establishments: One (1) space for every three (3) employees on the largest shift.
- b. Warehouses, Wholesale Stores: One (1) space for every eight hundred (800) square feet of usable floor area.

SECTION 1106 LOADING AND UNLOADING SPACE REQUIREMENTS

- A. In order to prevent interference with public use of streets and alleys, every use receiving or distributing material or merchandise by vehicle shall provide dedicated space on the premises for loading and unloading. At the discretion of the Planning Commission, existing on-street loading and unloading spaces may be counted toward meeting minimum loading and unloading space requirements.
- B. For all loading and unloading spaces required, there shall be provided adequate area for standing, loading, and unloading that is not less than ten (10) feet in width, twenty-five (25) feet in length for uses listed in the following sections, or for similar uses similarly involving the receipt or distribution of material or merchandise. The provisions of Section 1102 shall be utilized for purposes of measuring and determination of loading and unloading areas for use not mentioned.
 - 1. Commercial uses, such as retail stores, personal services, amusement, automotive service:
 - a. 2,000 to 50,000-sf. of gross floor area: one (1) space
 - b. each additional 20,000-sf. of gross floor area or fraction thereof: one (1) space
 - 2. Professional Offices and Clinics
 - a. 2,000 to 50,000-sf. of gross floor area: one (1) space
 - b. each additional 20,000-sf. of gross floor area or fraction thereof: one (1) space
 - 3. Wholesale, storage, and contractor's yards
 - a. First 20,000-sf. of gross floor area: one (1) space
 - b. Each additional 20,000-sf. of gross floor area or fraction thereof: one (1) space
 - 4. Manufacturing uses

- a. First 20,000-sf. of gross floor area: one (1) space
 - b. Each additional 40,000-sf. of gross floor area or fraction thereof: one (1) space
5. Schools, Churches, Clubs, Public Assembly Buildings, Auditoriums, Boarding Houses, Convalescent Homes
- a. For each principal structure: one (1) space
- C. Subject to the provisions of Item D, below, loading and unloading spaces may occupy all or any part of any required side or rear yard except if such side yard is along a side street in the case of a corner lot. No required front yard shall be used in any part as a loading and/or unloading space.
- D. No loading and/or loading space shall be located closer than fifty (50) feet to any lot located in a residential district unless confined in a completely enclosed structure or enclosed on all sides by a wall, fence or compact planting not less than six (6) feet in height and at least ten (10) from the subject property line.

SECTION 1107 DRIVE-THRU STACKING

- A. All businesses that provide drive-thru facilities for the service of customers within an automobile shall provide adequate off-street stacking space and travel lanes that meet the following requirements:
- 1. For purposes of maneuverability, each stacking space shall be computed on the basis of nine (9) feet in width and eighteen (18) feet in length.
 - 2. Clear identification and delineation between the drive-thru facility and parking lot shall be provided. Drive-thru facilities shall be designed in a manner that promotes pedestrian and vehicular safety.
 - 3. For all drive-thru facilities, which have a single stacking lane, an escape lane shall be provided which allows other vehicles to pass those waiting to be served.
 - 4. Four (4) stacking spaces per service lane shall be provided.

SECTION 1108 MODIFICATIONS AND REDUCTIONS

- A. During review of a site plan or conditional use, the Planning Commission may authorize a modification or deferment of any of the off-street parking or loading regulations provided in this Article based upon findings, standards and conditions as provided below.

1. The Planning Commission is authorized to reduce the minimum number of parking spaces required upon finding the minimum requirements are excessive given the particular and specific characteristics of the proposed use of property and the site upon which the use is proposed. In no case shall the off-street parking or loading standards be reduced by more than twenty-five (25) percent.
2. The Planning Commission is authorized to permit, or require that parking spaces be deferred upon finding that the number of parking spaces proposed is in excess given the particular and specific characteristics of the proposed use of property and the site upon which the use is proposed.
 - a. Deferment shall require that the site plan reflect the ability to accommodate parking spaces in an identified deferment area, but that the identified area not be developed as parking until such time it is deemed necessary by the Planning Commission.
 - b. The request for development of the deferred parking spaces may be from the owner of the property or from the Zoning Administrator upon identification of parking issues on the given site. The Planning Commission shall utilize the site plan review process, including public notice provisions, for examining the development of the deferred parking area.
 - c. During the deferment period, such identified area shall be incorporated into the overall site development as open space.

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ARTICLE 12

SIGNAGE

SECTION 1201 INTENT AND PURPOSE

- A. The purpose and intent of this Article is to regulate the location, size, construction, and manner of display of signs and off-premise advertising in order to minimize effects of the signage on the character and well-being of the Village of Athens (“Village”). While it is recognized that signs and off-premise advertising are necessary to promote commerce and public information, failure to regulate them may lead to poor identification of individual businesses, deterioration and blight of business and residential areas, conflicts between different types of land use, and reduction in traffic safety to pedestrians and motorists.
- B. To achieve the intent and purpose, the following objectives are considered in the development of these provisions:
1. To prevent the placement of signs in a manner that will conceal or obscure signs or adjacent businesses.
 2. To keep the number of signs and sign messages at the level reasonably necessary to identify a business and its products.
 3. To keep signs within a reasonable scale with respect to the uses and structures they identify.
 4. To reduce visual distraction and obstructions to motorists traveling along, entering or leaving streets.
 5. To promote quality that enhances the character of the Village.
- C. Unless prescribed elsewhere in this Ordinance, a permit is required in order to erect, affix or place a sign. An application for a sign permit can be obtained from the Zoning Administrator and the process and procedure typical of a zoning permit shall be utilized. Permit fees shall be established by the Village Council.

SECTION 1202 GENERAL SIGN PROVISIONS

- A. All signs shall be designed, constructed and maintained in compliance with the following standards:
1. Identification signs must be constructed of processed material, such as plastic, metal or finished (professional sanded and painted) wood. In no case shall

unfinished material, such as untreated and unfinished plywood, be utilized for signage.

- B. Unless otherwise provided for herein, all signs must advertise a use or service on the premises upon which the sign is located and to which the sign is accessory to the approved use or development.
- C. Illumination of signs shall adhere to the following provisions:
 - 1. Only indirectly illuminated signs shall be allowed in residential districts provided that such lighting is so shielded as to prevent direct light rays from being visible from a public right-of-way or any adjacent residential structure or zoned property.
 - 2. Indirectly or internally illuminated signs are permitted in commercial, office and industrial districts provided that such lighting is so shielded as to prevent direct light rays from being visible from a public right-of-way or any adjacent residential structure or property.
 - 3. Signs with blinking, flashing, or fluttering lights or other illuminating devices having a changing light intensity, brightness, or color, and that are constructed and operated as to create an appearance of writing or printing are permitted in commercial, office and industrial districts provided that:
 - a. such signs are so shielded as to prevent direct light rays from being visible from a public right-of-way or any adjacent residential structure or property; and
 - b. the use of animated or Liquid Crystal Display (“LCD”) or other methods of technology whereas the advertisement is presented in format the same or similar to a television or motion picture shall not be permitted.
- D. The following construction and safety standards shall apply to all signs constructed in the Village:
 - 1. All signs shall be erected and maintained in compliance with all applicable building codes, and other applicable ordinances governing construction of signs. In the event of conflict between this Ordinance and other laws, the most restrictive shall govern.
 - 2. All signs shall be so placed as to not interfere with the visibility or effectiveness of any official traffic sign or signal; driver vision at any access point or intersection; or pedestrian movement on any public sidewalk.

3. No sign shall be erected, relocated or maintained so as to obstruct fire fighting or prevent free access to any door, window or fire escape.
- E. Signs shall be measured in the following manner:
1. The area of a sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all the display area of the sign and including all the elements of the matter displayed.
 - a. here a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except where two such faces are placed back to back, parallel to one another, and are twelve (12) inches or less apart, in which case the area of the sign shall be the area of one face.
 - b. he measurable area does not include support structures and embellishments, such as poles, pole covers, framing, decorative roofing, etc., provided that there is not written advertising copy on such.
 - c. f the sign is composed of more than two sign cabinets or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single, continuous geometric figure shall be the area of the sign.
 - d. pecific to wall signs, if the sign is composed of individual letters or symbols using a wall or window as the background with no added decoration, the total sign area shall be calculated by measuring the area within the perimeter of the letters and symbols as a single, continuous perimeter composed of any straight line geometric figure that encloses the extreme limits of the advertising message.
- F. Excepting wall signs on existing occupied structures and legally non-conforming occupied structures, all signs, as measured at the outer edge of the sign, shall maintain a minimum setback of ten (10) feet from all property lines and/or the right-of-way unless otherwise specified herein.
- G. Signage prohibited in all districts is as follows:
1. Signs not expressly permitted are prohibited.
 2. Signs affixed to trees, rocks, shrubs, utility poles or similar natural features, except signs denoting a site of historic significance.

