

ZONING ORDINANCE  
VILLAGE OF OTISVILLE  
ORDINANCE NO. 213

AN ORDINANCE to regulate the use of land within the Village of Otisville, Genesee County, Michigan in accordance with the authority and intent of Act 110, of the Public Acts of 2006, as amended.

THE VILLAGE OF OTISVILLE ORDAINS:

**ARTICLE 1 TITLE AND CITATION**

**Section 1.01**

This Ordinance shall be known and cited as the Village of Otisville Zoning Ordinance.

**Section 1.02 Conflicting Regulations**

Whenever any provisions of this Ordinance impose more stringent requirements than are imposed by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern.

**Section 1.03 Severability**

This ordinance and the various articles, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, clause or word is adjudged unconstitutional or invalid for any reason, by any court, such invalidity shall not affect the remaining portions or applications of this ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable.

**Section 1.04 Repeal of Previous Ordinance**

Village Ordinance 182, the Village of Otisville Zoning Ordinance and all amendments thereto, are hereby repealed.

**Section 1.05 Savings Clause**

This Ordinance shall not impair or affect any act done, offense committed or right accruing, accrued, or acquired; or liability, penalty, forfeiture or punishment incurred prior to the time this Ordinance takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this Ordinance had not been adopted. Such proceedings may be consummated under and according to the Ordinance in force at the time such proceedings are or were commenced. All prosecution, or other actions, pending at the effective date of this Ordinance and all prosecution, or other proceedings, instituted after the effective date of this Ordinance, or offenses or acts committed prior to the effective date of this Ordinance, may be continued or instituted under and in accordance with the provisions of the Ordinance in force at the time of such offense.

**Section 1.06 Vested right**

Nothing in this ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent

amendment, change or modifications as may be necessary to the preservation or protection of public health, safety and welfare.

**Section 1.07 Enactment and effective date**

This Ordinance is hereby declared to have been adopted by the Village Council of the Village of Otisville, Genesee County, Michigan at a meeting thereof, duly called and held on the 15th day of October, 2018, and is ordered to be given publication in the manner prescribed by law. This Ordinance shall become effective seven (7) days after final enactment and publication.

## **ARTICLE 15 NON-CONFORMING USE, STRUCTURE, AND LOTS**

### **Sec. 15.01 Purpose**

Within the zoning districts established by this Ordinance there exist: lots, structures, uses of land and structures, and characteristics of use which were lawful prior to adoption of this Ordinance, but do not conform to provisions of this Ordinance or which may be made nonconforming as a result of future amendments to this Ordinance. These include structures that were granted variances under the provisions of a previous ordinance. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district.

### **Sec. 15.02 Legality of Non-Conformities**

Non-conformities will be classified as “legal” or “illegal” based on the following guidelines. Regulation of non-conformities will vary based on their legality.

- A. Illegal non-conformities are those that have been developed in conflict with zoning regulations.
- B. Legal non-conformities are those that existed legally before the effective date of this ordinance, or before some amendment to this ordinance which resulted in the nonconformity.

### **Sec. 15.03 Reductions of the Degree of Non-Conformance**

A reduction of the degree of non-conformance in one respect is not permitted to offset an increase in the degree of non-conformance in another respect. Thus, square footage may not be “traded” from one portion of a building to another. Nor may one non-conforming use be replaced by another unless the degree of non-conformance is reduced in some way.

### **Sec. 15.04 Non-Conforming lots of Record**

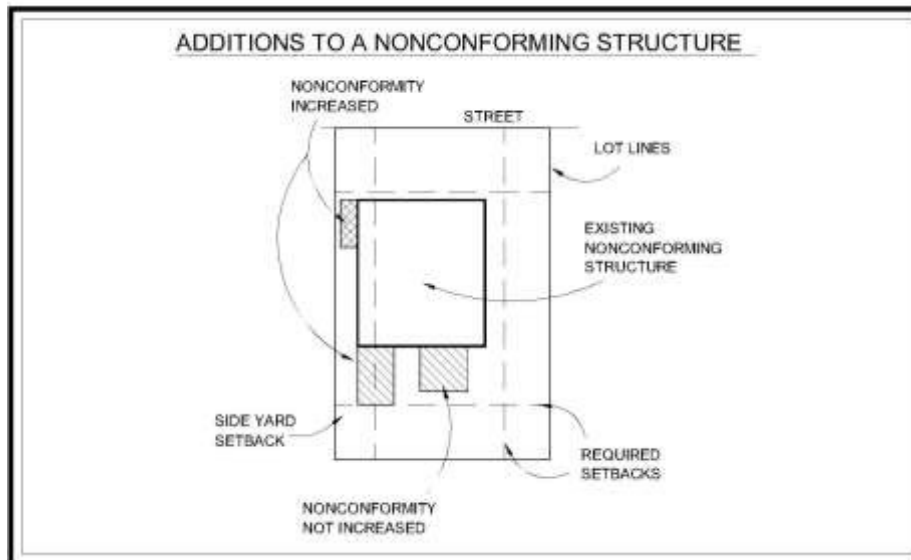
A legal non-conforming lot of record may be used as a buildable lot even though it does not meet the lot width or area requirements for the zoning district in which it is located, provided all structures comply with setback requirements required in the zoning district in which it is located. If two or more non-conforming contiguous lots are under common ownership, the lots may not be treated as separate lots unless in a manner consistent with the dimensional requirements of this ordinance. A nonconforming lot may not be changed in a way that increases its nonconformity.

### **Sec. 15.05 Non-Conforming Structures**

Where a lawful structure exists at the effective date of adoption of this Ordinance or some future amendment to this Ordinance, that could not be built under the terms of this Ordinance or some future amendment to this Ordinance, by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provision:

- A. No such non-conforming structure may be moved, enlarged or altered in a way which increases its non-conformity, unless granted a variance by the ZBA. However, any nonconforming structure or portion of a non-conforming structure may be altered to decrease its non-conformity, or in a way that neither increases nor decreases the non-conformity (See Figure 7-1, next page).

**FIGURE 15-1**



- B. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than one hundred (100) percent of its assessed value at time of destruction, or fifty (50) percent of its market value at the time of its destruction as determined by a certified appraiser hired by the property owner, it shall not be reconstructed except in conformity with the provisions of this Ordinance, unless a variance is granted by the Zoning Board of Appeals.
- C. Should such structure be moved for any reason, it shall hereafter conform to the regulations for the zoning district in which it is located after it is moved.

