

Village of Marcellus



Zoning Ordinance

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ORDINANCE NO. 223
Adopted: December 27, 2016
Effective: January 7, 2017

An Ordinance to provide for the establishment of zoning districts in the Village of Marcellus, Cass County, Michigan in accordance with the provisions of Public Act 110 of 2006 "Michigan Zoning Enabling Act", as amended and with the provisions of Public Act 33 of 2008 "Michigan Planning Enabling Act", as amended; to authorize and permit residential, commercial and industrial uses within said Village for the purpose of enhancing and protecting the value of property and to protect and promote the safety, health, and welfare of the inhabitants; and to provide for the enforcement and penalties for the violation thereof.

THE VILLAGE OF MARCELLUS ORDAINS:

Article 1. TITLE, INTERPRETATION AND ENACTMENT

Section 1.01 TITLE

This Ordinance shall be known and may be cited as the Zoning Ordinance of Marcellus, Michigan.

Section 1.02 INTERPRETATION

The provisions of this Ordinance shall be in their interpretation and application, the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. Wherever other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants apply, the most restrictive or that imposing the higher standard shall govern.

Section 1.03 SEVERABILITY CLAUSE

Should any title, section, or provision of this Ordinance be declared, by a court of competent jurisdiction, to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any portion thereof, other than the portion so declared to be invalid.

Section 1.04 REPEAL OF EXISTING ORDINANCES, EFFECTIVE DATE

The existing Marcellus Village Zoning Ordinance, adopted April 23, 1985 as amended is hereby repealed on the effective date of this Ordinance. Existing enforcement activities, prosecutions and applications under the Zoning Ordinance herein repealed are preserved and may follow to their natural conclusion under any ordinance herein repealed.

This Ordinance shall become effective on January 7, 2017.

Passed by the Village Council of the Village of Marcellus, Michigan on the 27th day of December, 2016.

ARTICLE 2.
DEFINITIONS

Section 2.01 APPLICATION AND DETERMINATION

- A. For the purpose of this Ordinance, certain terms and words used herein shall be interpreted and defined as set forth in this article
- B. Whenever any word or phrase used herein is not defined herein but is defined in the State Laws regulating planning and zoning, such definitions shall apply unless context otherwise requires.
- C. All other words and phrases shall be defined according to any recent edition of a dictionary of the American Language.

Section 2.02 WORDS AND PHRASES DEFINED

- 1. **ACCESSORY BUILDING OR USE.** An Accessory building or use is one which:
 - A. To provide for the comfort, convenience, or necessity of occupants of the principal building or principal use served; and
 - B. Is located on the same zoning lots as the principal building or principal use served with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served.
- 2. **ALLEY.** A public way which affords only a secondary means of access to abutting property.
- 3. **ALTERATIONS.** Any change, addition, or modification in construction or structural members of a building.
- 4. **BASEMENT.** That portion of a building partly below grade level, but so located that the vertical distance from grade to floor is not greater than the vertical distance from grade to ceiling.
- 5. **BUILDING AREA.** That portion of a lot remaining after required yards have been provided.
- 6. **BUILDING.** Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows, or openings; and which is designed or intended for the shelter, enclosure, or protection of persons, animals , or chattels. Any structures with interior areas not normally accessible for human use such as gas holders, oil tanks, water tanks, grain elevators, coal bunkers, oil cracking towers, and other similar structures are not considered as buildings.
- 7. **BUILDING HEIGHT.** The vertical distance measured from the finished grade level, sidewalk level, or its equivalent established grade from the middle of the front of the building to the highest point of the roof in the case of a flat roof; to the deck line of a

mansard roof; or to the mean height level between eaves and ridge of a gable, hip, or gambrel roof.

8. **BUILDING LINE.** The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.
9. **CHURCH.** A building used for the conduct of religious services, as defined and protected under the USRLUIPA (Religious Land Use and Institutionalized Persons Act) and utilized and operated in accordance with the parameters contained therein.
10. **CONDITIONAL USE.** See Special Land Use.
11. **DISTRICT.** A section of the Village of Marcellus for which uniform regulations governing the use, height, area, sizes, and intensity of use of buildings and land, and open spaces about buildings, are herein established.
12. **DWELLING UNIT.** A building which is occupied wholly as the home, residence or sleeping place for one or more human beings, either permanently or transiently, containing lawful cooking and lawful sanitary facilities reserved for the occupancy thereof, and complying with the following minimum standards:
 - A. No dwelling shall contain less than 1,000 square feet of ground floor living space, exclusive of garages or basements.
 - B. Each dwelling unit shall have two separate entrances and exits.
 - C. It shall comply with any additional minimum square footage required of this Ordinance for the zone in which it is located.
 - D. The dwelling shall comply in all respects to those standards and regulations for construction as imposed by the State Construction Code and any Federal or State standard or regulation in effect.
 - E. The dwelling shall contain a storage capability in area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate fully enclosed structure on the site, said separate structure being of standard construction similar to or of better quality than the principal dwelling; such storage area shall be in addition to the space for the storage of automobiles.
 - F. Every one family dwelling hereafter erected shall have a minimum width throughout the entire length of the dwelling of twenty-four (24) feet measured between the exterior part of the walls having the greatest length. Also known as a single-family dwelling.
 - G. The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity. The compatibility of design and appearance shall be determined in the first instance by the Village Zoning Administrator upon review of the plans submitted for the particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within 15 days of decision.

- H. Manufactured home is defined as a factory built to the HUD Title 6 Construction Code. Constructed on a permanent chassis and transported to site in one or more sections.
 - I. Mobile home is defined as a factory built home on a chassis transported to a site in one or more sections that:
 - 1) built before June 15th, 1976;
 - 2) not built to a uniform construction code; and
 - 3) mobile home does not include a recreational vehicle (Act 419, Michigan P.A. of 1976).
 - J. Modular home is defined as a structure which meets the requirements of the B.O.C.A. building and construction code, and which is transported in one (1) or more sections on a removable chassis, and is designed to be used on a permanent foundation, when connected to the required utilities, such as plumbing, heating, and electrical systems. Pursuant to B.O.C.A. the characteristics of modular are:
 - 1) a pitched roof of heavy truss construction able to support a “deadweight” of at least ten (10) pounds, and having roof shingling of five (5) inch exposure;
 - 2) a heavy deck flooring of wood on two (2) by eight (8) floor joist;
 - 3) a drain ventilation size of three (3) inches in diameter extending twelve (12) inches above the roof; and
 - 4) establishment on a foundation as approved by the building code.
13. **ERECTED.** Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises required for the construction. Excavation, fill, drainage, and the like, shall be considered a part of erection.
14. **FAMILY.** (Relative) Immediate: “Relative” means an individual related by consanguinity of the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree of consanguinity.
- In order to compute degrees of consanguinity by the civil law for purpose of inheritance is to begin at either of persons claiming relationship and count up to common ancestor, and then downwards to other persons, in the lineal course, calling it a degree for each person, both ascending and descending, and degrees they stand from each other is degree in which they are related.
15. **FLOOR AREA.** The sum of the gross horizontal areas of the several floors of all buildings on the lot, measured from the exterior faces of exterior walls or from the center line of walls separating the buildings, including any area when used for residential, commercial, or industrial purposes, but not including a basement or portion of the basement used for storage or housing of mechanical or central heating or air conditioning equipment, unfinished attics, garages, outside balconies, open porches, or any floor area within a building which is used for off-street parking.

16. **GROUND FLOOR AREA.** The square foot area of a residential building within its largest outside dimensions computed on a horizontal plane at the ground level, exclusive of open porches, breezeways, terraces, garages, and exterior and interior stairways.
17. **HOME OCCUPATION.** A gainful occupation or profession customarily carried on by an occupant of a dwelling unit as a use which is clearly incidental to the use of a dwelling unit for residential purposes. The building or occupation shall be carried on wholly within the principal building or within the building accessory thereto, and only by members of the family occupying the premises. No article shall be sold or offered for sale on the premises except such as is produced by the occupation on the premises and no mechanical or electrical equipment shall be installed or maintained other than such as is customarily incidental to domestic use. No exterior storage of materials, no other exterior indication of the home occupation or variation from the residential character of the principal building, and no offensive noise, vibration, smoke, dust, odor, heat, or glare shall be produced.
18. **HOTEL & MOTEL.** A building in which more than five (5) rooms or suites are reserved to provide living and sleeping accommodations for temporary guests with no provision in the said rooms for cooking facilities.
19. **JUNK YARD.** An open area where waste, used, or secondhand materials are bought and sold, exchanged, stored, baled, packed or disassembled, or handled. Junk shall include, but not be limited to, rubbish, scrap iron, and other metals, paper, rags, rubber tires, and bottles. A junk yard includes vehicle wrecking yards of any size for storage, keeping, or abandonment of junk, but does not include uses established entirely within enclosed buildings.
20. **KENNEL.** Any lot or premises on which three (3) dogs, cats or other household domestic animals at least three (3) months of age are kept.
21. **LOADING SPACE, OFF STREET.** Space logically and conveniently located for both pick-ups and deliveries, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.
22. **LOT.** The word "lot", when used alone, shall mean a "zoning lot" unless the context of this Ordinance clearly indicates otherwise.
23. **LOT, CORNER.** A lot at the junction of two (2) or more streets.
24. Reserved.
25. **LOT LINE, FRONT.** That portion of a lot which abuts a street (or right-of-way of an approved private street or access easement); in the case of an interior lot, a line separating the lot from the street; and in the case of a corner lot a line separating the deeded legal description specifies another line as the front line.

26. **LOT LINE, REAR.** The rear lot line or lot lines most nearly parallel to and most remote from the front lot line.
27. **LOT LINE, SIDE.** The lot line other than front or rear lot line.
28. **LOT, WIDTH.** The horizontal distance between the side lot lines measured at right angles to the lot depth at the established front building line.
29. **MOBILE OR MANUFACTURED HOME PARK.** A parcel of land on which two (2) or more manufactured or mobile homes are occupied as residences.
30. **NONCONFORMING LOT.** A lot of record which does not conform to the lot area or lot width regulations of this Ordinance.
31. **NONCONFORMING USE.** Any building or land lawfully occupied by a use which, at the time of the passing of this Ordinance or an amendment thereto, does not conform to the district regulations in which it is situated.
32. **NURSERY SCHOOL.** A facility which is used by a person licensed by state or local government to provide care and maintenance of children (other than his or her own family and the children of close relatives) during a portion of the day for two (2) or more consecutive weeks.
33. **OFFICIAL ZONING MAP.** The official map(s) showing the location and boundaries established in this Ordinance. The Official Zoning Map, together with all the explanatory matter thereon and all amendments thereto, is adopted by reference and is part of this Ordinance.
34. **ORDINANCE.** The Zoning Ordinance of the Village of Marcellus.
35. **PLANNING COMMISSION.** The Planning Commission of the Village of Marcellus.
36. **RECREATIONAL VEHICLE.** Includes boats, motor homes, snowmobiles, travel trailers, and other similar items designed and intended specifically for temporary living such as travel, camping, and vacationing, whether self-propelled or towed.
37. Reserved.
38. **SETBACK.** The minimum required distance between the right-of-way and the building line.
39. **SIGN.** A sign is defined as an outdoor advertisement or an inside window advertisement directed towards the outside or any outdoor advertisement, display, device, figure, statue, painting, drawing, written or projected message, placard or similar device intended or used to advertise, inform, or direct attention to an object, product, place, activity, person, institution, organization, business, or industry. Specific types are defined as follows:

- a. Advertising sign: a structure, symbol, display, device, figure, statue, painting, drawing, written or projected message or similar device located outdoors or inside a window directed to the outdoors for the purpose of advertising services or products which are produced, assembled, stored, distributed, leased, sold or serviced upon or from the premises upon which the same is located.
- b. Bulletin board sign: A form of “advertising sign” or “institution sign” consisting of a stationary structure used to display information which may be frequently changed in content, typically based on the time of upcoming events or happenings.
- c. Billboard sign: A large-scale advertising sign for a business or event that is located off-site from the permanent billboard location, which advertising may be changed in content by the physical placement of a new sign face over an existing sign face while retaining the same structural supports.
- d. Community event poster sign: A temporary sign advertising a special community event open to the general public sponsored by a public, municipal or non-profit organization.
- e. Development sign: A sign of not more than 32 (thirty two) square feet in area and temporarily mounted not more than 2 (two) feet higher than the normal grade of the ground located on the site of a construction project while the project is under active construction identifying the name of the project and developers, contractors, engineers, architects, brokers and/or financial or governmental institutions involved.
- f. Directional and Parking sign: A structure or symbol of not more than 32 (thirty two) square feet in area and mounted not more than 4 (four) feet higher than the normal grade of the ground and containing no advertising text which only designates an entrance, exit, parking area or direction.
- g. Election sign: A sign promoting or opposing candidates or propositions at any general, primary, special, state, school or local public election.
- h. Garage, yard, basement and multiple household goods sale signs: A sign which identifies a private, personal sale of surplus household goods of an owner at a residential location by the owner or occupant of the residence and, if desired, by neighbors, which sale complies with the provisions of the Village of Marcellus Zoning Ordinance.
- i. Ground pole sign: A sign structure that is not a billboard sign which is supported by one or more uprights or poles placed in

or upon the ground surface and not attached to a building. A ground pole sign is located on the property for which the sign advertises.