3. Signs that imitate or obscure traffic signals, traffic direction signs, or similar traffic control devices, and signs which make use of words such as “Stop”, “Look”, “Danger”, or any other words, phrases, symbols or characters as to possibly interfere with, mislead or confuse motorists.
 4. Signs mounted upon trucks, vans, or other wheeled devices temporarily parked in a location for advertising purposes.
 - a. Signs permanently painted on, or otherwise permanently displayed upon a vehicle, licensed and operating on the public streets and highways, identifying the owner's occupation or livelihood, shall be permitted, provided that said vehicle is operational and utilized on a daily basis.
 5. All signs, other than those erected by a public agency, that are located within or overhang the public right-of-way or on public property are not permitted.
 6. Unless otherwise permitted herein, festoon signage, banners, pennants, ribbons, streamers, spinners, or other such temporary features which are hung or strung overhead and which are not integral, physical parts of the building shall not be permitted.
- H. With the exception of construction and safety provisions found herein, the following signs are exempt from this Article and a permit is not required for their installation:
1. Nameplates containing only a residents name and address not exceeding two (2) square feet in size.
 2. Political campaign signs announcing candidates seeking public office.
 3. “No Hunting,” “No Fishing,” “No Trespassing” signs if less than two (2) square feet.
 4. Historical Markers.
 5. Signs of a non-commercial nature and in the public interest, erected by a public officer in the performance of his public duty. Examples include directional signs, regulatory signs, cautionary signs and information signs.
 6. Names of buildings, dates of erection, monument citations, commemorative tablets, and the like, when carved into stone, concrete, or similar material or made of other permanent type construction and made an integral part of the structure or grounds.
 7. Any “For Sale” sign affixed to a wall, mailbox, post, lamp post, or pillar; and which is not larger than two (2) square feet in display surface.

8. Flags or banners bearing the official design of a nation, state, municipality, educational institution and organization.

SECTION 1203 SIGNS PERMITTED IN RESIDENTIAL DISTRICTS

- A. The following signs are permitted in zoning districts where residential use and development is a permitted use.
 1. One free-standing residential development identification sign is permitted for each public street frontage of a subdivision, site condominium, multiple-family development, or a manufactured housing community.
 - a. Each free-standing residential development identification sign shall not exceed eighteen (18) square feet in area and shall not exceed five (5) feet in height from ground level to top edge of display. Gross height of the sign, including decorative masonry or fencing shall not exceed eight (8) feet from ground level.
 - b. One (1) additional sign advertising "For Rent" or "Vacancy" may be placed on each public street frontage of a rental development, provided that such sign shall not exceed nine (9) square feet in area.
 - c. Signs permitted pursuant to the preceding two (2) items shall be setback no less than one-third (1/3) the minimum required front yard setback pursuant to the underlying zoning district.
 - d. Pole mounted signs are not permitted.
 2. For approved or legally non-conforming home occupations or home based businesses, one (1) non-illuminated name plate, not more than four (4) square feet in area, may be attached to the structure. The sign shall contain only the name, occupation, and address of the premises.
 - a. If the structure housing the home occupation or home based business is more than thirty (30) feet from the road right-of-way, the sign for the home occupation may be mounted on a pole no less than fifteen (15) feet from the road right-of-way. The gross height of signage shall not exceed four (4) feet from ground level.
 3. One identification sign shall be permitted for each public street frontage having a curb cut for vehicle entrance for a private school, church building, park, municipal buildings, civic organizations, quasi public uses, or other authorized use or legal nonconforming use in a residential district.

- a. Each sign shall not exceed eighteen (18) square feet in area. Signs shall not exceed five (5) feet in height from ground level to top edge of display. Gross height of the sign, including decorative masonry or fencing shall not exceed eight (8) feet from ground level.

SECTION 1204 SIGNS PERMITTED IN NON-RESIDENTIAL DISTRICTS

- A. The following signs are permitted in association with single lot developments in zoning districts where non-residential development is a permitted use.
 - 1. Each structure is permitted a maximum signage area for one or combination of wall signs no greater than one (1) square foot of sign area for each one (1) linear foot of the structure width or height which faces one public street. Wall signs may also be projecting signs. Such signs shall project no more than four (4) feet from the building line of the structure that it serves and be at a height no less than twelve (12) feet above finished grade. No sign shall project higher than the roof line of the building that it serves.
 - 2. Each developed lot (that is not part of an overall development that would constitute a business center) is permitted a free-standing identification sign subject to the following provisions:
 - a. A free-standing identification sign shall not exceed thirty-two (32) square feet in area and shall not exceed eight (8) feet in height from bottom to top edge of display. Gross height of the sign, including decorative masonry or fencing shall not exceed twelve (12) feet from ground level.
 - b. The leading edge of a free-standing identification sign shall be located no closer than ten (10) feet from a public road right-of-way, or from a structure. The leading edge of a free-standing identification sign may not be located closer than three (3) feet from a planned or established pedestrian way.
 - c. An automobile fueling station may have one additional free-standing identification sign for each public street frontage having a driveway for the purpose of advertising gasoline prices and other services provided on the premises.
- B. A business center is a planned grouping of two (2) or more businesses or establishments on one (1) or more parcels of property that share parking and access. The structures are linked architecturally or otherwise present the appearance of a unified grouping of businesses. A business center shall be considered one (1) use for the purposes of determining the maximum number and area of signage. Examples of such business centers include shopping centers, office parks, industrial parks, or other

integrated group of stores, commercial buildings, office buildings or industrial buildings. The following signs are permitted in association with a business center:

1. Each business center shall be permitted one free-standing identification sign identifying the primary tenants in a business center at the entrance of the business center with a public or approved private road.
 - a. The name of the business center and the major tenants located therein are permitted on the sign. Each lot or unit in a business center shall have one (1) available space on each free-standing identification sign available for use.
 - b. The maximum permitted sign area for a free-standing identification sign servicing a business center shall be eighty (80) square feet. Each space for tenant identification shall be no larger than two (2) feet by four (4) feet.
 - c. The leading edge of a free-standing identification sign shall be located no closer than ten (10) feet from a public road right-of-way, or from a structure. The leading edge of a free-standing identification sign may not be located in or closer than three (3) feet from a planned or established pedestrian way.
 2. Individual tenants within a business center are not permitted free-standing signs in addition to the free-standing identification sign for the business center.
 3. Each business in a business center with ground floor frontage shall be permitted one exterior wall sign. The sign area for such an exterior wall sign shall be computed as one (1) square foot for each one (1) linear foot of building width occupied by the tenant. Projecting wall signs are not permitted in a business center.
- C. Window signs shall be permitted and shall not be included in total sign area computation if said signs do not occupy more than twenty-five (25) percent of the total window area of the floor level on which displayed or exceed a total of twenty (20) square feet. Window signage shall not be permitted to exceed these thresholds unless such area of sign can be counted toward the maximum requirements for a wall sign.
- D. Manual and electronic changeable copy signs are permitted when incorporated into a permitted wall or free-standing identification sign provided that the area devoted to changeable copy does not exceed fifty (50) percent of the permissible sign area. See Section 1202.C as it pertains to the use of electronic display.

- E. One (1) menu board for a drive-in or drive-through establishments is permitted in addition to other signs permitted under these regulations, provided such sign does not exceed twenty (20) square feet in area or eight (8) feet in height from finished grade.
- F. On-premise directional signs that direct traffic for purposes of ingress and egress, type of vehicle parkings, and to specific uses area, such as for drive-through, are permitted. Such signs shall not exceed six (6) square feet in size and four (4) feet in height. Such signs shall display no more than a directional arrow, appropriate text as to the item being directed to, and the logo of the establishment.
- G. Folding and portable sandwich board signs shall only be permitted in the C-1, General Commercial district. Such signs shall meet the following standards:
 - 1. Located so as to not interfere with pedestrian and vehicular traffic and adjacent to an existing improvement such as the principal structure, lamp post or street tree.
 - 2. Shall only be located and displayed in front of business that such signage is advertising.
 - 3. Shall only be placed outside during normal business hours.
 - 4. Shall not exceed fifteen (15) square feet in area.

SECTION 1205 TEMPORARY SIGNS

- A. Temporary signs shall be permitted in accordance with the following provisions:
 - 1. One (1) non-illuminated sign used for advertising land or buildings for rent, lease, or sale of residential property shall be permitted provided such signs are located on the property intended to be rented, leased, or sold.
 - a. Such signs shall not exceed an area of six (6) square feet and a height of four (4) feet.
 - b. If the lot or parcel has more than one (1) frontage, one (1) additional sign is permitted on the property on each frontage.
 - c. Such sign(s) shall be removed within seven (7) days after sale, lease or rent of subject residential property.
 - 2. One (1) non-illuminated sign used for advertising land or buildings for rent, lease, or sale of non-residential property shall be permitted provided such signs are located on the property intended to be rented, leased, or sold.