**Sec. 15.06 Non-Conforming Uses of Land**

Where a lawful use of land exists, which would not be permitted by the regulations imposed by this Ordinance, or a future amendment to this Ordinance, the use may be continued so long as it remains otherwise lawful provided:

- A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- B. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.
- C. If any such non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, such cessation of activity shall be determined to demonstrate an intent to abandon and the use shall be reviewed by the ZBA as outlined in Section 15.09. If the non-conforming use is determined to have been abandoned than any subsequent use of such land shall conform to the regulations specified by this Ordinance for the zoning district in which such land is located.
- D. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.
- E. A non-conforming use of land may be changed to another non-conforming use by approval of the Zoning Board of Appeals, provided that the Zoning Board of Appeals determines that

the proposed use is more consistent with the current zoning classification than the current use based on the standards in Section 15.10. Whenever a non-conforming use of land has been changed to a conforming use, it shall not thereafter be changed to a non-conforming use.

### **Sec. 15.07 Non-Conforming Uses of Structures and Land**

If a lawful use involving individual structures or involving structure and premises in combination exists at the effective date of adoption of this Ordinance, or future amendment to the ordinance that would not be allowed in the zoning district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Ordinance in the zoning district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zoning district in which it is located.
- B. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use by approval of the Zoning Board of Appeals provided that the Zoning Board of Appeals determines that the proposed use is more consistent with the current zoning classification than the current use based on the standards in Section 15.10. Whenever a non-conforming use has been changed to a conforming use, it shall not thereafter be changed to a non-conforming use.
- D. When a non-conforming use of a structure, or structures and premises in combination, is discontinued or abandoned for twelve (12) consecutive months such cessation of activity shall be determined to demonstrate an intent to abandon the non-conforming use and the use shall be reviewed by the ZBA as outlined in Section 15.09. If the non-conforming use is determined to have been abandoned than it shall not thereafter be used except in conformity with the regulations of the zoning district in which it is located.
- E. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this section is defined as damaged to an extent more than one hundred (100) percent of the assessed value at time of destruction. Repairs and Maintenance
  - A. For any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months for ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding twenty five (25) percent of the current assessed value of the non-conforming structure or non-conforming portion of the structure, provided that the cubic content existing when it became non-conforming shall not be increased in violation of this article.
  - B. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the Building Inspector, unless the property is condemned by the Village.

### **Sec. 15.08 Chance of Tenancy or Ownership**

A non-conforming structure, or use of land or structure, may be sold or change tenants without affecting its non-conforming status.

**Sec. 15.09 Standards for Determining Abandonment**

If the Village identifies a legal nonconforming use that they believe has been abandoned, they shall submit the property to the ZBA for a determination of abandonment. The ZBA shall hold a public hearing, following notice as outlined in Section 6.02 E of this Ordinance. The ZBA shall determine whether or not intent to abandon the nonconforming use was demonstrated based on a preponderance of the following factors:

- A. Reports such as from the building inspection or health department indicating the property is or has not been suitable for occupation.
- B. Disconnection of utilities
- C. Evidence that the use was relocated to a new site.
- D. Evidence of a “going out of business” sale.
- E. Signs advertising the business has been removed.
- F. The use has been discontinued for 1 year, except where government action such as road construction has prevented access to the premises, or where a clear intent to discontinue has not been demonstrated.
- G. Removal of the equipment or fixtures necessary for the operation of the nonconforming use.
- H. Request by the property owner for changes in their property tax designation inconsistent with the nonconforming use.
- I. Other actions by the property owner or lessee that demonstrates an intent to abandon the nonconforming use such as allowing the property to go into foreclosure.

**Sec. 15.10 Standards for Allowing the Change in a Non-Conforming Use**

A property owner may request approval from the ZBA to change a nonconforming use to another nonconforming use. The ZBA shall hold a public hearing following notice as outlined in Section 6.02 E of the zoning ordinance. The ZBA shall approve the request if it determines that the proposed use is more consistent with the current zoning classification than the current use based on the following factors:

- A. The similarity of zoning districts each use is permitted in and whether they are permitted by right or by conditional use permit (CUP).
- B. The anticipated off-site impact of each use due to traffic, hours of operation, and generation of noise, dust or odors or general intensity of the proposed use. such as from the building inspection or health department indicating the property is or has not been suitable for occupation.

**Sec. 15.11 Uses Subject to Conditional Use Permit Approval Not Non-Conforming Uses**

Any use which requires special land use approval and has been granted such approval is a permitted use and is not a nonconforming use provided it continues to comply with the conditions of that approval. An existing legal use that is located in a zoning district that currently requires special land use approval, but which did not when it was established, is a legal nonconforming use until special land use approval is granted.

## ARTICLE 2 DEFINITIONS

For the purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:

The word person includes a firm or association, organization, partnership, trust, company, or corporation, as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word shall is mandatory, the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

### **Sec. 2.01 Accessory Use**

A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use.

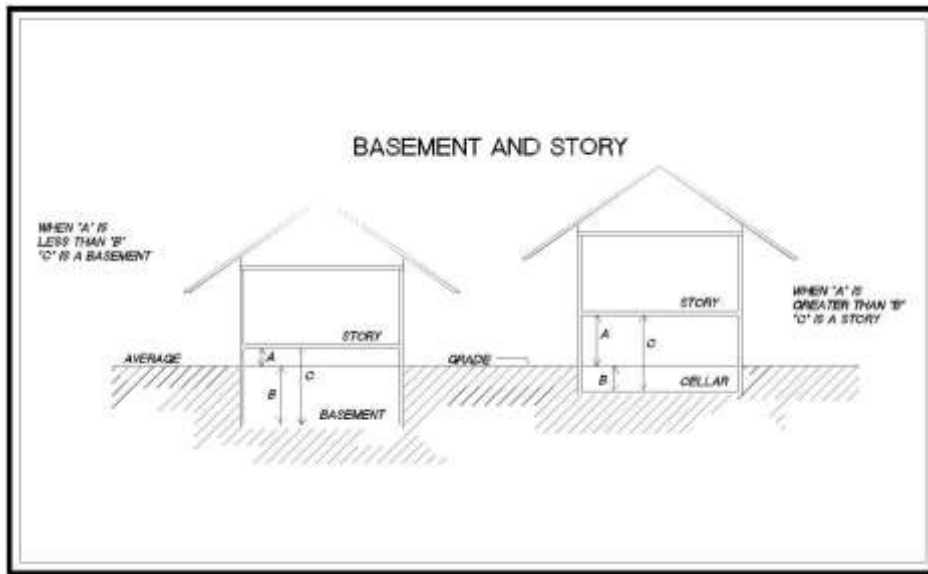
### **Sec. 2.02 Alteration**

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

### **Sec. 2.03 Basement**

A basement is that portion of a structure with not less than three (3) walls thereof, partly below grade and so located that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling (see Figure 2-1).