- j. Human sign: A human sign is a sign carried or displayed by a person, a person wearing clothing containing an advertising message, or a person wearing a costume for advertising purposes.
- k. Identification sign: A sign exclusively designed to identify the name of the owner or occupant and/or address or other similar identification of the premises on which the same is located provided no advertising is included. The foregoing shall not include a franchise or chain-operated business name or logo.
- l. Institution sign: A sign used to identify an institution or organization established for the benefit or use of a public body. For purposes of this definition, this shall be deemed to include, but is not limited to, schools, hospitals for treatment of humans only, churches, libraries, golf courses, cemeteries, fire stations, parks, municipal buildings; or charitable institution.
- m. Nit: A nit is a unit of visible light intensity or luminance commonly used to specify the brightness of digital displays and LCD boards and monitors. One nit is equivalent to one candela per square meter.
- n. Portable sign: A sign which is designed to be moved from one location to another. A portable sign shall be subject to the same requirements and limitations as to size, location, permits and permit fees as are herein provided for permanent outdoor signs and billboards.
- o. Projecting sign: A sign which is affixed to any building or structure including a marquee and which projects in such a way that the message is not parallel to the wall to which it is attached.
- p. Real estate sign: A temporary sign of not more than 32 (thirty two) square feet in area which advertises the sale, rental or lease of properties on which it is located and includes the name, location and/or telephone number of the business office of the owner, agent or agency involved and which is removed immediately upon the confirmation of the sale, rental or lease.
- q. Window sign: An inside window advertisement directed to the outdoors or an outdoor advertisement, display, device, figure, statue, painting, drawing, written or projected message, placard or similar device intended or used to advertise, inform or direct attention to an object, product, place, activity, person, institution, organization, business or industry.

- r. Sign structure: The assembled components which make up an outdoor sign display, including but not limited to uprights, supports, facings and trim.
 - s. Temporary sign: A sign, poster, banner, structure or symbol designed and intended for limited advertising, promotional information or identification purposes.
 - t. Wall sign: A sign which is attached to or painted upon a building wall or other structure having a different primary purpose than a sign (such as a fence, awning, water tower or storage tank) and which does not project more than 18 (eighteen) inches therefrom. The exposed face of the sign must be in a plane parallel to the wall or structure and the sign must not extend above the height of the wall or structure.
40. **SIGN AREA**: The sign area is the surface of the structure used to convey the message exclusive of necessary supports or any appurtenances required by the Building Code. The area of open sign structures consisting of letters or symbols without a solid surface in between shall be calculated as the basis of the total area within the perimeter of the group of letters and/or symbols. The area of a double-faced sign which is constructed back to back as a single unit shall be calculated according to the surface area of one side only.
41. **SPECIAL LAND USE**. A special land use is a use that would not be appropriate without restrictions throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, order, comfort, convenience, appearance, prosperity or general welfare.
42. **STORY**. That portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling next above it shall be the story.
43. **STORY, HALF**. That portion of a building under a sloping gable, hip, or gambrel roof, the wall plates on at least two (2) opposite exterior walls which are not more than three (3) feet above floor level of such half story.
44. **STREET**. A public thoroughfare between property lines, which affords principal means of vehicular access to abutting property.
45. **STRUCTURE**. Anything constructed or erected which requires location on the ground or is attached to something having location on the ground.
46. **VARIANCE**. A variation of the lot size or width requirements, yard requirements, height restrictions, sign regulations, parking and loading requirements, or other development standards from those set forth in the Zoning Ordinance, granted by the Board of Zoning Appeals in accordance with the provisions of this Ordinance where strict enforcement of the terms of the Ordinance would create practical difficulty, owing to the unique characteristics of the property for which the variance is sought. Under no

circumstances shall a variance to the use of any property within the Village be heard or granted by the Village Zoning Board of Appeals.

47. **VISION CLEARANCE.** An area unobstructed by structures or vegetation for sight clearance at intersections, such area to be within two (2) feet and six (6) feet in height.
48. **YARDS.** The area of each lot in which no building or structures shall be erected. The size of such area is determined by the distance from the property lines to the building lines.
 - A. **FRONT.** The minimum required open space extending the full width of the lot from the property line to the building line. The main entrance to the building shall face the front door.
 - B. **SIDE.** The minimum required open space extending from the side lot line to the nearest point of the main building and extending from the front building line to the rear building line.
 - C. **REAR.** The minimum required open space extending the full width of the lot from the rear lot line to the nearest point on the main building line.
49. **ZONE.** Same as district.
50. **ZONING ADMINISTRATOR.** The designated administrator and enforcement official of this Ordinance.
51. **ZONING BOARD OF APPEALS.** The Zoning Board of Appeals of the Village of Marcellus.
52. **ZONING LOT.** A tract of land designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. A zoning lot may or may not coincide with a lot of record.

**ARTICLE 3.
GENERAL PROVISIONS—SPECIFICATIONS**

SECTION 3.01 CONFORMANCE OF USE

No building or land shall be used and no building shall be erected, reconstructed, or structurally altered, which is arraigned, intended, or designed to be used for any purpose other than a use which is permitted and specified in the district in which such building or land is located.

SECTION 3.02 CONFORMANCE OF HEIGHT

No building shall be erected, reconstructed, or structurally altered to exceed in height the limits established and specified for the use and the district in which such building is located.

SECTION 3.03 CONFORMANCE OF AREA AND BUILDING SIZE

No building shall be erected, reconstructed, or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, lot size, living area, of residential buildings, or lot coverage regulations established and specified for the use and the district in which such building is located.

SECTION 3.04 LOCATIONS OF BUILDINGS

Except as otherwise provided for in this Ordinance, every building shall be constructed or erected upon a lot, or parcel of land as required in the zoning district of which the lot or parcel of land zoned.

SECTION 3.05 BUILDINGS UNDER CONSTRUCTION

Nothing in this Ordinance shall be deemed to require any change in the plans, construction, or designated use of any building upon which actual construction was lawfully begun prior to the adoption of this Ordinance and upon which building actual construction has been diligently carried on, and provided further, that such building shall be completed within one (1) year from the date of passage and publication of this Ordinance.

SECTION 3.06 BUILDINGS ON A ZONING LOT

Every building hereafter erected or structurally altered to provide dwelling units shall be located on a zoning lot and shall follow the setbacks established in the zoning district for which the lot is zoned.

SECTION 3.07 VEHICLE PARKING

Every building hereafter erected shall provide off-street parking spaces for motor vehicles, and loading and unloading berths as specified hereinafter for the use to which such building is to be devoted.

ARTICLE 4.
NONCONFORMING LOTS, STRUCTURES, AND USES

SECTION 4.01 NONCONFORMING LOTS

- A. When two (2) or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one (1) zoning lot for each use, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

- B. Any single lot, parcel of land or platted lot, held in one (1) ownership, which of record at the time of the adoption of this Ordinance, that does not meet the requirements for minimum lot width and area, may be utilized for a one-family or two –family dwelling when permitted, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Appeals.

SECTION 4.02

A. NONCONFORMING STRUCTURE AND USE – RESIDENTIAL

Any nonconforming residential structure or use, which existed lawfully at the time of the adoption of this Ordinance or any subsequent amendment thereto, may be continued in accordance with the regulations of this section.

1. All nonconforming residential structures and uses may be altered, moved, or enlarged only if such change is in accordance with the setback, height, and yard requirements of this Ordinance for the zoning district in which the use is permitted. Ordinary repairs may also be made to a nonconforming residential structure.

2. Should any nonconforming residential use or structure be destroyed by any means to an extent of less than fifty (50) percent of its replacement cost at the time of destruction, it may be reconstructed and repaired. If such damage is more than fifty (50) percent of the cost of replacement at the time of destruction, or if the structure or use is removed, replacement shall be undertaken within two (2) years from the date of destruction and diligently prosecuted to completion or such use shall lose its status as a legal nonconforming use and the nonconforming use and the nonconforming structure shall be removed from the premises.

3. A nonconforming residential use may continue, but shall not be changed to any other use than a permitted use. Additional dwelling units shall not be added to a nonconforming multi-family use.

B. NONCONFORMING STRUCTURE AND USE –COMMERCIAL AND INDUSTRIAL

Any nonconforming commercial or industrial structure or use, which existed lawfully at the time of adoption of this Ordinance or any subsequent amendment thereto, may be continued in accordance with the regulations of this section.

1. All nonconforming commercial and industrial structures may be altered, moved or enlarged only if such change is in conformance with the setback, height, and yard requirements of this Ordinance for the zoning district in which the use is located. A nonconforming commercial or industrial use, however, may not extend to occupy any land outside the building or site presently used. Ordinary repairs may be made to a nonconforming commercial or industrial use or structure.

2. Should any nonconforming commercial structure be destroyed by a non-voluntary act, which does not include lack of maintenance, to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall only be reconstructed in the conformity with the setback, height, and yard requirements of this Ordinance for the zoning district in which it is located. A damaged structure must be removed within 30 (thirty) days. If such damage is less than fifty (50) percent of the cost of replacement at the time of destruction, the damaged structure must be removed within 30 (thirty) days, and replacement shall be undertaken within one (1) year from the date of destruction and replaced in its exact footprint.

3. When a nonconforming commercial or industrial use is abandoned for a period of six (6) months or more, the use shall lose its status as a legal nonconforming use. Substitutions of another nonconforming use shall constitute abandonment. A discontinuance occurring seasonally, for necessary repairs, or as a result of any act of government, shall not be considered abandonment.

ARTICLE 5. ADMINISTRATION

SECTION 5.01 PURPOSE

It is the purpose of this article to provide the procedures for the administration of the Ordinance, issuance of permits, inspection of properties, collection of fees, handling of violators, and enforcement of the provisions of the Ordinance and amendments thereto.

SECTION 5.02 ADMINISTRATION

The provisions of this Ordinance shall be administered by the Planning Commission and the Village Council of the Village of Marcellus in accordance with Act 33 of 2008, the Michigan Planning Enabling Act.

The Village Planning Commission may appoint a Zoning Administrator in order to effect proper administration of this Ordinance. The terms of employment, and the rate of compensation shall be established by the Village Council. In the absence of the Zoning Administrator, the Village Clerk or other Village Officer as designated by the Village Council shall act with the powers and duties vested in the Zoning Administrator in this Ordinance.

SECTION 5.03 DUTIES OF A ZONING ADMINISTRATOR

- A. Review all applications for zoning permits and approve or disapprove such applications based on compliance with the provisions of this Ordinance.

- B. Review all applications for special land use or conditional rezone permits; conduct field inspections, surveys, and investigations, prepare maps, charts, and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations; notify the applicant, in writing of any decision of the Zoning Administrator, Zoning Board of Appeals, Planning Commission or the Village Council.

- C. Receive all applications for appeals, variances, or other matters which the Zoning Board of Appeals is required to decide under this Ordinance; conduct field inspections, surveys, and investigations, prepare maps, charts, and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations to the Zoning Board of Appeals for determination.

- D. Review all applications for amendments to this Ordinance, conduct field inspections, surveys, and investigations, prepare maps, charts, and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations; report to the Planning Commission all such applications together with recommendations.

- E. The Zoning Administrator shall be responsible for the update of the Official Zoning Map and keep it current.

F. Be responsible for providing forms necessary for the various applications as required by this Ordinance and shall be responsible for what information is necessary on such forms for the effective administration of this Ordinance, subject to the general policies of the Village Council, Planning Commission, and Zoning Board of Appeals.

G. The Zoning Administrator is authorized to enforce this Ordinance and to investigate violations. The police department of the Village of Marcellus is authorized to enforce the provisions of this Ordinance in accordance with the general law enforcement powers under the statutes of the State of Michigan.

SECTION 5.04 BUILDING PERMIT

A. **BUILDING PERMIT REQUIREMENTS:** A building permit is required for and shall be obtained after effective date of this Ordinance from the Office of the Building Inspector or his agent by the owner or his agent for the following conditions:

1. The construction, enlargement, alteration, or moving of any dwelling, building, or structure or any part thereof.
2. A Zoning Permit (plot plan, site plan, etc.) is required prior to obtaining a building permit.