- a. Such signs shall not exceed an area of twelve (12) square feet and a height of eight (8) feet.
 - b. If the lot or parcel has more than one (1) frontage, one (1) additional sign is permitted on the property on each frontage.
 - c. Such sign(s) shall be removed within seven (7) days after sale, lease or rent of space subject to advertisement.
3. Temporary real estate directional signs, not exceeding six (6) square feet in area and four (4) in number, showing a directional arrow and placed outside of the right-of-way, shall be permitted on approach routes to an open house. The height of such signs shall not exceed four (4) feet.
4. Signs identifying building contractors, excavators, professional design firms and lending institutions are permitted temporarily on sites under construction. Each sign shall not to exceed six (6) square feet overall, with not more than a total of four (4) such signs permitted on each site.
 - a. The sign shall be confined to the site of construction, construction shed or construction trailer and shall be removed within fourteen (14) days of completion of services, construction or a certificate of occupancy has been issued.
5. Banners, pennants, search lights, balloons, or other gas filled figures shall be permitted at the opening of a new business in a commercial or industrial district for a period not to exceed fourteen (14) consecutive days. Such signs shall not obstruct pedestrian or vehicular view and shall not interfere in any way with safe traffic flow.
6. On non-residentially zoned property, one (1) portable changeable copy temporary sign shall be permitted for a period not to exceed fourteen (14) consecutive days, and not for more than four (4) times per year.
 - a. The sign shall be placed so as not to encumber safe and efficient pedestrian and vehicular traffic movement.
 - b. Such sign shall not exceed thirty-two (32) square feet in size and have a height no greater than five (5) feet in height.
 - c. Such sign shall be placed at least ten (10) feet from the road-right-of-way and any property line shared with a residentially zoned property.
7. Temporary signs are not permitted within or allowed to overhang a public right-of-way or to occupy public property.

SECTION 1206 OFF-PREMISE ADVERTISING SIGNS

- A. Off-premise advertising shall be permitted under the following conditions:
1. Off-premise advertising signs are permitted only in C-1 and I-1 zoning districts.
 2. Off-premise advertising signs shall maintain the minimum setback for structures in the underlying zoning district unless attached to an existing legally non-conforming structure.
 3. An off-premise advertising sign shall be located no closer than five hundred (500) feet from another off-premise advertising sign.
 4. Off-premise advertising signs shall not exceed thirty-two (32) square feet in area, nor be greater than ten (10) feet in height from grade level. If an off-premise advertising sign is attached to a structure, the sum total of the signage shall not exceed that permitted under Section 1204, above.
 5. Off-premise advertising shall only be indirectly lighted, provided that the source of light is not directly visible and is arranged so as to not be directly visible from adjoining premises.

ARTICLE 13

NONCONFORMITIES

SECTION 1301 INTENT AND PURPOSE

- A. It is the intent and purpose of this Article to provide for the continuance of lawful uses of land or structures in the Village of Athens (“Village”) which existed before the enactment of the Village of Athens Zoning Ordinance (“Ordinance”) or before the effective date of an amendment to this Ordinance. It is not the intent of the Article to encourage the survival of such nonconforming use or structure in an expanded and intensified manner.
- B. Nonconformities shall not be enlarged, expanded, or extended, except as provided herein, and such enlargement, expansion and extension shall not be used as grounds for implementation of similar and like uses on other properties in the immediate vicinity, nor as a basis for amending district boundaries. Nonconformities are declared by this Ordinance to be incompatible with conforming structures and uses permitted in the various districts.

SECTION 1302 CLASSIFICATION OF NONCONFORMITIES

- A. Use of structures or land existing at the effective date of this Ordinance that were established without approval of a zoning permit or without a valid building permit under previous or existing Ordinance, or those uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance shall be declared illegal uses and are not entitled to the status and rights accorded legally established uses.
- B. An existing use of land, lot, parcel or structure that does not fully comply with the provisions of this Ordinance, as amended, and either was lawfully established, created, commenced during a period of time when no valid zoning ordinance was in effect, or approved during a period of time under a previously adopted Ordinance, and remains in compliance with the terms of a permit issued at that time shall be a considered a legal nonconformity.

SECTION 1303 REGULATION OF NONCONFORMITIES

- A. The following provisions are provided for addressing the continuation of a legal nonconforming use.
 - 1. Any legal nonconforming use of land or structure that remains discontinued for a period of one (1) year shall be conclusively presumed to be abandoned and shall lose all rights to continuance as a legal nonconformity. Any future

use of land or structure must be in conformance with this Ordinance and future amendment thereof.

2. No legal nonconforming use shall be permitted to expand in intensity, expand or enlarge the size of any building or structure, or extend the land area occupied by the nonconforming use. The “expansion of the intensity” of non-residential uses includes the following:
 - a. an increase in the number of employees;
 - b. a material change in the product or production conducted by the use;
or
 - c. similar such changes that may increase increase traffic, congestion, and continuance of the use.
3. A legal nonconforming use shall not be changed in use to another nonconforming use. A legal nonconforming use that is succeeded by a conforming use in compliance with this Ordinance shall lose its vested right as a legal nonconformity and the land or structure shall thereafter continue in compliance with the provisions of this Ordinance.

B. The following provisions shall be considered in addressing legal nonconforming structures and lots.

1. Structural change in a nonconforming structure requiring a zoning or building permit is not permitted except as follows:
 - a. Building, mechanical, electrical, plumbing, sewage disposal, and well permits may however be issued for purposes of strengthening or restoring to safe condition of any building, structure, or part thereof declared to be unsafe by any public official charged with protecting the public health or safety.
 - b. If approved by the Board of Appeals, subject to the conditions and standards under Section 1304, below.
2. Any existing lot lawfully created prior to Ordinance or under previous Ordinance that fails to meet the minimum lot area and minimum lot frontage requirements contained in this Ordinance shall be buildable as long as other dimensional requirements, such as front, side and rear yard setbacks can be met.
 - a. The lot must be proven to be a legal nonconformity by examination of either a legal instrument of transfer of property, or property tax rolls prior to issuance of zoning permit for development of property.

3. A legally nonconforming structure may be occupied by a legal conforming use as long as the nonconformity does not increase the potential of the legal conforming use to have negative impacts on the use and personal enjoyment of adjacent property. A conditional use may not be implemented where specific dimensional requirements and conditions set forth in provisions for a particular conditional use can not be met by the legal nonconforming structure.
4. There exists in the Village legally nonconforming structures, legally nonconforming uses, and a combination of legal nonconforming uses and structures on the same property. The following shall apply to these nonconformities:
 - a. A legal nonconforming structure that is damaged by fire, collapse, explosion, natural processes or weather may be replaced or repaired to its former condition. The replacement structure or repaired structure must fit within the footprint of the previously existing structure and not exceed the previous bulk dimensions, height, density or lot coverage requirements.
 - b. A legally nonconforming residential use in a non-residential district that is damaged by fire, collapse, explosion, natural processes or weather may be replaced or repaired to its former condition. The replacement structure or repaired structure must fit within the footprint of the previously existing structure and not exceed the previous bulk dimensions, height, density or lot coverage requirements.
 - c. A legally nonconforming nonresidential use in a residential district that is damaged by fire, collapse, explosion, natural processes or weather may not be replaced or repaired to its former condition and nonconforming status.
- C. An illegal nonconformity shall be corrected to comply with the provisions of this Ordinance or be discontinued. Illegal nonconforming uses and structures shall be subject to enforcement action pursuant to this Ordinance.

**SECTION 1304 EXPANSION OF NON-CONFORMING USE AND/OR
STRUCTURE**

- A. Nonconforming uses, buildings or structures may be structurally changed, altered, or enlarged with the approval of the Board of Appeals when the Board finds that the request is a case of exceptional hardship in which failure to grant the relief requested would unreasonably restrict continued use of the property or would restrict valuable benefits that the public currently derives from the property or structure as used in its nonconforming status. Any approval for structural changes, alteration or enlargement may be granted only with a finding by the Board of Appeals that approval will not

have an adverse affect on surrounding property and that it will be the minimum necessary to relieve the hardship.

- B. Approval of an expansion of a nonconforming use or structure does not relieve the petitioner of the responsibility of meeting other provisions of the Ordinance. The intended development must be reviewed and approved by the appropriate authority prior to issuance of a zoning permit and/or a building permit.