Figure 2-1



**Sec. 2.04 Block Face**

A block face is defined as and consists of those properties fronting along an existing right-ofway and located between the intersections of existing streets, or between intersections and dividers such as rivers, railroads, and other similar natural or man-made features.

**Sec. 2.05 Building**

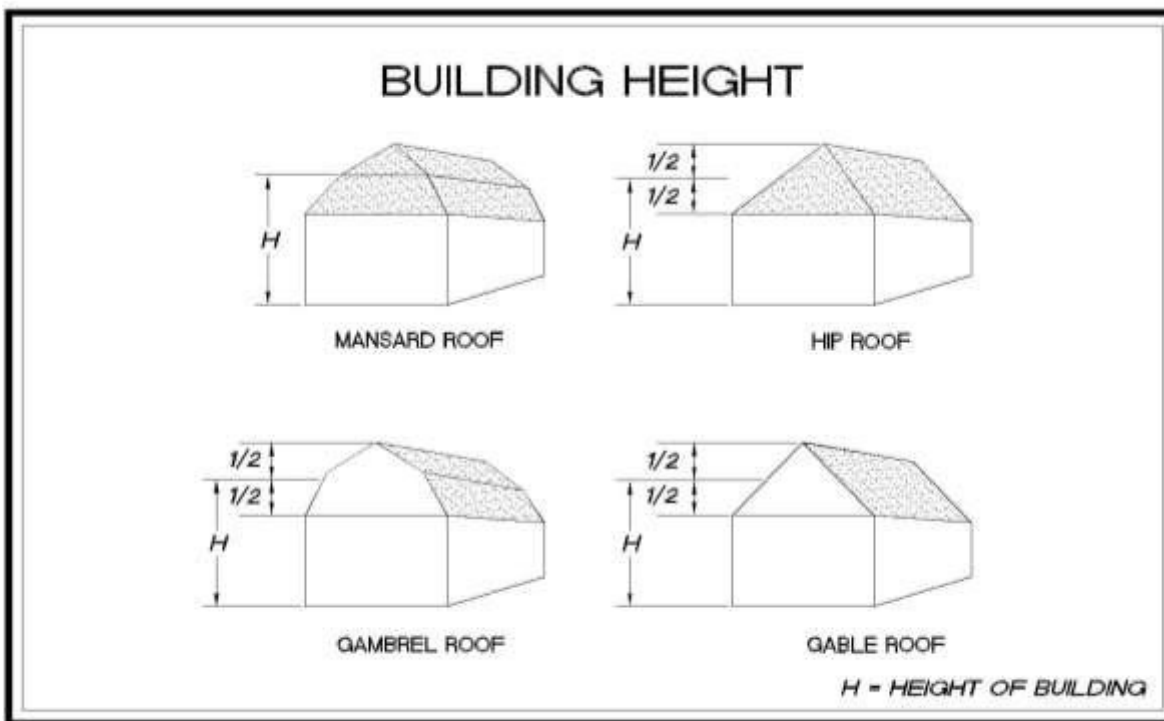
Any structure (excluding fences) having a roof or walls and built for, or capable of, the shelter or enclosure of persons, animals, chattels, or property of any kind.

**Sec. 2.06 Building, Height of**

The vertical distance from the grade at the center of the front of the building to the highest point of the roof surface in a flat roof, to the deck line for mansard roofs, and to the mean height level between eaves and ridge for gable, hip and gambrel roofs (see Figure 2-2).



**Figure 2-2**



**Sec. 2.07 Building Permit**

An authorization issued by the Village Building Inspector to move, erect or alter a structure within the Village.

**Sec. 2.08 Conditional Use**

A conditional use is a use of land for an activity which could be detrimental to other land uses permitted within the same district, but which can be permitted based on a case-by-case review of circumstances unique to the location of a particular proposed use, which use can be conditionally permitted without jeopardy to uses permitted within such district.

**Sec. 2.09 Conditional Use Permit**

An authorization approved by the Village Planning Commission to use a parcel of land and/or structure for a conditional use.

**Sec. 2.10 Condominium, Contractible**

A condominium project from which any portion of the submitted land or building may be withdrawn in accordance with the Condominium Act (PA 59 of 1978).

**Sec. 2.11 Condominium, Conversion**

A condominium project containing condominium units, some or all of which were occupied before the filing of a notice of taking reservations under Section 71 of the Condominium Act (PA 59 of 1978).

**Sec. 2.12 Condominium, Expandable**

A condominium project to which additional land may be added in accordance with the Condominium Act (PA 59 of 1978).

**Sec. 2.13 Condominium, General Common Elements**

Portions of the condominium development owned and maintained by the condominium association, as defined in the Condominium Act (PA 59 of 1978).

**Sec. 2.14 Condominium, Limited Common Elements**

Portions of the condominium development other than the condominium unit itself reserved for the exclusive use of less than all of the co-owners of the condominium development, as defined in the Condominium Act (PA 59 of 1978).