B. **APPLICATION FOR A BUILDING PERMIT:** Application for a building permit shall be made in writing upon a form furnished by the Building Inspector and shall state the name and address of the owner of the building and the owner of the land upon which it is to be erected, enlarged, altered, or moved. There shall be submitted with all applications for building permits two (2) copies of a site layout or plot plan showing:

1. The location, shape, area, and dimensions for the lot, lots, or acreage.
2. The location of the proposed construction upon the lot, lots, or acreage affected.
3. The dimensions, height, and bulk of structures.
4. The nature of the proposed construction, alteration, or repair, and the intended use.
5. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other uses.
6. The present use of any structure affected by the construction or alteration.
7. The yard open area and parking space dimensions, if applicable.
8. The proposed design and construction standards of parking spaces, if applicable.
9. The number of loading and unloading spaces provided, if applicable.
10. Any other information deemed necessary by the Building Inspector to determine and provide for the enforcement of this Ordinance.

If the information shown on the site layout is in compliance with the above requirements and all other provisions of this Ordinance, the Building Inspector shall issue a building permit upon payment of the required building permit fee.

C. **VOIDING OF PERMIT:** Reserved.

- D. **FEES, CHARGES, AND EXPENSES:** The Village Council may establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, building permits, appeals, and others matters pertaining to the Ordinance. The schedule of fees shall be posted in the Village Office and Office of the Building Inspectors and may be altered or amended only by the Village Council. No permit, certificate, conditional use or variance shall be issued until such costs, charges, fees, or expenses listed in this Ordinance have the Board of Appeals, until preliminary charges and fees have been paid in full.
- E. **INSPECTION:** The construction or usage affected by any building permit shall be subject to the following inspections:
1. At time of staking out of building foundation.
 2. Upon completion of the footings and before erection of foundation walls.
 3. Upon completion of the frame, pipes, wiring, chimneys, and vents.
 4. Upon completion of the work authorized by the permit.

It shall be the duty of the holder of every permit to notify the Building Inspector when the construction is ready for inspection. Upon receipt of such notification for the first inspection, the Building Inspector shall determine whether the location of the proposed building, as indicated by the corner stakes, is in accordance with yard setbacks and other requirements of the Ordinance. The Building Inspector shall issue his written approval at the time of inspection, if the building or the proposed construction meets the requirements of this Ordinance. Should the Building Inspector determine that the building or structure is not located according to the site plans filed, or is in violation of any provision of this Ordinance, or any other applicable law, he shall notify the holder of the permit or his agent. Further construction shall be stayed until correction of the defects set forth have been accomplished and approved by the Building Inspector upon notice and request for re-inspection duly made.

Should a building permit holder fail to comply with the requirements of the Building Inspector at any inspection stage, the Building Inspector shall make a report in writing of such failure to the Village Clerk. The Building Inspector shall cause notice of such permit cancellation to be securely and conspicuously posted upon or affixed to the construction not conforming to the Ordinance Requirements and such posting shall be considered as service upon and notice to the permit holder of cancellation undertaken or permitted until such time as the requirements of this Ordinance has been met. Failure of the permit holder to make proper notification of the time for inspection shall automatically cancel the permit, requiring issuance of a new permit before construction may proceed.

SECTION 5.05 VIOLATIONS:

Any person who violated, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance. Any person responsible

for a violation of this Ordinance whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

Any building or structure, including tents and mobile homes, which is erected, constructed, reconstructed, altered, converted, maintained, or used, or any use of land or premise which is begun, maintained or changed in violation of any provision of this Ordinance, is hereby declared to be a nuisance per se.

Nuisance Per Se. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, continued, or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se subject to abatement pursuant to MCL 125.3407 and as otherwise provided by law.

SECTION 5.06 PENALTIES

Municipal Civil Infraction. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
-1 st Offense	\$ 75.00	\$500.00
-2 nd Offense	\$150.00	\$500.00
-3 rd Offense	\$325.00	\$500.00
-4 th or More Offense	\$500.00	\$500.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Village of Marcellus has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 be ordered.

Remedial Action. Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and enforce the provisions thereof.

ARTICLE 6.
ZONING BOARD OF APPEALS

SECTION 6.01 PURPOSE

It is the purpose of this article to provide a means to alleviate undue hardship which may, in certain instances, be caused by the strict and literal interpretation and enforcement of the provisions of this Ordinance.

SECTION 6.02 BOARD OF APPEALS ESTABLISHED

There is hereby established a Board of Appeals, which shall perform its duties and exercise its powers as provided by Section 5, Act 207 of the Public Acts of 1921 as amended, in such a way that the objectives of this Ordinance shall be enforced, the public health and safety secured, and substantial justice done.

SECTION 6.03 APPOINTMENTS

The Village Council shall act as a board of appeals upon questions arising under the Zoning Ordinance.

The Village Council may, if it so desires, appoint a Zoning Board of Appeals consisting of five (5) members, each to be appointed for three (3) years; provided that appointments for the first years shall be as follows:

Two (2) members for one (1) year, two (2) members and one (1) member for three (3) years; thereafter all members will be appointed for three (3) years. In addition there to the Village Council shall appoint two (2) alternate members to the Board of Appeals, each to be appointed for three (3) years. The Alternate shall be called on a rotating basis should a member of the Board of Appeals be absent. An alternate may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate shall have the same voting rights as a regular member of the Board of Appeals.

SECTION 6.04 POWERS AND DUTIES

The Board of Appeals shall have powers to interpret the provisions of this Ordinance and to grant variances from the strict application of any provisions of this Ordinance.

The Board of Appeals, upon being established and organized, shall adopt rules governing its proceedings which shall be made available to applicants for appeal and to other members of the general public upon request. The Zoning Board of Appeals shall have the powers and duties authorized by the Michigan Zoning Enabling Act, Act 110 of 2006, as amended including the ability to interpret the provisions of this ordinance, to hear and decide appeals from the decision of the zoning administrator and the hearing of requests for variances.

SECTION 6.05 VARIANCE

A variance from the terms of this Ordinance shall not be granted by the Board of Appeals unless and until:

- A. A written application for a variance is submitted, demonstrating:
 - 1. That special conditions and circumstances exist which are peculiar to the land, structure, or buildings involved and which are not applicable to other lands, structures, or buildings in the same district.
 - 2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
 - 3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
 - 4. That no nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- B. The Board of Appeals shall make findings that the requirements of the Ordinance have been met by the applicant of a variance.
- C. The Board of Appeals shall further make a finding of facts that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.
- D. The Board of Appeals shall further make a finding granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- E. 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, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance, and punishable under Section 5.06 of this Ordinance.
- F. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in said district.

SECTION 6.06 VOIDING OF AND REAPPLICATION FOR VARIANCE

The following provisions shall apply:

- A. Each variance granted under the provisions of this Ordinance shall become null and void unless construction authorized by such variance or permit has been commenced within one year after granting of such variance and pursued diligently to completion.
- B. 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 three hundred sixty-five (365) days from such denial, except on grounds of new evidence or proof of changed conditions found by the Zoning Administrator to be valid.

SECTION 6.07 PROCEDURE FOR APPEALING TO THE BOARD OF APPEALS

The following provisions shall apply:

- A. **APPEALS, HOW TAKEN.** Appeals from the ruling of the Zoning Administrator may be made to the Board of Appeals in the following manner:
 - 1. The person, firm, or agent thereof making the appeal shall file in writing to the Zoning Administrator a completed Zoning Board of Appeals application and fees.

2. The Zoning Administrator submits the written appeal, along with all papers constituting the record from which the action was taken, to the Board of Appeals.
- B. **WHO MAY APPEAL.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board, agency, or bureau of the Village, Township, or State.
 - C. **FEE FOR APPEAL.** A fee as prescribed by the Village Council, no part of which shall be returnable, shall be submitted to the Zoning Administrator at the time of filing the Zoning Board of Appeals application. The appeals fee shall immediately be placed in the Village General Fund.
 - D. **EFFECT OF APPEAL, RESTRAINING ORDER.** An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.
 - E. **HEARING BY THE BOARD OF APPEALS, REQUEST, NOTICE, HEARING.**
When a request for appeals has been filed in proper form with the Zoning Administrator or appointed person, shall place the said request for appeal upon the calendar for hearing. The Village of Marcellus shall publish notice of the appeal in a newspaper of general circulation within the Village not less than 15 (fifteen) days before the date for the hearing on appeal. Notice shall also be sent by mail or personal delivery to the owners of property for which the appeal is being considered not less than 15 (fifteen) days before the date for the hearing on appeal. Notice shall also be mailed or personally delivered to all persons to whom real property is assessed within 300 (three hundred) feet of the property and to the occupants of all structures within 300 (three hundred) feet of the property regardless of whether the property or occupant is located within the Village of Marcellus. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall conform to the provisions of the ZEA, being PA 110 of 2006, as amended.
 - F. **REPRESENTATION AT HEARING.** Any party or parties shall appear in person, by agent, or by attorney at the hearing.
 - G. **DECISIONS OF THE BOARD OF APPEALS TO THE CIRCUIT COURT.** The Board of Appeals shall decide upon all appeals within a reasonable time and reverse or affirm wholly or partly, or may modify the order requirement, decision, or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken. The Board of Appeals' decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Board of Appeals in each particular case and the signatures of each member of the Board of Appeals affixed thereon. Any persons having an interest affected by such resolution shall have the right to appeal to the Circuit Court on question of law and fact.

ARTICLE 7.
RESERVED

ARTICLE 8. AMENDMENTS

SECTION 8.01 INITIATING AMENDMENTS AND FEES

The Village Council may from time to time, amend, modify, supplement or revise the district boundaries or the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such amendment. Said amendment may be initiated by resolution of the Village Council, the Planning Commission, Zoning Administrator, or by petition of one or more owners of property to be affected by the proposed amendment. Except for the requesting an amendment shall at the time of application pay a fee prescribed by the Village Council, no part of which shall be returnable to the petitioner.

Any proposed change to the zone may, or Zoning Ordinance shall be presented on an application from approved by the Commission and shall be submitted to the Zoning Administrator to present to the Planning Commission for consideration and recommendation. If such application is made by a person other than the owner or a member of the Planning Commission, Village Council, or Zoning Administrator it shall be accompanied by a duly verified statement by the owner that the person making the application is authorized to make such application.

SECTION 8.02 MINIMUM REQUIREMENTS OF PETITION

All amendment petitions, other than those originating from the Planning Commission, shall consist of at least the following:

- A. Name, address, signature, and telephone number of the petitioner, owner, and any person(s) holding options on the purchase of the property for intended use.
- B. Legal description and common address of the property being considered.
- C. Identification of the proposed amendment and identification of any intended use of property, with building square footage and height listed.
- D. Current zoning of property being considered.
- E. Required number of parking spaces for the identified use, and number of spaces provided.
- F. A site plan drawn to scale or with sufficient dimensions labeled to determine size for all rezoning for other than single-family or two-family residences showing at least the following: property lines, surrounding streets and alleys, surrounding land uses, location of all existing and proposed buildings, location of parking and drive areas, building and parking setbacks, utilities, and any landscaped or buffer areas.

SECTION 8.03 AMENDMENT PROCEDURE

The Marcellus Zoning Ordinance may be amended upon request from a Village property owner or upon initiation by the Village Council, Planning Commission, or Zoning Administrator. The following procedures will be followed in receiving, reviewing, and approving amendments for changing the Zoning Ordinance.

- A. The applicant should submit to the Zoning Administrator an application for zoning amendment together with the required application fee and the following documentation:
 - 1. Evidence that the applicant has interest in the property proposed to be rezoned.