ARTICLE 14

ZONING BOARD OF APPEALS

SECTION 1401 JURISDICTION

- A. The Village of Athens Zoning Board of Appeals (“Board of Appeals”) shall hear and decide questions that arise in the administration of this Ordinance. These questions generally fall into the following categories:
1. Interpretation of zoning district boundaries and provisions of this Ordinance.
 2. Hear and decide appeals from and review an order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of this Ordinance.
 3. Authorize specific variances from the provisions of this Ordinance.
 4. For purposes of consideration under this Ordinance, review a petitioned or described use that is not specifically listed as a permitted use or as a use permitted by conditional use approval in one or more zoning districts.
 5. Hear and decide matters upon which it is required to pass under other provisions of this Ordinance.
- B. Unless otherwise changed by resolution or ordinance by the Village Council, the Village Council shall be the Board of Appeals. The President of the Village Council shall act as Chair and the Village Clerk shall act as Secretary. A meeting of the Board of Appeals shall be open to the public.
- C. The Board of Appeals shall have seven (7) members of which a majority of the maximum number of members must be present to conduct business. A majority of the maximum number of members is also required to take action to approve, approve with conditions, deny or to postpone for future consideration.

SECTION 1402 INTERPRETATION

- A. The Board of Appeals shall have the authority to interpret the precise location of zoning district boundaries and any provision of this Ordinance upon request by the Planning Commission, Village Council or person having vested interest in property affected by such district boundary or provision of this Ordinance.
1. Interpretation of the precise location of zoning district boundaries shall be in accordance with the provisions and direction outlined in Section 503, herein.

2. Interpret this Ordinance when it is alleged that certain provisions are not clear or could have more than one meaning.
 - a. In deciding upon such request the Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the provision in question is contained, and all other relevant provisions of this Ordinance.
 - b. The Board of Appeals shall also review the requested interpretation and decisions made by other public bodies and officials in the administration of this Ordinance where the subject provision would have had effect.
 3. Before a requested interpretation from an individual (other than Planning Commission or Zoning Administrator) shall be processed, fees shall be paid as established by the Village Council. Fees shall be in the amount sufficient to cover reasonable costs incurred pursuant to the processing of any appeal, including but not limited to the costs of advertisements, investigations, professional review and any per diem amount established for members of the Board of Appeals.
- B. A request for interpretation shall be noticed pursuant to Section 306, herein. Interpretations specifically related to a particular property require public notice of owners and occupants of adjacent property pursuant to Section 306.C.

SECTION 1403 APPEALS

- A. The Board of Appeals shall hear and decide appeals from and review an order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of this Ordinance unless otherwise noted herein.
1. A notice of appeal shall be filed within thirty (30) days of occurrence of the action being appealed with the Zoning Administrator. Such petition shall state the reasons for the appeal and the order or ruling appealed from and, where applicable, the legal description of the property involved. The Zoning Administrator shall forward all records to the Board of Appeals for their consideration of facts.
 2. Before such an appeal shall be processed, fees shall be paid as established by the Village Council. Fees shall be in the amount sufficient to cover reasonable costs incurred pursuant to the processing of any appeal, including but not limited to the costs of advertisements, investigations, professional review and any per diem amount established for members of the Board of Appeals.

3. An appeal stays all proceedings in furtherance of the action appealed from unless the officer or decision-making body from whom the appeal is taken certifies to the Board of Appeals that by reason of fact, a stay would cause imminent peril to life and property. The Board of Appeals, or court of competent jurisdiction, may override this statement of fact by restraining order.
 4. After an appeal has been scheduled for hearing, the Village Clerk shall cause notice of said hearing to be served personally or by first class mail addressed to the applicant at the address on the application at least five (5) days prior to the date of the hearing. Such notices shall state the time, place, and object of the hearing. The Zoning Administrator shall submit with the appeal all related information held in their record concerning the appeal.
 5. The Board of Appeals shall review and make final determination on properly filed appeals. The Board of Appeals has the power to sustain, reverse or remand for further consideration the decision of any administrative official or body when it is found that the decision is inconsistent with the provisions of this Ordinance or that there was an error of fact involved in the decision. In making this determination, the Board of Appeals shall examine any application, statement of fact, testimony and all accompanying data as well as the records of the administrative official or body.
 6. The Board of Appeals shall not have jurisdiction to review the action of the Planning Commission and Village Council in the approval or denial of conditional uses or planned unit developments.
- C. An appeal pursuant to this section shall be noticed pursuant to Section 306, herein. Please note that appeals specifically related to a particular property will require public notice of owners and occupants of property pursuant to Section 306.C.

SECTION 1404 VARIANCES

- A. The Board of Appeals may authorize specific variances from requirements of the Ordinance, with the exception of a use variance, provided that the basic conditions listed herein are substantially and satisfactorily satisfied.
1. Practical difficulties or unnecessary hardships prevent carrying out the strict letter of this Ordinance. These practical difficulties or unnecessary hardships shall not be deemed economic as related to the particular individual petitioning for such variance, but shall be evaluated in terms of the use of a particular parcel of land because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved.

2. Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner or those having interest from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
 3. The variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.
 4. The circumstances causing the need for variance do not result from actions by the applicant.
 5. The request for variance shall be assessed for the possible precedents or affects that might result from the approval or denial of the variance.
 6. The variance is not one where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.
 7. The request for variance shall be consistent with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, use and enjoyment of property in the neighborhood or district.
 8. The request for variance will relate only to property owned by the applicant or where the applicant has legitimate and legal interest.
- B. A variance pursuant to this section shall be noticed pursuant to Section 306, herein.
- C. The approval of a variance shall not constitute a use variance that permits the establishment of any use which is not permitted by right within the zoning district where located, or any use for which a conditional use is required.
- D. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards shall be deemed a violation of this Ordinance and shall automatically invalidate the permit.
- E. Each variance granted under the provisions of this Ordinance shall become null and void unless:
1. The construction authorized by such variance or permit has commenced within six (6) months of granting of the variance.
- F. No application for a variance which has been denied, wholly or in part, by the Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on proof of changed conditions or identification of a falsehood previously relied upon in the decision-making process.

**SECTION 1405 OTHER RESPONSIBILITIES OF THE BOARD OF
APPEALS**

- A. The Board of Appeals shall hear and decide matters upon which it is required to pass under other provisions of this Ordinance.

- B. Consideration of an item pursuant to this section shall be noticed pursuant to Section 306, herein. Consideration specifically related to a particular property will require public notice of owners and occupants of property pursuant to Section 306.C.

ARTICLE 15

PLANNED UNIT DEVELOPMENT

SECTION 1501 INTENT AND PURPOSE

- A. Planned Unit Development (“PUD”) regulations are intended to provide for various types of land uses planned in a manner in order to meet the intent and purposes provided in Article 5 where permitted for the implementation of a PUD district. The provisions of this Article provide the authority and standards for the submission, review, and approval of an application for a PUD district and development within a PUD district under the Village of Athens Zoning Ordinance (“Ordinance”).

SECTION 1502 PLANNED UNIT DEVELOPMENT GENERAL STANDARDS

- A. A PUD may be applied for in any district of the Village of Athens (“Village”). The granting of a PUD application shall require an amendment of the Zoning Map upon the recommendation of the Planning Commission and approval of the Village Council.
1. Any land use authorized in this Ordinance in any district may be included in a PUD subject to adequate public health, safety, and welfare protection mechanisms and conditions to ensure the compatibility of land use within and beyond the boundaries of the PUD.
- B. The applicant for a PUD must demonstrate all of the following as a condition to being entitled to consideration under this Article:
1. Granting of a PUD will result in one (1) of the following:
- a. A recognizable and material benefit to the community where such benefit would otherwise be unfeasible or unlikely under typical zoning provisions or unlikely to be achieved without application of the provisions of this Article; or
 - b. Provide a significant improvement and lasting positive impact to the economic future of the Village through housing, jobs or services; or
 - c. Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality where such benefit would otherwise not be feasible or unlikely to be achieved without application of this Article.

2. The proposed PUD shall be consistent with the protection of the public health, safety and welfare of the residents and business owners of the Village and the proposed type and intensity of use shall not:
 - a. result in an unreasonable increase in the need for or burden upon public services, facilities, streets and utilities; or
 - b. result in an unreasonable negative environmental impact on the subject site or surrounding land; or
 - c. result in an unreasonable negative economic impact upon surrounding properties.
3. The PUD shall be under single ownership and/or control so that there is a single person or entity having responsibility for completing the proposed development under the PUD in conformity with this Ordinance.
4. The PUD shall be consistent with the goals, objectives and policies of the Village of Athens Master Plan (“Master Plan”).

SECTION 1503 PROCEDURE FOR REVIEW

- A. Prior to the submission of an application for PUD approval, the applicant shall meet with the Zoning Administrator, together with any staff or consultants deemed appropriate by the Zoning Administrator, for a pre-application meeting.
 1. The applicant shall present a sketch plan of the proposed PUD, as well as the following information:
 - a. Total number of acres in the project;
 - b. number of residential units;
 - c. number and type of nonresidential uses;
 - d. acres to be occupied by each type of use;
 - e. the known deviations from typical Ordinance standards and regulations to be sought;
 - f. number of acres to be preserved as open or recreational space; and
 - g. all known natural resources and natural features to be removed and/or preserved.