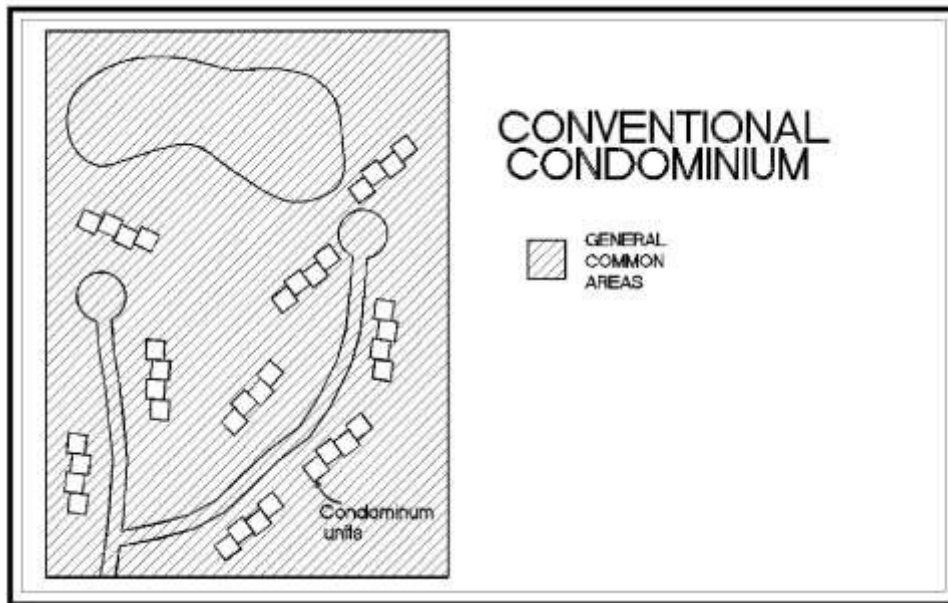
**Sec. 2.15 Condominium, Master Deed**

The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and including those items required in Section 8 of the Condominium Act (PA 59 of 1978).

**Sec. 2.16 Condominium Project, Conventional**

A development in which ownership interest is divided under the authority of the Condominium Act (PA 59 of 1978) and in which the condominium unit consists primarily of the dwelling or other principal structure and most of the land in the development is part of the general common area (see Figure 2-3, next page).

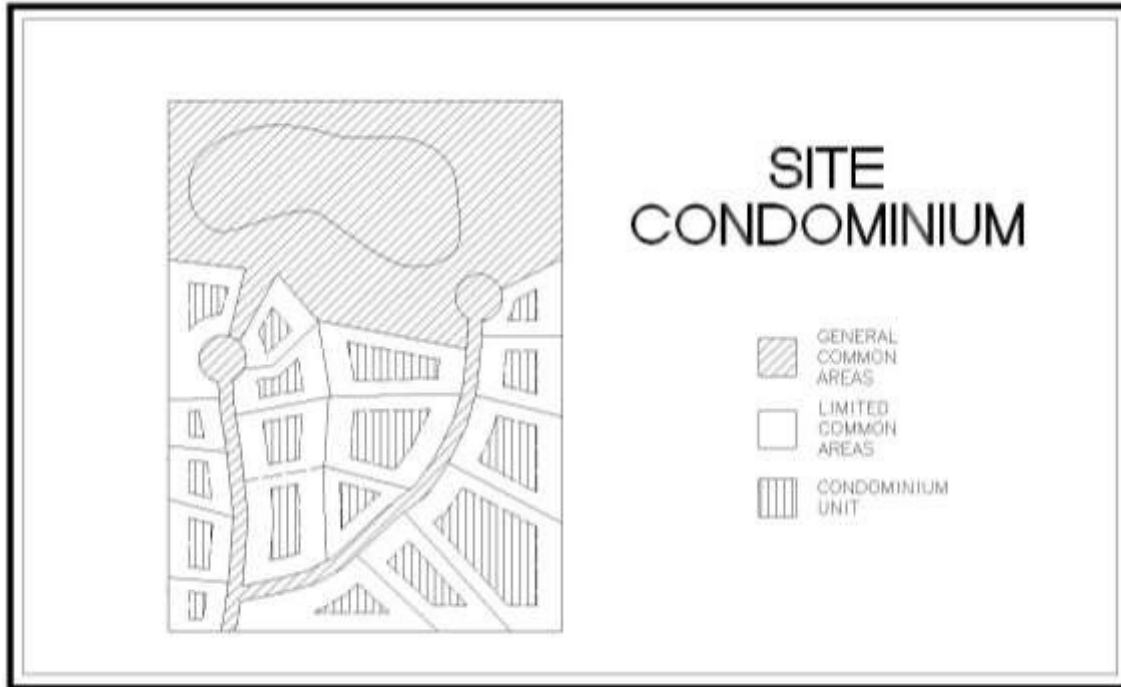
**Figure 2-3**



**Sec. 2.17 Condominium Project, Site**

A development in which ownership interest is divided under the authority of the Condominium Act (PA 59 of 1978) and in which the condominium unit consists of a building site, with or without structures, which along with associated limited common elements, constitutes the equivalent of a lot (see Figure 2-4).

**Figure 2-4**



**Sec. 2.18 Condominium, Subdivision Plan**

Drawings and information prepared pursuant to section 66 of the Condominium Act (PA 59 of 1978).

**Sec. 2.19 Condominium Unit**

A condominium unit is that portion of a condominium development designed and intended for occupancy and use by the unit owner consistent with the provisions of the master deed, as defined in the Condominium Act (PA 59 of 1978).

**Sec. 2.20 Cul-De-Sac**

A street terminated at one end, with a turning radius.

**Sec. 2.21 District**

Each part, or parts of the Village of Otisville for which specific zoning regulations are prescribed.

**Sec. 2.22 Driveway**

A paved way for vehicular traffic extending from the roadway to the property side across a sidewalk, whether or not such sidewalk is improved, for the purpose of providing access to parking or maneuvering space on abutting property

**Sec. 2.23 Driveway, Commercial**

A driveway serving any property except a one or two family residence.

**Sec. 2.24 Driveway, Residential**

A driveway serving a one or two-family residence.

**Sec. 2.25 Dumpster**

Any container, receptacle, compactor unit, trailer, roll-off, or similar unit with or without wheels that is used for temporary storage, containment, or transport of refuse, debris, trash, garbage, food waste, solid waste, recyclable material, incidental demolition debris, or other discarded or like materials. It shall not apply to ordinary household trash cans of a volume of fifty gallons or less, recycling receptacles of ninety-six gallons or less, to plastic bags storing these materials in compliance with the regulations of the Village, or to solid waste disposal trucks operated by a company duly licensed by the Village used or operated by the Village.

**Sec. 2.26 Dwelling Units**

One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically independent of any other group of rooms, or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

**Sec. 2.27 Essential Services**

The phrase “essential services” means the erection, construction, alteration, or maintenance by public utilities or any governmental department or commission of underground or overhead gas, electrical, steam, or water transmission or communication, supply or disposal systems, including poles, wires, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection with, but not including, buildings and structures.