2. Legal description of the property proposed to be rezoned.
 3. Description of proposed use or uses, including access roadways and proposed off-street parking.
 4. Description of sewage disposal and water supply facilities and proposed surface drainage.
- B. The Zoning Administrator will review the rezoning application to insure that the application is in order and all required documentation is included.
 - C. The Zoning Administrator will transmit the application and fees for rezoning to the Village Planning Commission.
 - D. The Planning Commission will receive the rezoning application and conduct a background study to determine:
 1. If the proposed rezoning is compatible with the goals and objectives of the Land Use Plan.
 2. Impact of the proposed use on surrounding properties and development.
 3. The effect on public facilities and services.
 4. The relationship of the proposed project to the intent of the Zoning Ordinance.
 - E. The Planning Commission will establish a date for a public hearing on the proposed zoning amendment at its next regular meeting allowing for the requirements of notification. The Planning Commission Secretary will provide the Zoning Administrator all required material for publication and notification.
 - F. The Zoning Administrator will publish a notice of the public hearing in the Marcellus Newspaper. The notice must be printed not less than fifteen (15) days before the hearing.
 - G. The Zoning Administrator shall notify by mail, not less than fifteen (15) days prior to the public hearing, each electric, gas pipeline, telephone utility, and railroad company operating within the district or zone affected, that registers its name and mailing address with the Village for the purpose of receiving a notice. An affidavit of mailing shall be maintained. The notices shall include the places and times at which the tentative text and any maps of the Zoning Ordinance may be examined.
 - H. The Planning Commission will hold a public hearing on the requested rezoning. The hearing should represent an opportunity for all involved to present and rebut information concerning a rezoning request.
 - I. The Planning Commission will complete its background study on the rezoning request and address the concerns raised at the public hearing.
 - J. The Planning Commission will transmit the rezoning request together with its recommendation to the Village Council for final action. The transmittal to the Village Council will include a record of the comments received at the public hearing, background material developed by the Planning Commission on the rezoning request, and the findings of facts which support the Planning Commission's recommendations.
 - K. The Village Council may adopt or reject the proposed amendment to the Zoning Ordinance, provided that:
 1. If the Council decides to make a change in the proposed amendment, it must refer the amendment back to the Planning Commission for recommendation.
 - L. If the Village Council holds additional public hearings, notice shall be published in a local newspaper not less than fifteen (15) days before the hearing.
 - M. After completing its study and review, the Village Council may approve, reject, or approve with changes the proposed rezoning amendment. If the Village Council approves the rezoning amendment with changes, the proposed amendment with changes will be referred back to the Planning Commission for further study and recommendations.

SECTION 8.04 EFFECT OF ANNEXATIONS

On and after the effective date of this Ordinance, all parcels of land annexed to the Village of Marcellus shall be zoned as approved by the Village Council following the appropriate hearings, to be effective with the effective date of the annexation. The petitioner or the Planning Commission may initiate an amendment to establish any other zoning classification for the property according to the regulations of this Title.

ARTICLE 9.
SPECIAL LAND USES AND CONDITIONAL REZONING

SECTION 9.01 PURPOSE

The formulation and enactment of this Zoning Ordinance is based upon the division of the Village into districts, each of which are permitted specified uses which are mutually compatible. In addition to such permitted compatible uses, however, it is recognized that there certain other uses which may be necessary or desirable in certain locations in certain districts but which, on account of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the Village. Such uses, on account of their particular location or need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

SECTION 9.02 AUTHORITY TO GRANT PERMITS

The Village Council, with recommendations from the Planning Commission, shall have the authority to grant special land use and conditional rezone permits, subject to such conditions of design and operation, safeguards, and time limitations as it may determine for all special land uses and conditional rezones specified in the various district provisions of this Ordinance.

SECTION 9.03 APPLICATION AND INFORMATION REQUIRED

Written application shall be made to the Zoning Administrator. The application shall include the following:

- A. Name, address, signature, and telephone number of the owner of the property, and name, address, signature, and telephone number of any person(s) holding options on the purchase of the property for the intended conditional use.
- B. Legal description and common address of the property being considered.
- C. Identification of the proposed special land use or conditional rezone and all accessory uses or structures, with square footage and height listed.
- D. Current Zoning of the property.
- E. Required number of parking spaces and number of spaces to be provided.
- F. A site plan drawn to scale or with sufficient dimensions labeled to determine size, showing at least the following: property lines, surrounding streets and alleys, surrounding land uses, location of all existing and proposed buildings, location of parking and drive areas, building and parking setbacks, utilities, and any landscaped or buffer areas.
- G. Contents of notice. The notice of the request for a special land use or conditional rezone shall include the follow:
 1. Describe the nature of the request.
 2. Identify the property which is the subject of the request by street address. If more than one property is to be considered for the special address. If more than one property is to be considered for the special land use or conditional rezone, the notice shall include a listing of all existing street addresses within the scope of consideration for a special land use or conditional rezone.

- a. The Village shall not be required to create a street address where one does not exist. If no street address is available, other means of identification may be used.
3. Indicate that a public hearing on the special land use or conditional rezone request may be requested by any property owner or the occupant of any structure located within 300 (three hundred) feet of the property being considered for a special land use or conditional rezone regardless of whether the property or occupant is located in the Village of Marcellus; and
4. Indicate when and where written comments will be received concerning the request.

SECTION 9.04 PUBLIC HEARING

A. A public hearing shall be conducted by the Village Planning Commission, notice of the date and time of the public hearing shall be published once in a newspaper of general circulation within the village not less than 15 (fifteen) days prior to said hearing. Notice of the date and time of the public hearing shall be mailed or personally delivered to the applicant, the property owner of the property for which the special land use or conditional rezone is being considered, to all owners of property within 300 (three hundred) feet of the property for which the special land use or conditional rezone is being considered and to the occupants of property within 300 (three hundred) feet, regardless of whether the 300-foot radius is within the Village of Marcellus.

SECTION 9.05 REQUIRED STANDARDS AND FINDING OF FACT FOR MAKING DETERMINATIONS

The Planning Commission shall review the particular circumstances and facts of each proposed use or rezone in terms of the following adequate data, information and evidence showing that such use on a proposed site, lot, or parcel:

- A. Will be harmonious with and in accordance with the general objectives, intent, and purposes of this Ordinance.
- B. Will be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
- C. Will be served adequately by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
- D. Will not be hazardous or disruptive to existing or future neighboring uses.
- E. Will not create excessive additional requirements at public cost for public facilities and services.
- F. Will comply with the Zoning District standards for the conditional use or conditional rezone.
- G. The Planning Commission may deny, approve, or approve with conditions a request for the special land use or conditional rezone approval.
- H. Following a public hearing a request for approval of a special land use or conditional rezone or activity shall be approved if the request is in compliance with the standards stated within this ordinance, the conditions imposed under this Zoning Ordinance, other applicable ordinances, and state and federal statutes.
- I. Following the public hearing the Planning Commission shall transmit its recommendation with respect to the special land use or conditional rezone to the Village Council, together with the record of proceedings at which the request was considered. The Village Council may, in its discretion hold another public hearing on the request, with notice provide as established in

Article IX, Sections 9.03 and 9.04 of this Ordinance. The Village Council may approve the special land use or conditional rezone; deny the special land use or conditional rezone; approve the special land use or conditional rezone; or refer the request to the Village Planning Commission for additional information.

- J. The Village Board of Zoning Appeals shall have no authority to hear appeals from the Village Planning action on a special land use or conditional rezone.

ARTICLE 10.

DISTRICTS AND ZONING MAPS

SECTION 10.01 DISTRICTS

The Village of Marcellus is hereby divided in order to carry out the purpose of this ordinance. The districts shall be known and designated throughout this Ordinance as follows:

Name of District	Designation hereafter
"R-1" Single Family Residential District.....	R-1
"R-2" Manufactured Home Park District.....	R-2
"R-3" Multiple Family Residential District.....	R-3
"R-C" Retail Commercial District.....	R-C
"S-C" Service Commercial district.....	S-C
"I" Industrial District.....	I

SECTION 10.02 ZONING MAPS

The Official Zoning Map is hereby declared to be part of this Ordinance. The Zoning Map shows the area included in the above districts, and all items shown on the Zoning Map are as much a part of this Ordinance as if they were fully described in the text of the Ordinance. If the official Zoning Map becomes damaged, destroyed, lost, or illegible, the Village Council may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Zoning Map. The Official Zoning Map shall be kept in the office of the Zoning Administrator for public inspection. Questions of map boundaries and map determinations shall be heard by the Zoning Board of Appeals.

All changes to the district boundaries, as shown on the Zoning Map, shall be made promptly after the effective date of such change with notes added describing the changes, initialed by the Zoning Administrator or President of the Planning Commission.

SECTION 10.03 DETERMINATION AND INTERPRETATION OF DISTRICT BOUNDARIES

In determining the boundaries of district, due and careful consideration has been given to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted, and the conservation of property values throughout the Village.

Where uncertainty exists as to the exact boundaries of any district as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as following railroad, street, alley, or lot lines, or approximately along such lines, the centerlines of these rights-of-way or exact lot line shall be construed to be the district boundaries.

- B. In un-subdivided areas, or where a district boundary subdivides a lot, the exact location of the boundary shall be determined by use of the scale of the Zoning Map.
- C. In the case of further uncertainty, the Board of Zoning Appeals shall interpret the intent of the Zoning Map as to the location of the boundary in question.

SECTION 10.04 ZONING OF STREETS, ALLEYS, PUBLIC WAYS, AND RAILROAD RIGHT-OF-WAY

All street, alleys, public ways, and railroad rights-of-way, if not otherwise specifically designated shall be deemed to be in the same use district as the property immediately abutting upon such alleys, streets, public ways, and railroad right-of-way. Where the center line of a street, alley, public way, or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line. These rules will apply to all streets, alleys, public ways, and railroad right-of-way that are vacated by the proper authority.

ARTICLE 11.
“R”-1 SINGLE FAMILY RESIDENTIAL DISTRICT

SECTION 11.01 INTENT OF DISTRICT

The purpose of creating residential districts is to provide areas primarily designed for residential use consisting of single family dwellings located on individual lots, parcels, or building sites, of adequate size, spaced to diminish spread of fire, and set back from the public thoroughfare to facilitate safe exit from and entrance to the premises.

The requirements are intended to protect and stabilize the basic qualities of each district, and to provide suitable and safe conditions for family living.

Residential structures in the “R-1” District should be designed to be compatible with existing structures in the neighborhood and have the following characteristics:

1. Be placed on a permanent perimeter foundation approved by the building official.
2. Dwelling unit shall comply in all respects to those standards and regulations for construction as imposed by the State Construction Code and any Federal or State standard or regulation in effect.
3. Manufactured homes must have wheels, axles, and hitch mechanisms removed.
4. Exteriors shall be compatible with others in the area.
5. Have a floor to ceiling height of not less than 7 feet 6 inches.
6. Meet appropriate utility connecting standards.

The general character of these residential districts is to consist of single family detached dwellings, set on large building lots. Nonresidential uses would be restricted in those community facilities which:

- A. May appropriately be located in residential areas to provide educational, religious, health, and other essential services for residents, or
- B. Can perform their activities more effectively in a general services uses, and
- C. Do not create significant objectionable influences in residential areas.

SECTION 11.02 PERMITTED USES

- A. Single family detached dwelling unit of not less than 1,000 (one thousand) square feet on the ground floor.
- B. Accessory use(s).
- C. Home occupation.

SECTION 11.03 SPECIAL LAND USES

- A. Country clubs or golf courses, provided that a minimum of twenty (20) acres be utilized.
- B. Privately owned recreation or community center.

- C. Nursery school or day nursery, non-boarding, on a lot no less than one-half (1/2) acre.
- D. Cemeteries on a lot no smaller than five (5) acres, and provided that all graves be located a minimum of seventy-five (75) feet from the right-of-way line of any street.
- E. Conversion of a single family dwelling to a multiple family dwelling containing no more than two (2) dwelling units of not less than six hundred (600) square feet each.
- F. Antique or specialty shops only in existing buildings provided the lot, parcel, or building site has frontage on Main Street and provided that no change is made in the exterior character of the building.
- G. Multi-family dwelling containing no more than four (4) dwelling units on a lot no less than one-half (1/2) acre in area.
- H. Public utility facilities, i.e., filtration plant, water reservoir or pumping station, heat or power plant, transformer station, and other similar facilities.
- I. Public park or public recreation facility.
- J. School, public or parochial, nursery through high school.
- K. Reserved.
- L. Church or temple.
- M. Professional offices of physicians, dentists, lawyers, architects, real estate brokers and other similar professional groups provided the lot, parcel, or building site has frontage along Main Street. Professional offices shall not include animal hospitals.
- N. Off-street parking facilities as required under Article 17.
- O. Signs as regulated in Article 18.

SECTION 11.04 DISTRICT REGULATIONS

- A. Minimum lot or parcel area: The minimum lot or parcel site shall be eight thousand five hundred (8,500) square feet.
- B. Minimum lot or parcel width: The minimum lot or parcel width shall be sixty-six (66) feet.
- C. Maximum height of buildings: The minimum height of buildings shall be thirty-five (35) feet and not over two and one half (2 ½) stories for principal buildings, eighteen (18) feet or one and one half (1 ½) stories for accessory buildings.
- D. Height of principal building may be increased to thirty-five (35) feet or 2 1/2 stories.
- E. 1. Front yards shall be twenty-five (25) feet for lots in a recorded subdivision. Front yards established in recorded subdivisions that are greater than twenty-five (25) feet shall be established as the minimum for those lots.
2. For lots not included in a recorded subdivision, a minimum front yard or corner side yard of fifty (50) feet shall be required from the center line of the right-of-way.
- F. Side yards shall be a minimum of six (6) feet on each side, except that on a corner lot the side yard facing the street shall not be less than fifteen (15) feet.
- G. Minimum ground floor area: one thousand (1,000) square feet.
- H. Maximum lot or parcel coverage: twenty five (25) percent.
- I. Minimum rear yard shall be thirty (30) feet.
- J. Vision clearance on a corner lot: ten (10) feet from the intersection of property lines.