2. Within six (6) months of the pre-application meeting, the applicant shall submit a preliminary plan of the proposed PUD for consideration by the Planning Commission or schedule another pre-application meeting.
- B. A preliminary plan submitted for review and approval shall contain information as required under Section 604.A in addition to and in consideration of the following
1. For buildings/structures known at the time of petition to be located within the PUD, show the location, outline, general dimensions, distances between, floor area, number of floors, height, general floor plans and elevations, number and type of dwelling units.
 2. For use areas (which are portions of the PUD dedicated to a particular use in future), provide the location and dimensions of use areas, a listing of the uses permitted, dimensional requirements for future development, maximum floor coverage, and density.
 3. For structures known at the time of the petition to be located within the PUD and for use areas where development is anticipated in the future through site plan review, provide parking information, such as dimensions of spaces and aisles, surface type, and a schedule of regulations for parking, or parking calculation postpone.
 4. Anticipated infrastructure construction and development phasing for the overall PUD.
 5. A narrative describing the project, a discussion of the market concept and feasibility of the project, and an explanation as to the manner in which the criteria set forth in this Article and Ordinance have been met.
 6. Specification of all deviations from this Ordinance that would otherwise be applicable to the uses and development proposed in a typical zoning district in the absence of an application for a PUD.
- C. Utilizing the process and procedure outlined in Article 9, the preliminary plan shall be noticed for public hearing as a zoning amendment before the Planning Commission. Following the hearing, the Planning Commission shall review the preliminary plan and shall take one of the following actions:
1. Upon finding that the preliminary plan meets the criteria and standards set forth in Sections 607 and finding that the petition generally satisfies the provisions of Sections 704.A and 903.D, the Planning Commission shall grant preliminary approval.
 - a. Approval shall constitute preliminary approval of the uses and design concept as shown on the preliminary plan and shall confer upon the applicant the right to proceed with the preparation of the final plan.

- b. Approval of the preliminary plan by the Planning Commission shall not constitute rezoning of the property to PUD nor bind the Planning Commission or the Village Council to approval of the final plan. The Planning Commission shall inform the Village Council of its action to approve the preliminary plan.
 2. Upon finding that the preliminary plan does not meet the criteria and standards set forth in Section 607 and/or satisfy the provisions of Sections 704.A and 903.D, but could meet such criteria if revised, the Planning Commission may postpone action until a revised preliminary plan is resubmitted.
 - a. If a revised preliminary plan is not submitted within six (6) months of the action to postpone by the Planning Commission, the application for PUD shall automatically be null and void.
 3. Upon finding that the preliminary plan does not and cannot meet the criteria and standards set forth in Section 607 and/or satisfy the provisions of Sections 704.A and 903.D, the Planning Commission shall deny the preliminary plan. The Planning Commission shall inform the Village Council of its action to deny the preliminary plan.
- D. Within six (6) months following receipt of the Planning Commission's approval of the preliminary plan, the applicant shall submit a final plan and supporting materials conforming to this section and information requested to be provided as part of the review of the preliminary plan. If a final plan is not submitted by the applicant for final approval within six (6) months following receipt of Planning Commission approval, the preliminary plan approval shall automatically be null and void.
- E. A final plan submitted for review and approval shall contain information as required under Section 605.A as well as the following:
 1. Description of land division mechanism, or property transfer mechanism, to be utilized in the implementation of the PUD (i.e. simple land division, plat, site condominium, condominium, lease, etc.).
 2. Specific requirements for residential developments and use areas.
 - a. A complete schedule of the number of lots/sites, lot area per dwelling unit and type of dwelling units, density requirements (minimums & maximums).
 - b. A schedule of regulations for dimensional requirements depending on the development type, use area, and the list of permitted uses cited for the particular area.

- c. A schedule of landscaping regulations and requirements depending on the development type, use area, and the list of permitted uses and density cited for the particular area.
 - d. Amount and location of recreation spaces; type of recreation facilities to be provided in identified recreation space.
 - e. Community building criteria and other accessory uses, such as swimming pools, clubhouses, etc.
 - f. Architectural standards for buildings; sample facades and elevations are to be provided.
3. Specific requirements for non-residential developments and use areas.
- a. Ground floor coverage and floor area ratio minimums and/or maximums.
 - b. A schedule of regulations for dimensional requirements depending on the development type, use area, a list of permitted uses, and intensity of use cited for the particular area.
 - c. A schedule of landscaping regulations and requirements depending on the development type, use area, and the list of permitted uses cited for the particular area.
 - d. Architectural standards for buildings using sample facades and elevations.
4. Specification of all deviations from this Ordinance that would otherwise be applicable to the uses and development proposed in a typical zoning district in the absence of an application for a PUD.
5. A schedule of the general improvements for the development of the site, including, without limitation, roadways, utilities, landscaping, etc.
6. A traffic impact study, the geographic scope of which to be determined by the Planning Commission as part of the preliminary plan approval.
- F. Utilizing the process and procedure outlined in Article 9, the final plan shall constitute an application to amend this Ordinance and shall be noticed for public hearing as a zoning amendment before the Planning Commission, and otherwise acted upon by the Planning Commission and the Village Council, as provided by law.
- 1. Upon finding that the final plan meets the criteria and standards set forth in Sections 607 and satisfies the standards for approval set forth in Sections

704.A and 903.D, the Planning Commission shall recommend approval to the Village Council.

- a. The Planning Commission shall submit to the Village Council a detailed recommendation relative to the PUD project. This recommendation shall include a statement of rationale and a listing of all applicable conditions.
2. Upon finding that the final plan does not meet the criteria and standards set forth in Section 607 and/or the standards for approval set forth in Sections 704.A and 903.D, but could meet such criteria if revised, the Planning Commission may postpone action until a revised final plan is resubmitted.
 - a. If a revised final plan is not submitted by the applicant for final approval within six (6) months following the tabling of the final plan application, the preliminary plan approval and application for final plan approval shall automatically be null and void.
 3. Upon finding that the final plan does not and cannot meet the criteria and standards set forth in Section 607 and/or the standards for approval set forth in Sections 704.A and 903.D, the Planning Commission shall recommend denial to the Village Council.
- G. Upon receiving a recommendation from the Planning Commission, the Village Council shall review the final plan. Taking into consideration the recommendations of the Planning Commission and the criteria and standards set forth in Section 607 and finding that the Final Plan meets or does not meet the standards for approval set forth in Sections 704.A and 903.D, the Village Council shall approve, deny or remand the final plan back to the Planning Commission for further review.
1. Prior to approval of a final plan, the Village Council shall require all standards and conditions of approval to be incorporated in a Development Agreement. The Development Agreement may be reviewed by the Village Attorney and shall be approved by the Village Council, and signed by both an agent of the Village and the applicant.

SECTION 1504 PROJECT DESIGN STANDARDS

- A. Residential Design Standards
1. Density for residential uses shall be based upon the provisions of the Master Plan, uses being proposed and their corresponding densities in other districts where such uses are permitted by right and conditional use.
 2. The architectural design of the development shall be of a high quality. A range of elevations and floor plans shall be provided for single-family units

and identical elevations shall not be permitted for units adjacent to or facing each other.

3. Landscaping and screening shall be considered in accordance with the overall plan for development, including separation of contrasting land uses and intensity of uses. Landscaping and screening shall not only be used for purposes of separation, but for integration of land uses, vehicular routes and pedestrian ways.

B. Non-Residential Design Standards

1. Density and ground floor coverage minimums and maximums shall be based upon the provisions of the Master Plan, the uses being proposed, and corresponding densities and ground floor coverage's in other districts where such uses are permitted by right and by conditional use.
2. Non-residential uses may be permitted in combination with residential uses as part of a common development. Non-residential uses, including parking and vehicular traffic ways, shall be integrated with residential uses in a manner consistent with good land and community planning principles.
3. The architectural design of the development shall be of a high quality and intended to reduce the large-scale visual impact of structures, encourage integrative design for individual structures, and to create a complex of structures compatible with the streetscape.
4. Landscaping and screening shall be considered in accordance with the overall plan for development, including separation of contrasting land uses and intensity of uses. Landscaping and screening shall not only be used for such purposes of separation, but for integration of land uses, vehicular routes and pedestrian ways.

C. General Design Standards.

1. All regulations applicable to setbacks, parking and loading, general provisions, density and other requirements shall be met in relation to each respective land use in the PUD based upon zoning districts in which the uses are listed as permitted uses, or uses permitted by conditional use.
 - a. Deviations with respect to such regulation may be granted as part of the overall approval of the PUD, provided features or elements demonstrated by the applicant and deemed adequate by the Planning Commission are designed into the PUD plan for the purpose of achieving the intent and purpose of this Article and Ordinance.
2. To the maximum extent possible, the PUD shall be designed so as to preserve natural resources and features.