**Sec. 2.28 Family**

An individual or two (2) or more persons related by blood or marriage or a group of not more than five (5) persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit as a functional family.

**Sec. 2.29 Family, Functional**

A group of people plus their offspring, having a relationship which is functionally equivalent to a family. The relationship must be of a permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive unit. Functional family does not include any society, club, fraternity, sorority, registered student organization, association, lodge, organization, or group of students or other individuals where the common living arrangement or basis for the establishment of the housekeeping unit is temporary.

**Sec. 2.30 Floor Area**

Floor area shall constitute the total floor area occupied by a use and measured to include all space used primarily or incidentally for such use.

**Sec. 2.31 Frontage**

The lands and distance thereof of any lot fronting on one (1) side of a street between intersecting or intercepting streets, or between a street and another right-of-way, waterway, end of a dead end street or village boundary measured along the street line or between a lot line and any of the above.

**Sec. 2.32 Loading Space, Off-Street**

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used 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 the computation of required off-street parking space.

**Sec. 2.33 Lot**

For purposes of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- A. A single lot of record;
- B. A portion of a lot of record;
- C. A combination of contiguous lots of record, or contiguous portions of lots of record;
- D. A parcel of land described by metes and bounds.
- E. In the case of a site condominium, each condominium unit and its associated limited common area shall constitute a lot.

**Sec. 2.34 Lot Area**

The total horizontal area within the lot lines of a lot.

**Sec. 2.35 Lot, Corner**

A lot located at the intersection of two (2) streets or a lot bounded on two sides by a curving street, any two (2) chords of which form an angle of one hundred thirty five (135) degrees or less. The point of intersection of the tangents described above (see Figure 2-6).

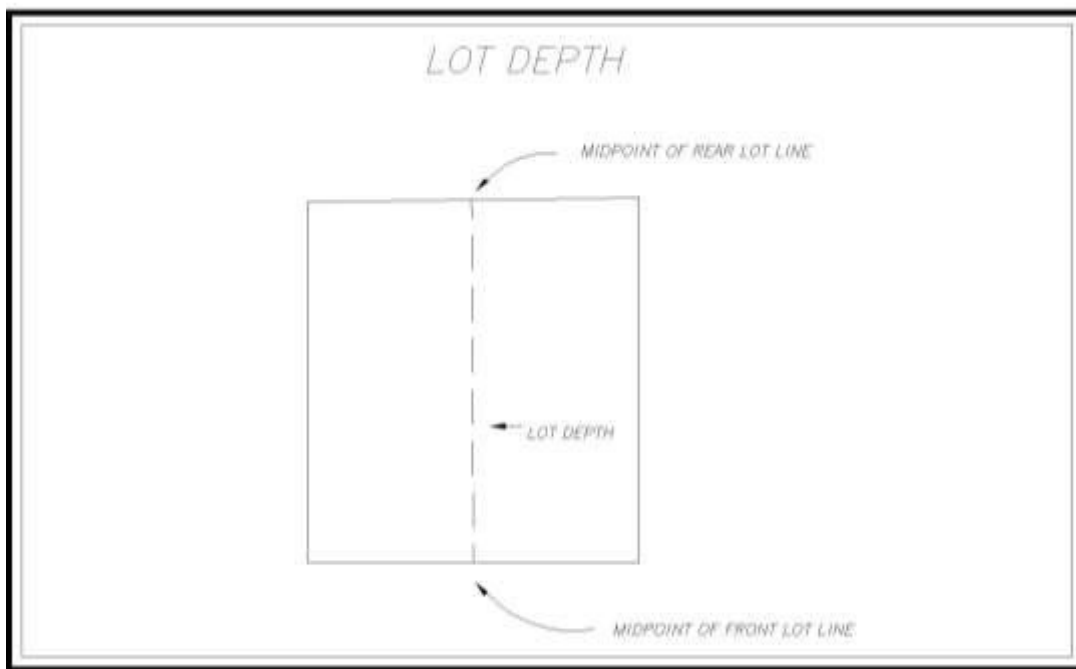
**Sec. 2.36 Lot Coverage**

That part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

**Sec. 2.37 Lot Depth**

The distance between the midpoints of straight lines connecting the foremost points to the side lot lines in the front and the rearmost points on the side lot lines is the rear.

**Figure 2-5**



**Sec. 2.38 Lot, Gore Shaped**

A triangular shaped lot. (See Figure 2-6).

**Sec. 2.39 Lot, Interior**

A lot other than a corner lot with only one (1) lot line fronting on a street (see Figure 2-6).

**Sec. 2.40 Lot Line, Front**

In the case of an interior lot, abutting upon a public or private street, the front lot line shall mean the line separating such lot from such street right-of-way. In the case of a through lot, the front lot shall be that line separating said lot from both street right-of-way's. In the case of a corner lot, both street lot lines are front lot lines. (see Figure 2-10).

**Sec. 2.41 Lot Line, Rear**

Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular, or gore-shaped lot, a line ten (10) feet in length entirely within the lot parallel to, or approximately parallel, and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth or rear yard. In the case of a corner lot both of the lines opposite the front lot lines shall be side lot lines and there shall be no rear lot line. (see Figure 2-10)

**Sec. 2.42 Lot Line, Side**

Any lot line not a front lot line or rear lot line.

**Sec. 2.43 Lot Line, Street or Alley**

A lot line separating the lot from the right-of-way of a street or an alley.

**Sec. 2.44 Lot Lines**

The property lines bounding the lot.