ARTICLE 12.
"R-2" MANUFACTURED HOME PARK DISTRICT

SECTION 12.01 INTENT OF DISTRICT

It is the intent of this district to provide standards for the placement of mobile and manufactured homes that are not permitted within other zoning districts as described by this Ordinance.

SECTION 12.02 PERMITTED USES

- A. Single-family dwelling.
- B. Mobile homes.
- C. Manufactured homes.
- D. Home occupation.
- E. Accessory building.

SECTION 12.03 SPECIAL LAND USES

- A. Self-service laundry establishment.
 - 1. The following special land use may be located within a manufactured home park only if placed so as to be intended only for the use of the residents within the park and shall not present any visible evidence of its commercial nature to areas outside the park.
- B. Park or recreational facility, public or private.
- C. School, public or parochial.
- D. Off-street parking facilities as required herein.
- E. Signs as regulated in Article 18.

SECTION 12.04 ADDITIONAL INFORMATION REQUIRED BY PETITIONER

In addition to the requirements of Section 8.04, a petition for rezoning property to this zoning classification must include a site plan showing that the development standards of Section 12.05 will be met.

SECTION 12.05 DEVELOPMENT STANDARDS

- A. Standards and Requirements for Mobile Home Parks: Mobile home parks shall conform to the requirements as promulgated by the Michigan Mobile Home Park Commission Rules as amended.
- B. Site Plan Approval: For all permitted uses a site plan shall be submitted in accordance Article XIX, Section 19.13.
- C. Regulations and Standards: The minimum site size for a manufactured home park shall be 5 (five) acres with frontage along or having access to a major thoroughfare.

ARTICLE 13.
"R-3" MULTIPLE FAMILY RESIDENTIAL DISTRICT

SECTION 13.01 INTENT OF DISTRICT

It is the intent of this district to provide for the construction of new multiple family residential units in areas that will not create serious problems of compatibility with other kinds of adjacent land use. No areas shall be zoned to this district unless such land is located along a major collector street as defined by the Village Council, and is provided with an adequate public water supply and sanitary sewer facilities.

SECTION 13.02 PERMITTED USES

- A. Two family dwellings and accessory building.
- B. Multiple family dwellings and accessory building.
- C. Home occupation.

SECTION 13.03 SPECIAL LAND USES

- A. Public utility facilities, i.e., filtration plant, water reservoir or pumping station, heat or power plant, transformer station, and other similar facilities.
- B. Nursery school or day nursery, non-boarding, on a lot no less fifteen thousand (15,000) square feet.
- C. Public or private park or recreation facility.
- D. School, public or parochial, nursery through high school.
- E. Church or temple
- F. Nursing home or home for the aged or handicapped.
- G. Off-street parking facilities as required under Article 17.
- H. Signs as regulated in Article 18.
- I. Funeral home.
- J. Medical offices.

SECTION 13.04 DISTRICT REGULATIONS

- A. Minimum lot or parcel area: three thousand (3,000) square feet per unit.
- B. Minimum lot or parcel width: one hundred (100) feet.
- C. Maximum height of building: thirty-five (35) feet and not over two and one half (2-1/2) stories.
- D. Front yard shall be thirty (30) feet if the right-of-way is fifty (50) feet or more in width. Otherwise, the front yard shall be sixty (60) feet as measured from the center line of the right-of-way.
- E. Minimum ground floor area per residential building:
 - 1. One and two family dwellings shall contain a minimum of 1,000 (one thousand) square feet of floor area for each family exclusive of garages and basements;

2. Structures containing 3 (three) or more dwelling units shall contain a minimum of 850 (eight hundred fifty) square feet per dwelling unit exclusive of halls, stairways, basements, garages, or storage areas.
- F. Maximum lot or parcel coverage: thirty (30) percent.
 - G. Minimum rear yard shall be twenty five (25) feet.
 - H. Side yards shall be a minimum of twenty-five (25) feet on each side, except that on a corner lot the side yard facing the street shall not be less than thirty (30) feet if the right-of-way is fifty (50) feet or more in width and sixty (60) feet from the center line if the right-of-way is less than fifty (50) feet in width.
 - I. The minimum distance between any two (2) multiple family residence buildings on the same lot shall be (30) feet, except that where two (2) buildings are so situated that :
 1. Neither is visible from any window of entrance of the other or
 2. No line drawn perpendicular to any wall of either building intersects the other building, then the minimum distance between such buildings may be ten (10) feet less than indicated above.
 - J. Vision clearance on a corner lot: ten (10) feet from the intersection of property lines.

ARTICLE 14.
"R-C" RETAIL COMMERCIAL DISTRICT

SECTION 14.01 INTENT OF DISTRICT

It is the intent of this district to provide for the everyday shopping needs and related convenience of residential neighborhoods. All activities in this district would take place entirely within enclosed buildings.

SECTION 14.02 PERMITTED USES

- A. Retail stores and shops offering chiefly new merchandise, but not excluding antique shops, when conducted within a building having a roof and four (4) sides.
- B. Business and personal services including barber shops, beauty parlors, shoe repair shops, dry cleaning agencies, self-service laundries, printing shops, radio and television shops, real estate sales, insurance, and similar businesses and services.
- C. Professional offices, show rooms, banks, undertaking establishments, publically owned buildings, and fraternal, civic, and social organization buildings.
- D. Food service establishments, including drive-ins, taverns, or night clubs.
- E. Motels and hotels.
- F. Theaters, except drive-in theaters.
- G. Off-street parking facilities as required under Article 17.
- H. Signs as regulated in Article 18.
- I. Due to the established character of this area, which contains both residences and commercial uses, it is intended that any single-family residences existing at the time of adoption of this Ordinance may continue to be used as single-family dwelling and may be improved, enlarged and may be replaced if destroyed in any way. However, in order to accomplish the objective of providing a transition to phase out the residential aspect of this district, if a residential structure is converted and used at any time for a permitted commercial use, it may not later be reverted to a residential use.

Additionally, any use which complies with all site development standards for accessory structures in the Retail-Commercial District, such as height, area, setback, etc. and the following conditions may be operated, constructed, repaired, or replaced as an accessory use to such residential structures described above:

- 1. Is clearly incidental and customary to and commonly associated with the operation of the residential use.
- 2. Is operated and maintained under the same ownership and on the same lot or contiguous lot to the residential use.
- 3. Does not include structures or structural features inconsistent with the residential use.

4. Does not by itself include residential occupancy such that it would constitute a second residence on the property.

SECTION 14.03 SPECIAL LAND USES

- A. Public utility facilities, i.e., filtration plant, water reservoir, or pumping station, heat or power plant, transformer station, and other similar facilities.
- B. Outdoor advertising media (if abuts a U.S. or state trunkline it must be approved under the Michigan Highway Advertising Act), and signs not pertaining exclusively to the business conducted within the building on the premises.

SECTION 14.04 DISTRICT REGULATIONS

- A. Minimum lot size: Determined by minimum lot width, setbacks, and proposed building size.
- B. Minimum lot width: 66 (sixty six) feet.
- C. Maximum height of building: forty-five (45) feet and not over three (3) stories in height.
- D. Front yards shall be fifteen (15) feet if the right-of-way is fifty (50) feet or more in width. Otherwise, the front yard shall be forty-five (45) feet as measured from the center line of the right-of-way.
- E. Maximum lot coverage: sixty (60) percent.
- F. Minimum rear yard shall be ten (10) feet.
- G. A side yard, if provided, shall be ten (10) feet, except on a corner lot, the side yard facing the street shall be regulated as a front yard. A side yard of ten (10) feet shall be required when adjoining a lot in a residential district.
- H. Vision clearance on a corner lot: ten (10) feet from the intersection of property lines.

ARTICLE 15.
“S-C” SERVICE COMMERCIAL DISTRICT

SECTION 15.01 INTENT OF DISTRICT

It is the intent of this district to provide for automotive, service, and free-standing commercial activities which require limited comparison shopping. Customers usually arrive by automobile, making a separate stop for each errand. Uses permitted in this district usually require larger sites and buildings and often provide services which are not compatible with other commercial or residential districts.

SECTION 15.02 PERMITTED USES

- A. Automobile and other vehicle sales and service, new or used.
- B. Contractors—air conditioning, plumbing, heating, and ventilating, electric, or distribution.
- C. Milk distributing, (retail-wholesale). No processing.
- D. Packaging services.
- E. Light Fabrication, light manufacturing and assembly of consumer goods,
- F. Animal hospitals, animal boarding, or dog kennels.
- G. Rental equipment and sales of used merchandise.
- H. Farm equipment sales and service.
- I. Machine shops of not more than 10,000 square feet.
- J. Off-street parking facilities as required under Article 17.
- K. Signs as regulated in Article 18.
- L. Retail stores and shops offering chiefly new merchandise, but not excluding antique shops, when conducted within a building having a roof and four (4) sides.
- M. Business and personal services including barber shops, beauty parlors, shoe repair shops, dry cleaning agencies, self-service laundries, printing shops, radio and television shops, real estate sales, insurance, and similar businesses and services.
- N. Professional offices, show rooms, banks, undertaking establishments, publically owned buildings, and fraternal, civic, and social organization buildings.
- O. Food service establishments, including drive-ins, taverns, or night clubs.
- P. Motels and hotels.
- Q. Theaters, except drive-in theaters.
- R. Storage of products and goods excluding flammable or hazardous materials or chemicals.

SECTION 15.03 SPECIAL LAND USES

- A. Public utility facilities. i.e., filtration plant, water reservoir or pumping stations, heat or power plant, transformer station, and other similar facilities.
- B. Fabrication and assembly provided no noise or vibration is created outside the site.

- C. Outdoor advertising media (if abuts a U.S. or state trunkline it must be approved under the Michigan Highway Advertising Act), and signs not pertaining exclusively to the business conducted within the building on the premises.

SECTION 15.04 DISTRICT REGULATIONS

- A. Minimum Building Site or Parcel Area: 2 (two) acres.
- B. Minimum Building Site or Parcel Width: The minimum building site or parcel width shall be 100 (one hundred) feet along a public street.
- C. Maximum height of building: forty-five (45) feet and not over three (3) stories in height.
- D. Front yards shall be fifteen (15) feet if the right-of-way is fifty (50) feet or more in width. Otherwise, the front yard shall be forty-five (45) feet as measured from the center line of the right-of-way.
- E. Maximum lot coverage: sixty (60) percent
- F. Minimum rear yard shall be ten (10) feet.
- G. A side yard, if provided, shall be ten (10) feet, except on a corner lot, the side yard facing the street shall be regulated as a front yard. A side yard of ten (10) feet shall be required when adjoining a lot in a residential district.
- H. Vision clearance on a corner lot: ten (10) feet from the intersection of property lines.

ARTICLE 16. "I" INDUSTRIAL DISTRICT

SECTION 16.01 INTENT OF DISTRICT

It is the intent of this district to provide sites for heavy commercial and light manufacturing activities employing relatively large numbers of people. Permitted industrial activities would be of such a nature that they do not create serious problems of compatibility with other kinds of adjacent land use. Permitted commercial uses would be those which are most appropriately located as neighbors of industrial uses. Truck traffic and loading operations are expected to be characteristic of the district, however, all storage and operations would be confined to buildings or areas completely enclosed by walls or fences.

SECTION 16.02 PERMITTED USES

- A. Cleaners and laundries.
- B. Contractors.
- C. Equipment repair.
- D. Fabrication assembly and packaging.
- E. Food processing.
- F. Grinding, milling, and production.
- G. Material handling and equipment.
- H. Motor vehicle services.
- I. Repair services.
- J. Warehousing, storage.
- K. Wholesaling.
- L. Public utility facilities.
- M. Off-street parking facilities as required under Article 17.
- N. Signs as regulated in Article 18.

SECTION 16.03 SPECIAL LAND USES

- A. Outdoor advertising media (if abuts a U.S. highway or state trunkline highway it must be approved under the Highway Advertising Act), and signs not pertaining exclusively to the business conducted within the building on the premises.
- B. Fireworks, gunpowder, or explosive manufacturing or storage.
- C. Chemical, plastic, or rubber manufacturing.
- D. Blast furnace, smelters, foundries, coke ovens.
- E. Junk yard and automobile wrecking yard, provided a solid screen fence no less than eight (8) feet in height surrounded the use.