3. Road, drainage, and utility design shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.
4. Underground installation of utilities shall be required, including electricity and telephone.
5. Pedestrian walkways shall be separated from vehicular circulation, unless such integration is part of the overall development concept.
6. Signage, lighting, landscaping, building materials for the exterior of all structures shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.
7. Where non-residential uses adjoin off-site residentially zoned, planned or used property, noise reduction and visual screening shall be emphasized.

SECTION 1505 CONDITIONS

- A. Reasonable conditions may be required with the approval of a PUD for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facilities caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a manner consistent with the intent and purpose of the Master Plan, Ordinance and this Article.
- B. All conditions imposed shall be made a part of the record of the approved PUD and included in the development agreement.

SECTION 1506 PHASING, SITE PLAN REVIEW AND COMMENCEMENT

- A. For a PUD to be constructed in phases, the design shall be such that each phase shall be capable of standing on its own as it pertains to services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the PUD and the residents of the surrounding area.
 1. All conditions that are phase specific shall be completed during development of the subject phase, and cannot be postponed for completion during other phases.

2. In PUD's that include residential and non-residential uses, the mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable at the discretion of the Planning Commission and Village Council.
- B. Uses approved as part of the adoption of a PUD shall be permitted by right as long as such uses are implemented in accordance with the approval by the Village Council of the final plan and development agreement.
1. All development proposed within the PUD must receive final site plan approval pursuant to Article 6 of this Ordinance.
 2. Those proposed developments requiring review under the Land Division Act (Public Act 288 of 1967, as amended) or the Condominium Act (Public Act 59 of 1978, as amended), especially in the case of the platting of a subdivision, must file proper application for review under respective processes contained herein.
 3. The application for final site plan review, application under the Land Division Act or Condominium Act will be reviewed utilizing the regulations set forth in the PUD district and must be found in compliance with said district, the final plan and development agreement.
- C. Initial construction of the PUD shall commence within one (1) year following final approval of and shall proceed substantially in conformance with the phasing plan and schedule set forth in the final plan.
1. If construction is not commenced within such time, any approval of a site plan on the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Village Council.
 2. In the event that approvals have expired, the Village Council, based on a recommendation from the Planning Commission, shall be authorized to rezone the property in any reasonable manner, and, if the property remains classified as PUD, a new application shall be required, and shall be reviewed in light of then existing and applicable law and Ordinance provisions.

SECTION 1507 EFFECT OF APPROVAL

- A. Upon approval, the PUD and corresponding amendment to the Zoning Map, with all conditions imposed, shall constitute the land use authorization for the property, and all future improvement and use shall be in conformity with such amendment.
- B. Notice of adoption of the final plan and development agreement shall be recorded by the applicant with the Register of Deeds, evidence of which shall be supplied to the Zoning Administrator.

ARTICLE 16

MANUFACTURED HOUSING COMMUNITY

SECTION 1601 INTENT AND PURPOSE

- A. It is the intent and purpose of this Article and the MH, Manufactured Housing District to establish standards and regulations for the location of neighborhoods comprised of manufactured homes and associated facilities. The intent of this Article is to set forth the processes, procedures, standards and regulations to ensure that manufactured housing communities and accessory uses are developed in a manner consistent with the site layout, design, location and service needs particular to the intensity of the use proposed.
- B. The following provisions are in accordance with Public Act 96 or 1987, Mobile Home Commission Act (“Act”) and Administrative Rules adopted pursuant to the Act. The following provisions are based on the Manufactured Housing Community Model Ordinance issued by the State of Michigan.

SECTION 1602 SITE DEVELOPMENT STANDARDS

- A. Permitted and conditional uses within the MH, Manufactured Housing District shall only be those that are provided under Article 5, Section 513, herein. All principal and accessory uses shall be subject to the information requirements, review and approval procedures set forth herein.
- B. A manufactured housing community shall be developed with sites averaging five thousand five hundred (5,500) square feet per manufactured housing unit. The five thousand five hundred (5,500) square feet average may be reduced by twenty (20) percent provided that each individual site shall be equal to at least four thousand four hundred (4,400) square feet. For each square foot of land gained through the reduction of the average site below five thousand five hundred (5,500) square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under the Act, Administrative Rules and this Article.
- C. A manufactured housing community that contains fifty (50) or more sites shall have not less than two (2) percent of the community’s gross acreage dedicated to designated open space, but in no case less than twenty-five (25,000) square feet. Required property boundary setbacks may not be used in the calculation of open space area.
- D. If equal or greater standards are imposed on other residential developments, manufactured housing communities shall be landscaped as follows:

1. If a manufactured housing community abuts an existing residential development, the community shall be required to provide screening along the boundary abutting the residential development.
 2. If the community abuts a non-residential development, it need not provide screening.
 3. In all cases, however, a community shall provide screening along the boundary abutting a public right-of-way.
 4. The landscaping shall consist of evergreen trees or shrubs at least three (3) feet in height at time of planting which are spaced so that they provide a continuous screen at maturity. Alternative screening devices may be utilized if they buffer the manufactured housing community as effectively as the required landscaping described above.
 5. Exposed ground surfaces in all parts of the community shall be covered with ornamental stone or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface and all parts of the community shall be graded and equipped to drain all surface water in a safe and efficient manner.
- E. Manufactured home sites shall be arranged to allow for, and manufactured homes shall be located to comply with, all of the following minimum separation distances, as measured from the wall/support line or foundation line, whichever provides the greater distance:
1. Ten (10) feet from an attached or detached structure or accessory of an adjacent home that may not be used for living purposes for the entire year.
 2. For a home sited parallel to an internal road, fifteen (15) feet from an adjacent home, including an attached structure that may be used for living purposes for the entire year if the adjacent home is sited next to the home on and parallel to the same internal road or intersecting internal road.
 3. Fifty (50) feet from permanent community-owned structures, such as either of the following:
 - a. lub houses.
 - b. aintenance and storage facilities.
 4. One hundred (100) feet from a baseball or softball field.
 5. Twenty-five (25) feet from the fence of a swimming pool.

6. Attached or detached structures or accessories that may not be used for living purposes for the year shall be a minimum of ten (10) feet from an adjacent home or its adjacent attached or detached structures.
7. Any part of a home or an accessory structure, such as steps, porches, supported or unsupported awnings, decks, carports or garages, or similar structures shall be set back the following minimum distances:
 - a. even (7) feet from the edge of an internal road.
 - b. even (7) feet from a parking space on an adjoining home site or parking bay off a home site.
 - c. even (7) feet from a common sidewalk.
 - d. twenty-five (25) feet from a natural or man-made lake or waterway.
8. A carport shall be in compliance with both of the following setbacks if it is completely open, at a minimum, on the two (2) long sides and the entrance side:
 - a. support pillars that are installed adjacent to the edge of an internal road shall be set back at least four (4) feet from the edge of the internal road and two (2) feet or more from the closest edge of a common sidewalk, if provided.
 - b. roof overhangs shall be set back two (2) feet from the edge of an internal road.
9. Steps and their attachments shall not encroach more than 3 ½ feet into parking areas.
10. Homes, permanent buildings and other structures shall not be located closer than twenty (20) feet from the property boundary line of the community.
11. If homes, permanent buildings and other structures abut a public right-of-way, they shall not be located closer than fifty (50) feet from the boundary line. If the boundary line runs through the center of the public road, then the fifty (50) feet shall be measured from the road right-of-way line. This section does not apply to internal roads dedicated for public use.

- F. Common sidewalks shall be installed along one side of all internal collector roads within the community to the public right-of-way and to all service facilities including central laundry, central parking, and recreation areas.
1. Common sidewalks shall be constructed in compliance with all of the following requirements:
 2. Sidewalks shall have a minimum width of three (3) feet and shall be constructed in compliance with Act 8 of the Public Acts of 1973 (an act that regulates sidewalk access to the handicapped).
 3. An individual site sidewalk with a minimum width of 3 feet shall be constructed to connect at least one entrance to the home, patio, porch, or deck, and the parking spaces serving the home or a common sidewalk.
- G. All skirting shall meet the requirements established in the Manufactured Housing Commission and shall be aesthetically compatible with the appearance of the manufactured home. Skirting to conceal the underbody of the home shall be installed around all manufactured homes, prior to issuance of a certificate of occupancy, and shall be installed within 60 days of the placement of the home on its site, unless weather prevents compliance with this schedule. Skirting shall be installed in a manner to resist damage under normal weather conditions and shall be properly maintained by the resident.
- H. One storage shed that complies with the Michigan Residential Code may be placed upon any individual manufactured home site for the storage of personal property. Storage sheds shall be constructed with durable weather and rust-resistant materials and shall be maintained to reasonably preserve their original appearance.
1. Storage sheds that are attached to homes shall consist of materials similar to that of the home and shall have a fire-rated wall separation assembly in accordance with the Michigan Residential Code.
 2. A detached storage shed shall be at least ten (10) feet from all adjacent homes. All storage sheds shall be securely anchored, in accordance with the Michigan Residential Code.
- I. Towing mechanisms shall be removed from all homes at the time of installation and stored so as not to be visible. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.
- J. If recreational vehicle storage is provided within the manufactured housing community, it should include, but not be limited to: class A, B, and C motor homes; fifth wheel travel trailers; travel trailers; folding tent campers; trailered boats; trailered all-terrain vehicles; trailered personal watercraft; historic vehicles; and seasonal equipment.