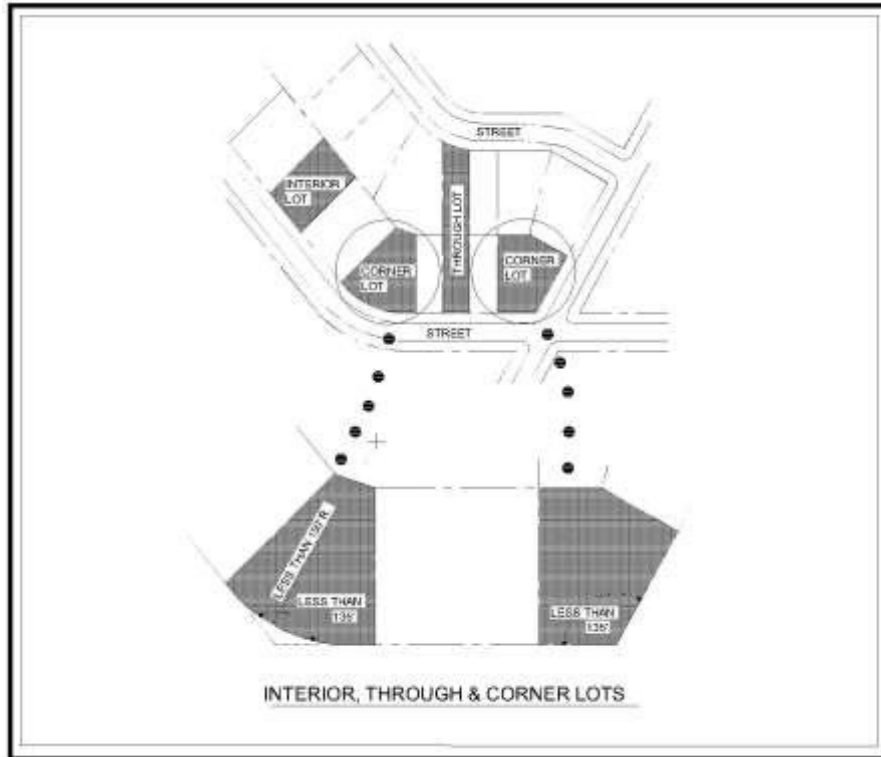
**Sec. 2.45 Lot of Record**

A lot which actually exists in a subdivision plat or condominium plan as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**Sec. 2.46 Lot, Through**

A lot having its front and rear yards each abutting a street (see Figure 2-6).

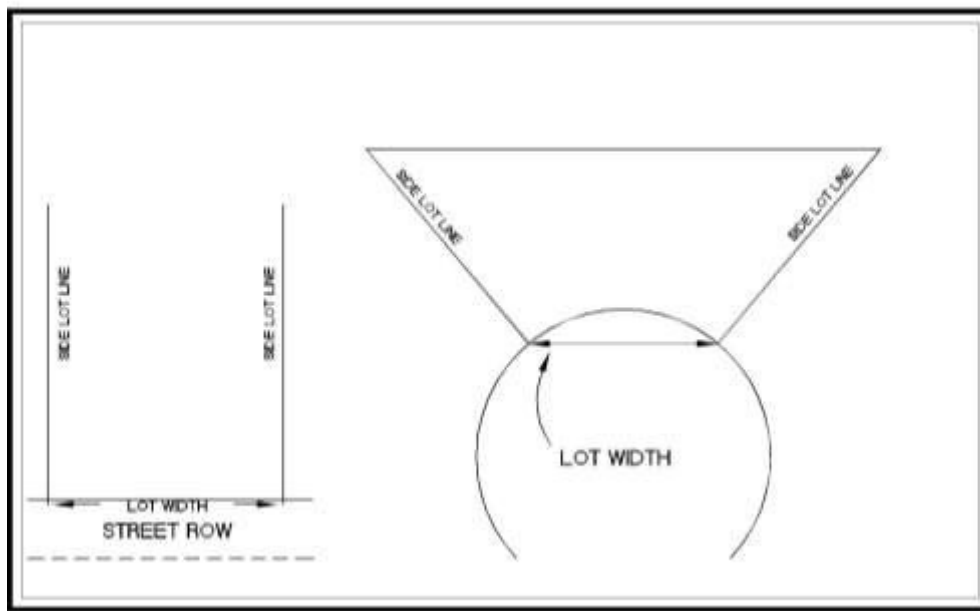
**Figure 2-6**



**Sec. 2.47 Lot Width**

Width of a lot shall be the distance along a straight line connecting side lot lines and measured across the lot between side lot lines at their foremost points (where they intersect with the front lot line.) (See Figure 2-7).

**Figure 2-7**



**Sec. 2.48 Master Plan**

The Master Plan for the Village of Otisville, Genesee County, Michigan as authorized by the Michigan Planning Enabling Act, Act 33, Public Acts of 2008.

**Sec. 2.49 Mobile Home**

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

**Sec. 2.50 Natural Features**

A wetland, a river, stream, lake, pond or other water course or an area of steep slopes greater than 12%.

**Sec. 2.51 Non-Conforming Lot**

A lot with dimensions or area which conflict with the provisions of this Ordinance.

**Sec. 2.52 Non-Conforming Structure** A structure conflicting with the regulations of the district in which it is located.

**Sec. 2.53 Non-Conforming Use**

A use of land or a structure for purposes which conflict with the provisions of this Ordinance.

**Sec. 2.54 Parking Space, Off-Street**

For the purposes of this Ordinance, an off-street parking space shall consist of a space for parking an automobile that complies with the requirements of this ordinance.



**Sec. 2.55 Plot Plan**

A drawing prepared in compliance with the requirements of this ordinance to document proposed development of a lot as part of a zoning permit application.