SECTION 16.04 DISTRICT REGULATIONS

- A. Minimum Building Site or Parcel Area: 2 (two) acres, except for the buildings or structures in an industrial park, in which case the minimum building site or parcel area shall be 1 (one) acre.
- B. Minimum Lot Frontage and Width: 300 (three hundred) feet.
- C. Maximum height of building: forty-five (45) feet and not over three (3) stories in height.
- D. Front yards shall be fifteen (15) feet if the right-of-way is fifty (50) feet or more in width. Otherwise, the front yard shall be forty-five (45) feet as measured from the center line of the right-of-way.
- E. Maximum lot coverage: sixty (60) percent
- F. Minimum rear yard shall be twenty (20) feet. A rear yard of fifty (50) feet shall be required when adjoining a lot in a residential district.
- G. A side yard, if provided, shall be twenty (20)) feet, except on a corner lot, the side yard facing the street shall be regulated as a front yard. A side yard of fifty (50)) feet shall be required when adjoining a lot in a residential district.
- H. Vision clearance on a corner lot: twenty (20) feet from the intersection of property lines.

ARTICLE 17.
VEHICLE PARKING AND LOADING

SECTION 17.01 OFF-STREET PARKING

In all districts, in connection with industrial, business, institutional, recreational, or other use, there shall be provided at the time any building is erected, or use established, enlarged, or increased in capacity, off-street parking spaces for automobiles with the requirements herein specified.

- A. Plans and specifications showing required off-street parking spaces, including the means of access and interior circulation, for the above uses, shall be submitted to the Zoning Administrator for review at the time of application for a zoning permit. Required off-street parking facilities shall be located on the same lot as the principal building or on a lot within three hundred (300) feet thereof, except that this distance shall not exceed one hundred and fifty (150) feet for dwellings. This distance specified shall be measured from the nearest point of the parking facility to the nearest point on the lot occupied by the building or use that such facility is required to serve.
- B. No parking area or parking space which exists for the purpose of complying with the provisions of this Ordinance shall thereafter be removed or reduced in any manner below the requirements established by this Ordinance.
- C. Each off-street parking space for automobiles shall not be less than two hundred (200) square feet in area, exclusive of access drives or aisles, and shall be of usable shape and condition. There shall be provided a minimum access drive of ten (10) feet in width, and where a turning radius is necessary, it will be of such an arc as to reasonably allow an unobstructed flow of vehicles. Parking aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of a parking space. The minimum width of such aisle shall be :
 1. For ninety (90) degree perpendicular parking, the aisle shall not be less than twenty-two (22) feet in width.
 2. For sixty (60) degree parking, the aisle shall not be less than eighteen (18) feet in width.
 3. For forty –five (45) degree parking, the aisle shall not be less than thirteen (13) feet in width.
 4. For parallel parking, the aisle shall not be less than ten (10) feet in width.
- D. Every parcel of land hereafter used as a public or private parking area shall be developed and maintained in accordance with the following requirements:
 1. All off-street parking spaces shall not be closer than five (5) feet to any property line, except where a wall, fence, or compact planting strip exists as a parking barrier along the property line.
 2. All off-street parking areas shall be drained so as to prevent drainage to abutting properties and shall be constructed of materials which have a dust –free surface resistant to erosion.

3. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining premises and streets.
 4. Any off-street parking area providing space for five (5) or more vehicles shall effectively be screened on any side which adjoins, or faces property adjoining, a residential lot or institution, by a wall, opaque fence, or compact planting not less than for (4) feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property.
 5. All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of one (1) or two (2) family dwellings.
 6. Combined parking facilities are allowed when two (2) or more uses occur on one (1) property or when a building or buildings on one (1) property contain two (2) or more uses provided that the permanent allocation of required number of parking spaces shall be the sum of the requirements for the various parking uses and computed in accordance with this Ordinance. Parking facilities for one (1) use shall not be considered as providing the required parking facilities for any other use, except churches.
- E. A business involving the repair, service, sale, or display of vehicles is prohibited in areas used for parking or loading.
- F. For the purpose of determining off-street parking requirements, the following units of measure shall apply:
1. **FLOOR AREA.** In the case of uses where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that such floor area need not include any area used for incidental service, storage, installation of mechanical equipment, penthouses, housing ventilators and heating systems, and similar uses.
 2. **PLACES OF ASSEMBLY.** In stadiums, sports arenas, churches, and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each eighteen (18) inches of such seating facilities shall be counted as one (1) seat. In cases where the place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.
 3. **FRACTIONS.** When units of measurement determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half (1/2) shall require one (1) parking space.
- G. The minimum required off-street parking spaces shall be set forth as follows:
1. **Single and two (2) family dwellings:**
 - a. one (1) space per dwelling unit with one (1) additional space for each home occupation.
 2. **Multiple family dwellings:**
 - b. two (2) spaces per dwelling unit for developments of 1-24 units. 1 3/4 (one and three quarters) space for each dwelling unit for developments of more than 24 (twenty four) units.
 3. **Schools, Private or Public Elementary and Junior High:**
 - a. one (1) space per employee normally engaged in or about the building or grounds .
 - b. Plus one (1) space for each thirty (30) students.
 4. **Churches, Temples or Synagogues:**

- a. one (1) space for each four (4) seats, or for each four persons permitted in such edifice as stated by the fire marshal.
- 5. **Nursery school, Day-care, and Pre-school :**
 - a. one (1) space for each staff member;
 - b. plus one (1) space for every five (5) children or one (1) space for every ten (10) children if adequate drop-off facilities are provided.
- 6. **Public utility facilities:**
 - a. one (1) space for each two (2) persons employed on the premises.
- 7. **Nursing home or home for the aged:**
 - a. one (1) space for each four (4) beds,
 - b. plus one (1) space for each two (2) employees, including nurses per shift.
- 8. **Retail stores, except as otherwise specified herein:**
 - a. one (1) space for each one hundred fifty (150) square feet of floor area excluding auto parking space within or on the building.
- 9. **Barber shops and beauty parlors:**
 - a. two (2) spaces for each chair, plus one (1) space for each employee.
- 10. **Self-service laundry or dry cleaning stores:**
 - a. one (1) space for each two (2) washing and /or dry cleaning machines.
- 11. **Banks, offices, and civic and social organizations buildings:**
 - a. two (2) spaces for each two hundred (200) square feet of floor area,
 - b. plus one (1) space for each employee working within the building.
- 12. **Undertaking establishments:**
 - a. four (4) spaces for each individual chapel or
 - b. one (1) space for each fifty (50) square feet of floor area, whichever is greater,
 - c. plus one (1) space for each fleet vehicle.
- 13. **Food service establishments:**
 - a. one (1) space for each two (2) patron seats, plus one (1) parking space for each two (2) employees per shift.
- 14. **Theaters, dance halls, assembly halls:**
 - a. one (1) space for each four (4) seats,
 - b. or for each for (4) persons permitted in such building as stated by the Fire Marshall.
- 15. **Automobile, vehicle, or farm equipment sales and service:**
 - a. one (1) space for each two hundred (200) square feet of showroom floor area,
 - b. plus two (2) spaces for each service bay,
 - c. plus one (1) space for every two (2) employees on maximum shift.
- 16. **Gasoline service stations:**
 - a. one (1) space for each repair and service stall,
 - b. plus one (1) space for each employee per shift.
- 17. **Contractors, milk distributing, packaging services:**
 - a. one (1) space for each employee on the maximum shift.
- 18. **Animal hospitals, animal boarding, or dog kennels:**
 - a. one (1) space for each two (2) employees,
 - b. plus one (1) space for each four hundred (400) square feet of building or pens.

19. **Hotels and motels:**

- a. one (1) space for each lodging room,
- b. plus one (1) space for each two (2) employees per shift.

20. **Industrial uses, except as otherwise specified herein:**

- a. One (1) space for every six hundred and fifty (650) square feet of gross floor area,
- b. plus one (1) space per each three hundred and fifty (350) square feet of office space.

SECTION 17.02 LOADING/UNLOADING REQUIREMENTS

In connection with every building or part thereof hereafter erected, except single and two (2) family dwelling unit structures, there shall be provided on the same lot with such buildings, off-street loading and unloading spaces for uses which customarily receive or distribute material or merchandise by vehicle.

- A. Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted to the Zoning Administrator for review at the time of application for a zoning permit for the erection or enlargement of a use of a building or structure.
- B. Each off-street loading/unloading space shall not be less than the following;
 - 1. In a residential district, a loading/unloading space shall not be less than ten (10) feet in width and twenty-five (25) feet in length and if a roofed space, not less than fourteen (14) feet in height.
 - 2. In any commercial or industrial district, a loading/unloading space shall not be less than ten (10) feet in width and fifty-five (55) feet in length, and if it is a roofed space, not less than fifteen (15) feet in height.
- C. Subject to the limitations of the next paragraph, a loading/unloading space may occupy all or any part on any required side or rear yard, except the side yard along the street side in the case of a corner lot. In no event shall any part of a required front yard be occupied by such loading space.
- D. Any loading/unloading space shall not be any closer than fifty (50) feet to any other lot located in any residential district unless wholly within a completely enclosed building or unless enclosed on all sides by a wall, opaque fence, or compact planting not less than six (6) feet in height.
- E. In case of mixed uses, on one (1) lot or parcel, the total requirement for off-street loading/unloading facilities shall be the sum of the various uses computed separately.
- F. All off-street loading/unloading facilities that make it necessary to back out directly into a public road shall be prohibited.
- G. Off-street loading/unloading spaces and access drives shall be paved, drained, lighted, and shall have the appropriate bumper or wheel guards where needed and any light used for illumination shall be so arranged as to reflect the light away from the adjoining premises and streets.
- H. Off-street loading/unloading requirements for residential (excluding single family dwellings), hotels, hospitals, mortuaries, public assembly, offices, retail, wholesale, industrial, or other uses similarly involving the receipt of distribution by vehicles, the uses having over five thousand (5,000) square feet of gross floor area shall be provided with at least one (1) off-street loading/unloading space, and for every additional twenty thousand (20,000) square feet of gross floor space, or such loading/unloading space subject to the provisions of this Ordinance.
- I. For uses not specifically mentioned herein, loading/unloading requirements shall be established by the Village Planning Commission from requirements for similar uses.

ARTICLE 18. SIGNS AND BILLBOARDS

SECTION 18.01

No advertising signs or billboards of any kind or nature shall be erected in any zoning classification except as follows:

1. In an R-1 Single Family Residential District a name plate not exceeding 2 (two) square feet in area, containing the name and home occupation of the occupant of the premises and a temporary sign pertaining to the construction, lease, hire or sale of a building or premises, not exceeding 8 (eight) square feet in area, may be installed or constructed.

2. In R-2 Mobile or Manufactured Home Park or R-3 Multiple Family Residential District, a sign not exceeding 32 (thirty two) square feet in area, advertising permitted services rendered or offered upon or from the premises where the same is situated (except for home occupation and temporary signs which shall be governed by item 1 above) may be constructed, provided it is located not less than one-half (1/2) the required building setback distance from the street right-of-way line abutting the property; it, in no way, constitutes a traffic hazard; is of subdued nature commensurate with the residential character of the neighborhood; is maintained in a neat and attractive manner; contains no neon or intermittent lighting or other bright or glaring lighting which would be a nuisance or annoyance to a neighborhood or which would create any electrical disturbance therein; and if projecting from a building or located over a sidewalk or pathway, is not less than 11 (eleven) feet above such sidewalk or pathway.

SECTION 18.02.

Advertising signs advertising goods, products, services or activities sold, produced, rendered or available from or upon the premises where the same are located may be installed or constructed within the R-C Retail Commercial District, S-C Service Commercial District, or I-Industrial District, provided they are located not less than 10 (ten) feet from the sideline of the property nor less than one-half (1/2) the required building setback distance from the abutting street right-of-way line and are no more than 20 (twenty) feet above ground level; in on manner constitute a traffic hazard; and are not less than 11 (eleven) feet above any sidewalk or pathway for pedestrians or vehicles beneath the same; are not a nuisance or annoyance by reason of lighting, electrical disturbance, or unreasonable size and are not constructed or installed until a permit has first been obtained therefore from the Zoning Administrator of the Village.

SECTION 18.03.

A. Limitation on Sign Devices: The use of parked, mounted or stationary vehicles, vehicle parts, trailers, semi-trailers, tents, fences, walls, equipment or any structure or device other than an approved sign as signs shall be prohibited in all zoning districts. Any device, structure or thing used for the purpose of advertising as a sign shall be prohibited without the issuance of a permit by the Zoning Administrator. The Zoning Administrator shall deny any permit for a sign or device used as a sign which is not in strict compliance with this zoning ordinance.