1. The storage area shall be adequately locked, fenced, and permanently screened, using the same standards of screening provided at the property's perimeter.
2. The storage area shall be limited to use by the residents and management of the manufactured housing community.

SECTION 1603 STREETS, DRIVEWAYS AND PARKING SPACES

- A. The community's internal roads shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement.
1. An additional access shall be provided to a public thoroughfare to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of a community road shall satisfy this requirement.
 2. All internal roads shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade in compliance with the standards of the American Association of State Highway and Transportation Officials (AASHTO).
 3. All internal roads shall be two-way and have driving surfaces that are not less than the following widths:
 - a. wo-way, no parking twenty-one (21) feet in width.
 - b. wo-way, parallel parking, one (1) side, thirty-one (31) feet in width.
 - c. wo-way, parallel parking, two (2) sides, forty-one (41) feet.
 4. An internal road that has no exit at one end shall terminate with a minimum turning radius of fifty (50) feet. Parking shall not be permitted within the turning area, which shall be posted within the turning area. A safe-site distance of two hundred and fifty (250) feet shall be provided at all intersections. Offsets at intersections or intersections of more than two internal roads are prohibited.
- B. All entrances to new communities or new entrances to expanded communities shall be a minimum of thirty-three (33) feet in width. The entrance shall consist of an ingress lane and a left and right egress turning lane at the point of intersection between a public road and the community's internal road, and shall be constructed as indicated below:

1. All turning lanes shall be a minimum of eleven (11) feet in width and sixty (60) feet in depth, measured from the edge of the pavement of the public road into the community.
 2. The turning lane system shall be tapered into the community internal road system commencing at a minimum depth of sixty (60) feet.
 3. The ingress and right egress turning lanes of the ingress and egress road shall connect to the public road and shall have a radius determined by the local public road authority having jurisdiction. The intersection of the public road and ingress and egress road shall not have squared corners.
 4. Appropriate speed and traffic control signs shall be provided on all internal roads, and a regulation stop sign shall be installed at the point of intersection with a public road, unless a traffic control device is provided.
 5. School bus stops, if provided, shall be located in an area that is approved by the school district.
 6. Improved hard-surface driveways shall be provided on the site where necessary for convenient access to service entrances of buildings, and at delivery and collection points for fuel, refuse, and other materials, and elsewhere as needed. The minimum width of driveways shall be ten (10) feet. The entrance to the driveway shall have the flare or radii, and horizontal alignment for safe and convenient ingress and egress.
- C. All internal street and sidewalk systems within a manufactured housing community shall be lighted as follows:
1. Access points shall be lighted. If the public thoroughfare is lighted, the illumination level shall not be more than the average illumination level of the adjacent illuminated thoroughfare.
 2. At all internal road intersections and designated pedestrian crosswalks, the minimum illumination shall not be less than 0.15 foot candles.
 3. Internal roads, parking bays, and sidewalks shall be illuminated at not less than 0.05 foot candles.
- D. A minimum of two (2) hard-surfaced parking spaces shall be provided for each manufactured home site. Additional parking equal to one (1) space for three (3) manufactured homes shall be provided for visitor parking. Each parking space shall have a clear parking width of ten (10) feet and a clear length of twenty (20) feet.
1. If the two resident vehicle parking spaces required by this section are provided off the home site, then the parking spaces shall be adjacent to the home site.

2. If parking spaces are provided for resident vehicle parking, they shall contain individual spaces that have a clear parking width of ten (10) feet and a clear length of twenty (20) feet.
3. The parking space shall be constructed of concrete or bituminous asphalt and supported by a suitable sub-grade meeting typical standards.
4. Visitor parking shall be located within five hundred (500) feet of the home sites the parking is intended to serve, as measured along a road or sidewalk.

SECTION 1604 UTILITIES

- A. All electric utilities shall be underground and installed and serviced by a licensed electrician. All local distribution lines for utilities (telephones, electric service, cable television) shall be placed entirely underground throughout the manufactured housing community. Main lines and perimeter feed lines existing on a Section or Quarter Section Line may be above ground if they are configured or installed within the state codes.
- B. All drainage outlet connections shall be subject to review and approval by the Drain Commissioner. Drainage systems shall be reviewed and approved by the Michigan Department of Environmental Quality (“MDEQ”).
- C. All lots shall be provided with public water and sanitary sewer service, or water and sanitary services that shall be approved by the MDEQ.

SECTION 1605 DEVELOPMENT REVIEW

- A. Preliminary plans shall be submitted to the Village for review and prepared in accordance with the preliminary plan provisions contained in this Article. The plans shall include the location, layout, general design and description of the project.
- B. Prior to the establishment of a new manufactured housing community, an expansion of a manufactured housing community, or construction of any building within the community not previously approved, a plan shall be presented to the Village for its review and approval.
- C. All plans submitted to the Planning Commission for review under this section shall contain the following information:
 1. The date, north arrow direction and project scale. The scale shall not be less than one (1) inch equals fifty (50) feet for property under three (3) acres and at least one (1) inch equals one hundred (100) feet for property greater than three (3) acres in size.

2. The typical location and height of all existing and proposed structures on and within the subject property, and existing within one hundred (100) feet of the subject property.
 3. The typical location and typical dimensions of all existing and proposed internal drives, sidewalks, curb openings, signs, exterior lighting, parking areas (showing dimensions of a typical parking space), unloading areas, community buildings, open space and recreation areas.
 4. The typical location and the pavement and right-of-way width of all abutting roads, streets, or alleys.
 5. The name and address of the professional civil engineering, registered landscape architect, or architectural firms responsible for the preparation of the site plan.
 6. The name and address of the property owner and developer.
 7. The typical location of all community garbage/rubbish receptacles and landscaping and the location, height, and type of fences and walls.
 8. Typical location of all fire hydrants, if applicable.
 9. The number of manufactured housing sites proposed.
 10. The submittal shall contain a narrative of the arrangements to be made for water supply and sewage disposal service, including approximate capacity, source of water supply, discharge points for sewage disposal, and description of storm water management facilities.
 11. Existing utility and other easements.
 12. Existing wetlands.
 13. Proposed entrance sign locations.
 14. Demonstration that all required setbacks and separation distances will be met.
- D. Reasonable fees for reviewing a manufactured housing community plan shall be established by the municipality.
- E. The Planning Commission shall review the plan for compliance with the design standards for manufactured housing communities contained in this Article, and the regulations of the Manufactured Housing Commission. If it is determined that the manufactured housing community complies with the regulations established in this section, it shall be approved.

- F. The plan shall be approved, approved with conditions, or denied within sixty (60) days of receipt by the municipality, unless the applicant consents to a longer period of review.

ARTICLE 17

WELLHEAD PROTECTION OVERLAY ZONE

SECTION 1701 INTENT AND PURPOSE

- A. The intent and purpose of this Article is based on the following facts:
1. Certain groundwater underlying the Village of Athens (“Village”) is the sole source of the Village's drinking water.
 2. Groundwater aquifers are integrally connected with the surface water, lakes, and streams that constitute significant public health, recreational and economic resources of the Village and surrounding area.
 3. Spills and discharges of petroleum products, sewage and hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.
- B. It is the intent and purpose of this Article to:
1. Preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the Village, and to protect them from adverse land use development of land use practices.
 2. Preserve and protect sources of drinking water supply for public health and safety.
 3. Conserve the natural resources of the Village and the surrounding area.
 4. Provide a level of protection of the financial investment that the Village and its tax paying businesses and residents have in its drinking water supply.
 5. Ensure that state regulations which help protect groundwater are implemented consistently as new or expanded development proposals are reviewed.

SECTION 1702 GENERAL PROVISIONS

- A. The general provisions below shall apply to all properties located within the Wellhead Protection Overlay Zone where the use of such property includes the storage or generation of hazardous substances in quantities greater than two hundred and twenty (220) pounds per month and requires site plan review under provisions of this Ordinance. These general provisions apply to all properties utilized by a use even if a

portion of the property is located in the Wellhead Protection Overlay Zone.