**Sec. 2.56 Principal Use**

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

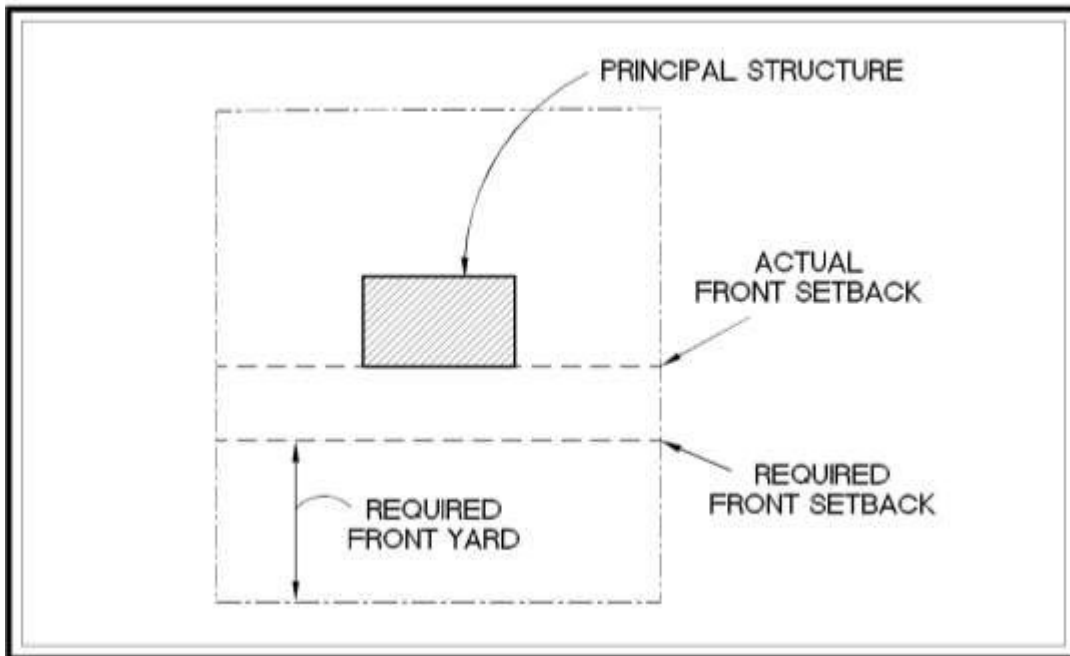
**Sec. 2.57 Setback, Actual**

The minimum horizontal distance between the principal building, excluding steps and unenclosed porches and the lot line. In the case of a lot on a cul-de-sac or curvilinear street, the setback is measured from the midpoint of the lot width on the front lot line (see Figure 2-8).

**Sec. 2.58 Setback, Required**

Distance from the right-of-way lines of streets to the building line for the purpose of defining limits within which no building or structure or any part thereof, shall be erected or permanently maintained. (See Figure 2-8).

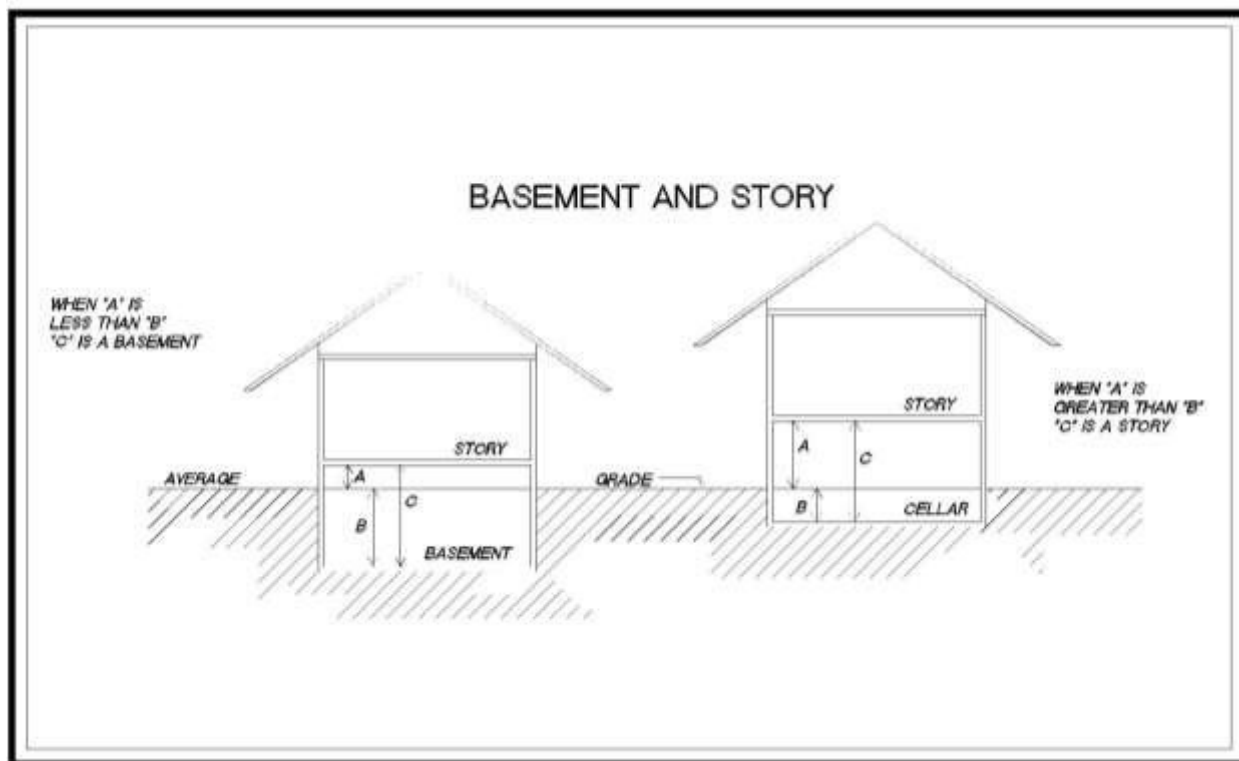
**Figure 2-8**



**Sec. 2.59 Story**

That part of a building included between the surface of any floor and the surface of the floor or roof, next above. When the distance from the average established grade to the ceiling of a portion of a structure partly below such grade is greater than the distance from the average established grade to the floor, such portion shall constitute a story. (See Figure 2-9.)

**Figure 2-9**



**Sec. 2.60 Street**

A public or private thoroughfare which affords a principal means or access to abutting property.

**Sec. 2.61 Structure**

Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground and which is not flush with the ground, such as parking lots or sidewalks. Among other things, structures include buildings, mobile homes, walls, fences, billboards, and poster panels.

**Sec. 2.62 Travel Trailer**

A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet and a length not to exceed thirty-five (35) feet.

**Sec. 2.63 Variance, Use**

An authorization permitting change in the requirements of this Ordinance by the Zoning Board of Appeals in cases where the general requirements of this Ordinance and the literal enforcement of such would result in an practical difficulty upon the variance applicant.

**Sec. 2.64 Village**

The Village of Otisville Genesee County, Michigan.

**Sec. 2.65 Village Council**

The Village Council of the Village of Otisville, Genesee County, Michigan.

**Sec. 2.66 Village Planning Commission**

The Otisville Village Planning Commission as established by the Otisville Village Council under provisions of the Michigan Planning Enabling Act, being Act 33, Public Acts of 2008, as amended.