B. Location and Size of Signs.

1. Signs Permitted in Every Zoning District. The following types of signs, when displayed in conjunction with an allowable use, shall be permitted in every zoning district:

a. Community Event Poster Sign subject to the following conditions and limitations:

- i. not more than one such sign shall be erected for any one community event on each lot or parcel of land;
- ii. it shall not be displayed more than 3 (three) weeks before the event advertised and shall be removed within 1 (one) week after the conclusion of the event;
- iii. it shall not exceed 32 (thirty two) square feet area.

b. Development Sign: One per real estate development, not exceeding 32 (thirty two) square feet in area or such additional area as may be required by state or federal regulations. No development sign shall remain on a project site for more than 30 (thirty) days following the completion of the project or its occupancy for its intended purpose, whichever shall first occur.

c. Direction and Parking Sign: One per entrance, exit or parking area of a business (excluding home occupation), industry or institution, not exceeding 6 (six) square feet each in area.

d. Election sign subject to the following conditions:

- i. the sign shall not be located in the right-of-way,
- ii. the sign must be removed not more than one week after the election to which it pertained,
- iii. for unplatted land and for lots adjacent to a street or highway with 4 (four) lanes or more and with a speed limit of 35

(thirty five) miles per hour or greater, no election sign shall exceed 16 (sixteen) square feet in size nor be greater than 6 (six) feet in height. For all other areas, no election sign shall exceed 8 (eight) square feet in size nor exceed 4 (four) feet in height.

- e. Garage, Yard, Basement and Multiple Household Goods Sale Signs, subject to the following provisions:
 - i. not more than one (1) sign shall be located upon the premises of the sale and one (1) off the premises in a commercial or industrial district.
 - ii. no such signs shall exceed 6 (six) square feet in area.
 - iii. all such signs must be removed within 24 (twenty four) hours following the end of the sale.
 - iv. all such sign must be located upon private property and not within the public right-of-way or upon utility poles or traffic signs.
- f. Identification Sign. One for each residence not exceeding 2 (two) square feet. Where an identification sign is:
 - i. located in R-1 Zoning District; and
 - ii. adjacent to a street or highway with 4 (four) lanes or more and with a speed limit of 35 (thirty five) miles per hour or greater, the identification sign may have an area not exceeding 2 (two) square feet.
- g. Institution Sign. One for each institution not exceeding 24 (twenty four) square feet in area unless the institution is located in a zoning district permitting a larger sign area wherein it shall be limited to such specified area.
- h. Real Estate Sign. One per premises not exceeding 8 (eight) square feet in area unless the same pertains to an overall subdivision or multiple project development in which case it shall be treated as a Development Sign and may only be installed during the marketing of the project.

C. Illumination of Signs. Except as noted below, signs may be illuminated.

- 1. Such illumination shall be concentrated on the surface of the sign and shall be so located and arranged so as to avoid glare or reflection onto any portion of an adjacent street, the path of oncoming vehicles or any adjacent premises.

2. In no event shall any sign be permitted to rotate, or oscillate.
3. A sign shall not be illuminated in a manner which causes it to obscure or interfere with the effectiveness of an official traffic sign, device or signal. Nor shall any sign be illuminated in a manner which could be confusing to motorists or which, due to color of light or otherwise, could be misinterpreted for a traffic or danger signal.
4. Identification signs for single- or two- family dwellings may be illuminated in accordance with the following standards:
 - i. Gas-filled glass tube signs shall consist of glass tubing having a minimum diameter of 10 (ten) millimeters and be filled with argon/mercury gas. All gas tubing shall be on one (1) uniform color. No neon gas filled glass tubing shall be permitted;
 - ii. Exterior lighting shall be limited to one (1) flood light with a maximum of 75 (seventy five) watts;
 - iii. Interior or back lighting shall be limited to a total of 16 (sixteen) watts. No exposed lighting shall be permitted.
5. Signs with moving messages. Signs may utilize moving patterns of light to convey an illusion of motion or animation. However, in addition to time and temperature signs, electronic message boards, tri-vision signs, or changeable copy signs on which the copy consists of an array of light or are displayed on an interior non-illuminated but moveable surface shall be permitted, provided that the following conditions are satisfied:
 - i. The frequency of the copy on the message board is not less than 10 (ten) seconds in duration.
 - ii. All interior lights in the sign shall activate simultaneously, remain activated for a period of not less than 10 (ten) seconds, and deactivate simultaneously.
 - iii. The maximum transition time period between messages on a tri-vision sign shall be 2 (two) seconds. The sign shall then remain displayed for a minimum of 10 (ten) seconds before changing again.
 - iv. The maximum brightness level for electronic signs and electronic message boards shall not exceed 5,000 (five thousand) nits (candela/square meter) when measured from the sign's face at its maximum brightness during daylight hours, and 500 (five hundred) nits when measured from the sign's face at its maximum brightness after sunset and before sunrise.
 - v. Signs with moving messages shall be permitted in all zoning districts.

SECTION 18.04

Before the Zoning Administrator of the Village may issue a zoning permit as provided herein, he shall be satisfied that all zoning regulations have been complied with and that the advertising sign or billboard will be constructed in a safe, sturdy and durable manner with proper bracing, anchorage and foundation. Signs not being maintained in an attractive and neat manner or which are not being maintained so as to be safe, sturdy and durable, shall be deemed to be in violation of this Ordinance as determined by the Zoning Administrator.

SECTION 18.05

The above limitations shall not prohibit a collective public directory type of sign containing a listing of organizations, churches, etc. including addresses, hours or days of activities and also private signs listing the names and addresses of persons residing in a plat or a specific residential area; said signs may be allowed in any district as long as they do not exceed 50 (fifty) square feet in size.

**ARTICLE 19.
SPECIAL PROVISIONS**

SECTION 19.01 PURPOSE

There are certain conditions concerning land uses that warrant specific regulations and standards in addition to the requirements of the zoning districts in which they are located.

SECTION 19.02 DWELLING PER LOT, PARCEL OR BUILDING SITE

Every dwelling hereafter erected shall be located on a lot, parcel, or building site or premises, the description of the boundaries of which are on record at the Register of Deeds Office, or in case of a Land Contract shall be on record with the Zoning Administrator as adequately descriptive.

SECTION 19.03 ACCESSORY BUILDING

- A. All accessory buildings not attached to the main building shall be located in the rear, and not less than three (3) feet from the sideline of the premises on which located. All accessory buildings attached to the main building, including breezeways, shall be considered a part of the main building in determining yard requirements.
- B. No accessory building shall project into any front yard.
- C. No accessory building shall occupy more than thirty (30) percent or the area of the rear yard.
- D. On a corner lot, no accessory building shall be located nearer to the side street lot line than the side yard setback of the principal building on said lot.
- E. If a rear yard abuts an alley than the rear setback shall be measured from the center of the alley line and shall not be less than 10 (ten) feet.

SECTION 19.04 SUBSTANDARD DWELLINGS

For the express purpose of promoting the health, safety, and general welfare of the inhabitants of the Village, and of reducing hazards to health, life, and property, no basement dwelling, or cellar dwelling, tent, garage-house, recreational vehicle or similar type, or other substandard structure shall hereinafter be erected or moved upon any premises and used for dwelling purposes.

SECTION 19.05 REQUIRED WATER SUPPLY AND SANITARY SEWER FACILITIES

In addition to the requirements established by the State and County Health Departments, no structure for human occupancy or use shall hereinafter be erected , enlarged, moved, or its kitchen or bathroom altered unless it shall be properly connected to the Village water and sanitary sewer systems.

SECTION 19.06 ACCESS TO A STREET

No lot, parcel, or building site shall be occupied except where access to a public street no less than twenty (20) feet in width. Public access to commercial, industrial, or recreational uses shall not be designed so as to pass through the residential neighborhoods.

SECTION 19.07 VISIBILITY AT INTERSECTIONS

No fence, wall, hedge, screen, sign, structure, vegetation, or planting shall be higher than two (2) feet above street grade on any corner lot, parcel, or building site in any zoning district requiring front and side yards within the triangular area formed by the intersecting street right-of-way lines and a (30) feet distant from the point of intersection, measured along the street right-of-way.

SECTION 19.08 STREET CLOSURES

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

SECTION 19.09 HEIGHT REGULATIONS

The height requirements established by this Ordinance shall apply uniformly in each zoning district to every building and structure except that the following structures and appurtenances shall be exempt from the height requirements of this Ordinance; spires, belfries, penthouses, and domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, utility poles, power lines, radio and television broadcasting and receiving antennas, silos, parapets, and other necessary mechanical appurtenances. Provided their location shall conform where applicable to the requirements of the Federal Communications Commission, the Civil Aeronautics Administration, and other public authorities having jurisdiction.

SECTION 19.10 FENCES, WALLS, AND SCREENS

Within the limits of a front yard space of a lot within a residential district, no fence, wall, other than necessary retaining wall, or other screening structure shall be higher than four (4) feet. No such fence or wall located within a side or rear yard shall exceed six (6) feet in height.

Approved enclosure shall mean a fenced in area which meets the following requirements:

1. The fenced in area shall not exceed 4 (four) percent of the property area, or 8,000 (eight thousand) square feet, whichever is less.
2. The fenced in area shall not be located in the front yard setback area required pursuant to the Village of Marcellus Zoning Ordinance.
3. The fence shall be no greater than 6 (six) feet in height.
4. The fence shall be solid with gaps between materials of no more than $\frac{3}{4}$ (three-fourths) inch.
5. The fence shall be constructed of durable exterior materials and shall be properly maintained.

SECTION 19.11 ESSENTIAL SERVICES

For purposes of this Ordinance, the following provisions shall apply:

- A. The surface of land used for pipe line right-of-ways shall be restored and maintained as near as possible to its original condition prior to the construction of the pipeline.
- B. Essential services shall be exempt from lot area requirements in the Commercial and Industrial Districts.

SECTION 19.12 SWIMMING POOLS

Above ground swimming pools shall be located in rear yard not closer than to the side or rear lot line setbacks. All swimming pools shall conform to the requirements of the International Property Maintenance Code. Swimming pools to be constructed or which are already constructed shall be enclosed by a fence, wall, or other structure which shall be at least five (5) feet in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 (fifty four) inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 (six) inches from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 19.13 KEEPING OF ANIMALS

A farm animal that is permitted in an area zoned for or being used as a residence shall be defined as follows: any horse, cow, calf, swine, sheep, goat, chickens, geese, ducks, donkeys, pigeons, pigs (including Vietnamese pot-bellied pigs), reptiles, wild, or hybrid (part domesticated and part wild) exotic animal, except domesticated dogs and cats, caged reptiles or insects commonly kept as pets, fish, caged rodents normally kept as pets, caged rabbits normally kept as pets, and caged birds normally kept as pets.

Such animals shall be permitted within the Village of Marcellus upon meeting the follow conditions:

1. Such animals shall only be allowed in the Single Family Residential Zoning District and shall be considered an Accessory Use(s) in accordance to Section 11.02 (B). Such lot or parcel where the animals are located must consist of at least 2 acres (87,120 sq. ft.) in size. Such area must be that of one parcel and not the combination of parcels.
2. Such lot or parcel must contain a principal dwelling where the owner of such animals resides.
3. Any pasturing or housing of such animals must be kept a minimum of 50 feet from any residential dwelling or water source.
4. Must prevent any animal waste or fluid runoff from leaving the parcel or lot unless for the purpose of proper disposal.
5. The keeping of such animals must be in compliance with the Michigan Department of Agriculture, which shall include GAAMPS (Generally Accepted Agricultural Management Practices) and any other applicable local, state or federal regulations.
6. Such animals shall be prohibited in any area of the Village where the same become obnoxious by reason of odors, noise, or sanitary conditions. Such determination shall be made by the Village of Marcellus Council. Such decision shall, be conclusive on the question of whether the same are so obnoxious only after a written complaint is filed by a property owner that has been directly affected by the presence of such animals . The Village Council for the Village of Marcellus shall issue a written decision to both the complaining party, and the owner of such animals. Such decision must also include any

corrective actions that must be taken which may include the removal of such animal, and a timeframe to which such actions must be taken.

7. Any other animal that is not listed or defined as a farm animal above must be approved by the Zoning Administrator prior to such animal being allowed.
8. Prior to the placement of such animals, the property owner shall submit a plot application to the Zoning Administrator. Such plot plan shall include the type of animals being kept, the number of animals being kept, a diagram of where the animals will be located on the property, and any buildings or structures that will be associated with such animals.
9. In addition to the plot plan, a manure management plan shall also be submitted.
10. The keeping of such animals is not for commercial use, production. And shall be for personal use only.
11. No butchering or slaughtering of animals shall take place on the property.
12. Such regulations are not intended to supersede or interfere with any other agency which shall include the Cass County Animal Control, or the Cass County Public Health Department.