- B. Proposals for such uses listed in the preceding items shall be reviewed and considered for approval by the Planning Commission if a use permitted by right and by the Planning Commission and Village Council is a use permitted by conditional use. Such proposals shall be reviewed in accordance with the review and approval standards set forth in Article 6 and Article 7 found herein.
- C. The following groundwater protection standards shall apply:
 - 1. Improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains and groundwater, and to ensure the absence of and impairment, pollution and/or destruction of water, natural resources, and the public trust therein.
 - 2. Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding, or the potential for environmental contamination and shall not result in loss of the use of property by any third party.
 - 3. Industrial facilities with a point source discharge of storm water shall maintain a Storm Water Pollution Prevention Plan in accordance with applicable state and federal regulations.
 - 4. General purpose floor drains shall be connected to a public sewer, an on-site holding tank, or a system authorized through a state surface or groundwater discharge permit.
 - 5. Sites that at any time use, store or generate substances in quantities greater than two hundred and twenty (220) pounds that include hazardous substances shall be designed to prevent spills and discharges to air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
 - 6. 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 applicable permits and approvals.
 - 7. Bulk storage of pesticides shall be in accordance with applicable county, state and federal regulations.
- D. The following standards for the implementation of aboveground storage and use areas for hazardous substances shall apply:

1. The primary containment of hazardous substances shall be product tight meaning immediate containment and no open storage of hazardous substances.
 2. Secondary containment shall be sufficient to store the the entire release of the primary containment system for the maximum anticipated period of time necessary for the recovery of the release. Products held in containers with a volume of less than forty (40) gallons and packaged for retail use shall be exempt from this provision.
 3. Outdoor storage of hazardous substances shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism, including an allowance of the expected accumulation of precipitation. Such outdoor storage does not relieve the requirement for secondary containment.
 4. Accessory structures, such as storage rooms, sheds and pole barns, that are utilized as secondary containment shall not have floor drains that outlet to soil, public sewer system, groundwater, nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained pursuant to applicable county, state and federal regulation.
 5. Areas and facilities for loading and unloading of hazardous substances as well as areas where materials are handled and stored shall be designed and constructed to prevent discharges to floor drains, rivers, lakes, wetlands, groundwater, or soils.
- E. The following standards for the construction and abandonment of wells shall apply:
1. Well drilling, construction and installation shall only be performed by State of Michigan Registered Well Drillers.
 2. Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.
 3. Out of service water wells shall be sealed and abandoned in accordance with applicable requirements of the Calhoun County Health Department.
- F. The following standards for site and structure maintenance shall apply:
1. In areas where hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of chemicals to soil and groundwater. Cracks and holes in floors, foundations and walls must be repaired in areas where hazardous substances and handled or stored.
- G. The following exclusions are applicable to the above general provisions:

1. If the hazardous substance is packaged for personal or household use or is present in the same form and concentration as a product packaged for use by the general public, the general provisions shall not apply; or
2. A limited exclusion from the above general provisions is hereby authorized for non-routine maintenance or repair of property provided the uses are limited as follows:
 - a. The aggregate of hazardous substances on-site may not exceed fifty (50) gallons or four hundred (400) pounds at any time.
 - b. The total use of substances containing hazardous substances may not exceed fifty (50) gallons or four hundred (400) pounds at any time.

SECTION 1703 ADDITIONAL SITE PLAN REVIEW REQUIREMENTS

- A. The following site plan requirements shall be adhered to in the development of property within or partially within the Wellhead Overlay Protection Zone containing those particular items listed in Section 1502. These requirements shall be in addition to applicable requirements for site plan as set forth in Article 6, herein.
 1. Specify the location and size of interior and exterior area(s) and structure(s) to be used for on site storage, use, load/unloading, recycling, or disposal of hazardous substances.
 2. Specify location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous substances storage, collection of contaminated storm water or wash water, and all similar uses.
 3. Specify location of existing and proposed wells.
 4. Specify location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
 5. Specify primary and secondary containment systems as well as provide detailed emergency plans developed in the event of primary and secondary containment failure.
 6. Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of any site remedial action plan and land use deed restrictions, if applicable.

ARTICLE 18

ENACTMENT AND EFFECTIVE DATE

SECTION 1801 EFFECTIVE DATE

- A. This Ordinance was adopted on November 10, 2009 by the Village of Athens Council and became effective December 1, 2009.

SECTION 1802 RESOLUTION TO ADOPT

A. The following is a copy of the resolution adopting this Ordinance.

Resolution

Adopting Zoning Ordinance

At a regular meeting of the Village Council of the Village of Athens, Michigan, held at Council Chambers located at 129 East Burr Oak Street, Athens, Michigan on the 10th day of November 2009 at 7:00 P.M.

PRESENT: Trustees; Robin Shoup, Eric Tobin, J R Brunner, Kimberly Michael, Kevin Converse, President Michael Alverson, Treasurer Anita Shoup, Clerk Bonnie Conant

ABSENT: Trustee Mark Doubleday

The following resolution was offered by Trustee Brunner and seconded by Trustee Tobin:

WHEREAS, the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, authorizes the Village Council of the Village of Athens (“Village Council”) to adopt, amend and supplement a zoning ordinance, including all applicable maps and supporting documents, regulating the public health, safety and general welfare of persons and property; and

WHEREAS, the Village of Athens Planning Commission (“Planning Commission”) duly noticed and held a public hearing on June 1, 2009, to consider amendment and supplement to the 1998 Village of Athens Zoning Ordinance (“1998 Zoning Ordinance”), adopted August 11, 1998 and as amended; and

WHEREAS, on June 1, 2009, the Planning Commission recommended adoption of the amendments and supplements to the 1998 Zoning Ordinance; and

WHEREAS, the Planning Commission transmitted a summary of the comments received at the Public Hearing and its recommended amendments and supplements to the 1998 Zoning Ordinance to the Village Council; and

WHEREAS, on November 2, 2009, the Planning Commission recommended revisions to the original June 1, 2009 recommendation of amendments and supplements to the 1998 Zoning Ordinance; and

WHEREAS, the Village Council has determined that the amendments and supplements to the 1998 Zoning Ordinance, including those revisions recommended by the Planning Commission on November 2, 2009, would promote and enhance the overall welfare and quality of life in the Village of Athens; and

WHEREAS, the Village Council has determined that enacting said amendments and supplements is in the best interests of the public health, safety and welfare of the Village of Athens residents.

THEREFORE, be it resolved by the Village Council as follows:

1. The 1998 Zoning Ordinance is hereby amended and supplemented in its entirety including, without limitation, any and all zoning maps, by this Ordinance, hereby known as the 2009 Village of Athens Zoning Ordinance (“Zoning Ordinance”).
2. This Zoning Ordinance shall take full force and effect on December 1, 2009.
3. Should any portion of this Zoning Ordinance be found invalid for any reason, such holdings shall not be construed as affecting the validity of the remaining portions of the Zoning Ordinance.

4. The Zoning Ordinance and any ordinances or parts of any ordinance in conflict herewith are hereby repealed upon the effective date of this Zoning Ordinance.
5. The Village Clerk shall publish a notice of adoption and the effective date of said Zoning Ordinance in a newspaper of general circulation within the Village of Athens within ten (10) days after adoption in compliance with the provisions of Public Act 110 of 2006.
6. Any and all resolutions that are in conflict with this resolution are hereby repealed.

ADOPTED:

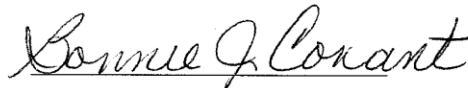
YEAS: 6

NAYS: 0

I, Bonnie J Conant, Clerk of the Village of Athens, certify that the above Resolution is a true copy of Council action taken at the November 10, 2009, Council meeting.

11-10-09

Date



Bonnie J Conant, Athens Village Clerk

SECTION 1603 NOTICE OF ADOPTION

- A. The following is a copy of the text of the notification of adoption of this Ordinance published in a newspaper of local circulation in the Village of Athens, Calhoun County:

NOTICE OF ADOPTION

A zoning ordinance regulating the development and use of land has been adopted by the legislative body of the Village of Athens. Based upon a recommendation by the Village of Athens Planning Commission following a public hearing held June 1, 2009, the Village Council moved by resolution on November 10, 2009 to amend and supplement the current Village of Athens Zoning Ordinance in its entirety including, without limitation, any and all zoning maps and adopted a revised Zoning Ordinance. This Zoning Ordinance has the effect of regulating the development and use of all lands located within the jurisdiction of the Village of Athens.

The effective date Zoning Ordinance shall be December 1, 2009. Copies of the Zoning Ordinance may be purchased or inspected during normal business hours at the Village Clerk's office located at 129 East Burr Oak Street, Athens, Michigan 49011.

Bonnie J Conant,
Athens Village Clerk

BC-774843 11/15/09

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