SECTION 19.14 ELEVATED DECKS

Uncovered decks elevated more than 3 (three) feet above grade may be located only in the rear yard and may not occupy more than 30 (thirty) percent of the rear yard or be located closer than 3 (three) feet to the side or rear lot lines. (In R-1 district only, reflector diameter greater than 36 (thirty six) inches to 3 (three) feet in diameter.

SECTION 19.15 SATELLITE DISK/DISH

Satellite disks are permitted in any zoning district. If any satellite disks or related item is located in a front or side yard of any lot or parcel, such disk or related equipment must be setback a minimum of 40 feet from the centerline of the roadway. Disks may be located in rear yards, attached to the ground and not closer than 3 (three) feet to the side or rear lot lines. (In R-1 district only, reflector diameter greater than 36(thirty six) inches to 3 (three) feet in diameter are permitted) Regardless of its location, no disk shall be located in any right of way, and shall not cause any visions obstructions for vehicle or foot traffic, or obstruct any utility or public works agency in the performance of their duties. The height of such disk shall not be a vision obstruction from any adjacent property owner from a clear view that they have been custom to.

ARTICLE 20. SITE PLAN REVIEW*

Section 20.01 PURPOSE

The intent of this article is to provide for consultation and cooperation between land owners/developers and the Village so that developers may accomplish their objectives in land utilization within the provisions of this section and with minimum adverse effect on the use of adjacent streets and highways and on existing and future uses in the immediate area and vicinity.

***State law reference-**Site plans, MCL 125.3501.

Section 20.02 General Policies and Requirements

(a) Building permits. Except as hereinafter set forth, the Village shall not issue a building permit for construction or enlargement of any buildings, structures or uses until a site plan, submitted in accordance with this Article, shall have been reviewed and approved by the Planning Commission.

(b) Exceptions. Site plans and site plan review shall be required for all uses except the following:

- (1) Single- and two- family dwellings under separate ownership on an individual and separate lot for each home including driveways serving them.
- (2) Residential and agricultural accessory buildings.
- (3) Projects involving expansion, remodeling, or enlargement of existing buildings which comply fully with all requirements of this article and involve no new or additional means of access from adjoining public streets, roads, or highways.

Section 20.03 Effective Period

An approved site plan shall be effective for a period of one (1) year or the life of the building permit obtained pursuant to the approved site plan, whichever is longer. If construction is not commenced within the period that the site plan is effective, no construction shall take place unless an extension has been approved by the Planning Commission, providing that there is compliance with all applicable site plan requirements that are in effect at the time the extension is granted.

Section 20.04 Procedures

(a) Optional sketch plan review. In order that developers may be better informed regarding the conformity and acceptability of their proposed plans prior to incurring extensive design, engineering, and other costs involved in preparing a final site plan, preliminary sketches of the proposed site and development plans may be submitted to the Planning Commission for preliminary review and discussion. Any preliminary guidance given by the Planning Commission at this stage is intended to be helpful to the applicant, but views expressed by commissioners at this stage are not to be construed as

***State law reference-** Site plans, MCL 125.3501

approvals binding on the Planning Commission. Such sketch plans should include, as a minimum, the following:

- (1) Names and addresses of the applicants and/or developers, including the appropriate officers of a corporation or members of a partnership, if applicable.
 - (2) A legal description of the property, its property number as used in the tax rolls, and its street address location.
 - (3) Sketch drawing showing proposed site and development plans, including planned dimensions, set backs, etc.
- (b) Site plan review application procedure. Requests for site plan review shall be made by filing with the Village Zoning Administrator, at least 15 (fifteen) days prior to the meeting of the Planning Commission at which the site plan will be reviewed, the following:
- (1) Ten (10) copies of a completed site plan review application form obtainable from the Village Zoning Administrator, which provides for the furnishing of the following information: names and addresses of applicants, street address, property number, and legal description of the land or property involved; area of the land in acres, or in square feet if less than two (2) acres; present zoning classification of the land; current ownership status; and a general description of the proposed development in specific terms.
 - (2) A site plan review fee according to the current schedule of fees as determined by the Village Council.
 - (3) One (1) copy of the proposed site plan containing the following information, except that for special land uses on residential lots with a principal single-family building, one or more of the required items in subsection (b)(4) a through m of this section may be waived. Such waivers may be made by the Planning Commission by prior consultation, such as during the optional sketch plan review.
 - (4) Site plan requirements. Unless approved as a minimum requirement plan by the Planning Commission in accordance with subsection (b)(4) d of this section, all site plans submitted for approval shall show:
 - a. An appropriate descriptive legend, north arrow, scale, date of preparation, and the name and address of the individual and firm which prepared the plan. For property of 3 (three) acres or less, scale shall be no smaller than one inch equals 20 (twenty) feet; for property of more than 3 (three) acres, scale shall be no smaller than one inch equals 50 (fifty) feet.
 - b. All lot and/or property lines, properly dimensioned, including building set back lines and existing easements and right-of-ways, if any.

- c. The location and height of all existing and proposed structures on the property and on adjacent properties within 100 (one hundred) feet of the property line, to include dimensions of proposed buildings as well as gross and usable floor space in square feet for each.
- d. The locations and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, parking areas, (including a typical parking space) unloading areas, and recreation areas. (Parking provisions shall be in accordance with Article 17). Evidence of approval for curb openings and drives on a state highway or county road from the appropriate commission shall also be provided.
- e. The location of both pavement and right-of-way widths of all abutting roads, streets, and alleys.
- f. The name, address, and telephone number of the property owner(s) and/or applicant.
- g. The location and size of all existing and proposed utilities.
- h. The location, size, and capacity of all surface drainage facilities.
- i. Existing and proposed contours at a minimum interval of 2 (two) feet, unless otherwise prescribed by the Planning Commission.
- j. The location and type of all planned landscaping, green belts, or other required screening; location, height, and type of proposed fences and/or walls; location of all rubbish receptacles.
- k. For those buildings, uses, or facilities which will be used or be available to the public for the purposes of education, employment, housing (other than privately owned on- or two- family dwellings) transportation, or recreation; or for the sale, purchase, rental, or acquisition of goods and services, the name and address of the professional individual responsible for preparing the site plan, together with the imprint of his or her professional seal.
- l. For multiple family developments, typical elevation views of the front and side of each type of proposed building, as well as dimensioned typical floor plans for each type.
- m. If applicable, a summary schedule which gives the following information:
 - 1. The number of dwelling units proposed, to include the number, size, and location (by legend, if necessary) of one-bedroom units, two-bedroom units, mobile/manufactured home sites, etc.
 - 2. The residential area of the site in acres and in square feet, including breakdowns for any sub-areas or staging areas.

- c. Minimum requirements. If approved by the Planning Commission, site plans satisfying the requirements of subsection (b)(4) a, b, c, and f of this section.
- d. Site plan review. In addition to review by its members, the Planning Commission shall routinely have proposed site plans reviewed by the Village Attorney, Fire Chief, Zoning Administrator, and Building Inspector. In cases where the Planning Commission deems it appropriate, it may engage the services of a suitably qualified professional engineer or engineering firm to review and comment upon the site plan, the expenses of such review to be borne by the applicant.
- e. Site plan approval. The Planning Commission shall have the function, duty, and power to approve or disapprove, or to approve subject to compliance with certain modifications or conditions, site plans in accordance with the purposes, intent, and provisions of this section.
 - 1. Public hearing may be required. The Planning Commission shall also have the discretion to determine during its initial review, whether the nature of the proposed development warrants the holding of a public hearing. If such a hearing is required, the applicant shall be required to submit an additional fee, as listed in the schedule of fees approved by the Village Council.
 - 2. Processing times. Normally, the decision of the Planning Commission will be made within 60 (sixty) days of the receipt of the application by the Village Zoning Administrator, or within 30 (thirty) days of the closing of the public hearing, if required.

Section 20.05 STANDARDS FOR SITE PLAN REVIEW

In reviewing the application and site plan, and in approving, disapproving, or modifying the same, the Planning Commission shall be governed by the following standards:

- 1. That there is a proper relationship between the existing streets and highways in the vicinity of the proposed deceleration lanes, (if any) service drives, entrance and exit driveways, and parking areas to ensure the safety and convenience of both pedestrian and vehicular traffic.
- 2. That the buildings, structures, and entry-ways thereto proposed for the premises are situated so as to minimize the adverse effects upon owners and occupants of adjacent properties and the neighborhood in general.
- 3. That as many natural features of the landscape as possible are retained where they furnish a barrier or buffer between the proposed development and any adjoining properties used for dissimilar purposes and/or where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharges of storm waters;
- 4. That any adverse effects of the proposed development and future resulting activities upon adjoining residents or owners shall be minimized by appropriate screening ,

fencing, landscaping, setbacks, and location of buildings, structures, and their entryways;

- 5. That all provisions of this Article are complied with, unless an appropriate variance has been granted by the Zoning Board of Appeals;
- 6. That all buildings and structures are accessible to emergency vehicles;
- 7. That the site plan, as approved, is consistent with the intent and purpose of zoning to promote public health, safety, morals and general welfare; to encourage the use of land in accordance with its character and adaptability; to avoid overcrowding of population; to lessen congestion upon the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for systems of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; to conserve the expenditure of funds for public improvements and services; to conform with the most advantageous use of land, resources, and properties; to conserve property values and natural resources; and to give reasonable consideration to the character of a particular area, its peculiar suitability for particular uses, and the general and appropriate trend and character of land, building, and population development.

SECTION 20.06 MODIFICATIONS AND REVISIONS

- A. Modification. Any modifications of a submitted site plan desired by the Planning Commission shall be stated in writing to the applicant. Site plan approval may be granted contingent upon the revision of the site plan by the applicant to the satisfaction of the Planning Commission. If any part of a site plan is in conflict with any section of this article in terms of area and bulk regulations, setbacks, parking maneuvering lanes, etc., a variance must be obtained from the Zoning Board of Appeals before the Planning Commission can approve the site plan.
- B. Incomplete or repeatedly revised plans. Applicants who submit incomplete plans or revise them repeatedly after submission will be charged an additional review fee if their actions require the Planning Commission to have more than 2 (two) meetings to review and approve their site plans. The optional sketch plan review procedure outlined in section 20.04(a), does not count as one (1) of the 2 (two) meetings.

SECTION 20.07 RECORDING AND FILING

Copies of the approved site plan, with modification, if any, shall be signed by the chairperson of the Planning Commission, and, if variances have been granted, by the chairperson of the Zoning Board of Appeals. Copies of the approved site plan will be distributed and/or filed as follows:

Applicant.....	3
Village Clerk.....	1
Planning Commission.....	2
Board of Zoning Appeals.....	1
Zoning Administrator.....	1

SECTION 20.08 AMENDING A SITE PLAN

A proposed amendment, modification, alteration, or other change to a previously approved site plan shall be submitted via the Zoning Administrator to the Planning Commission for review and approval in the same manner as the original application. Such proposed revisions shall be clearly identified, numbered, dated, and referenced to site plans and revisions previously approved by the Planning Commission.

SECTION 20.09 PERFORMANCE BOND

The Planning Commission shall have the right and authority to require a developer to file with the Village, at the time of application for a building permit, a performance bond or bank letter of credit in such amount as may be determined by said Board to ensure the development of the site in accordance with the approved site plan, conditioned upon such proper construction and development. Such bond, if required, shall continue for the duration of the construction and development of the site and shall be in the face amount which is a reasonable percentage of the estimated total cost of construction and site development. The bond shall be for the purpose of securing the completion of improvements considered necessary to protect natural resources and/or health, safety and welfare of the residents of the Village and adjacent residents and property owners. The Planning Commission shall provide for the rebate of any cash bond filed in this connection in reasonable proportion to the ratio of the work completed on the improvements for which the bond was required.

SECTION 20.10 APPEALS AND QUESTIONS OF INTERPRETATION

Any persons considering themselves aggrieved by the decision of the Planning Commission in granting or denying site plan approval shall have the right to appeal said decision in the Village Zoning Board of Appeals. The appeal must be filed with the Village Clerk within 15 (fifteen) day of the decision of the Planning Commission. The ZBA can reverse or affirm, in whole or part, or may modify the prior decision made by the administrative body or official from whom the appeal is take.

However, the authority of the ZBA during the appeal process is limited. The initial decision of the ZBA is whether the action taken was appropriate and related to the standards applicable to that decision.

If the ZBA finds that proper procedures and considerations were used in denying site plan approval, the appeal should be denied and the decision upheld. If, on the other hand, the ZBA finds an error in the manner in which the decision was reached, it may grant the appeal and reach another decision. However, granting the appeal does not automatically reverse the original decision. Rather, it simply means that the ZBA now decides the site plan approval, using the same review standards applicable to the original decision.

If either party is dissatisfied with the ZBA’s decision, the recourse is an appeal to the county circuit court. The Village Council does not have the authority to override a ZBA decision.