**Sec. 2.67 Yard**

A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

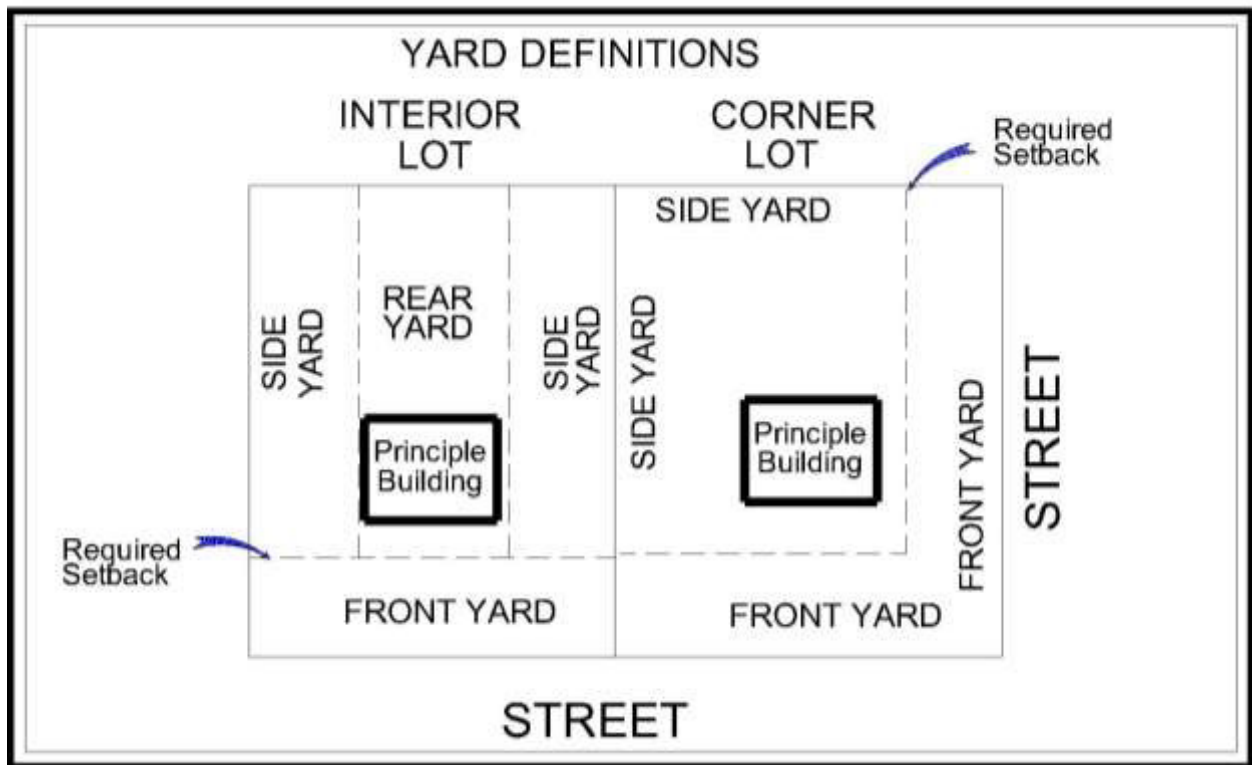
**Sec. 2.68 Yard, Front**

A yard extending between side lot lines across the front of a lot and adjoining a public street (see Figure 2-10).

**Sec. 2.69 Yard, Side**

A yard extending from the rear line of the required front yard and being between the principal structure and the side lot lines, to the rear lot line or, in the absence of any clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the public street (see Figure 2-10).

**Figure 2-10**



**Sec. 2.70 Yard, Rear**

A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards (see Figure 2-10).

**Sec. 2.71 Zoning Administrator**

The person appointed by the Village Council to administer this ordinance.

**Sec. 2.72 Zoning Board of Appeals**

The Zoning Board of Appeals as provided under provisions of the Michigan Planning Enabling Act, being Act 110, Public Acts of 2006, as amended, with powers and duties as defined in those statutes, except as modified herein.

**Sec. 2.73 Zoning Permit**

The document verifying that a proposed use or development complies with the requirements of this ordinance.

## ARTICLE 3 GENERAL PROVISIONS

### Sec. 3.01 Scope

Except as elsewhere provided in this Ordinance, no structure or part thereof, shall hereafter be erected, constructed, reconstructed or altered in any manner; and no structure, land, premises, or part thereof, shall be used for a purpose and no open space surrounding any structure shall be reduced or encroached upon, other than as permitted by the provisions of this Ordinance, for the district in which such structure land or premises is located.

### Sec. 3.02 Building Regulations

- A. No structure shall be erected, altered, or moved into this Village except in conformity with all the regulations pertaining to such structure and pertaining to the district within which such structure is located, or to be located.
- B. Nor shall any such structure be erected, altered, or moved into this Village without having been issued previously a zoning permit authorizing such erection, alteration, or movement.
- C. No zoning permit shall be issued unless a plot plan showing compliance with all requirements of this Ordinance has been approved by the Village Zoning Administrator or, in the case of a use requiring approval of the Village Planning Commission, approval of a site plan by such Commission, or, in the case of an existing structure a finding by the Village Zoning Administrator that the structure is in conformance with all existing ordinances and regulations or in compliance with the nonconforming provisions of this ordinance, or the alteration after moving will permit compliance with all such ordinances and regulations.
- D. No structure shall hereafter be erected or altered (1) to exceed the height or the mass of the building; (2) to accommodate, or house a greater number of families; (3) to occupy a greater percentage of lot area; (4) to have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required; or in any other manner contrary to the provisions of this Ordinance.
- E. No part of a yard, or other open space, or off street parking or loading space required for, or in connection with, any land use, or structure for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off street parking or loading space similarly required for any other land use or structure except as otherwise specifically permitted under provisions of this Ordinance.
- F. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

Notwithstanding the provisions above, nothing in this section shall prevent the issuance of a zoning permit for a variance duly granted by the Zoning Board of Appeals or allow the continuation of a legal nonconforming use, structure or lot as provided for in this ordinance.

**Sec. 3.03 Construction or Contracts Under Permits Issued Prior to This Ordinance.** Any structure for which a building permit has been issued and construction of the whole, or a part of which has been started, or for which a contract or contracts have been entered into pursuant to a building permit issued prior to the effective date of this Ordinance, may be completed and used

in accordance with the plans and applications on which said building permit was granted, provided the construction permitted by such permit shall have been prosecuted and completed within one year from the date of issue of such building permit.

#### **Sec. 3.04 On-Site Sewage Disposal Systems**

Before any zoning permit shall be issued under the terms of this Ordinance for any parcel connecting to an on-site sewage disposal system the applicant shall obtain the endorsement in writing from the Genesee County Health Department approving his plans for any on-site sewage disposal system which systems shall be in accordance with state law, county regulations, or Village Ordinance, whichever is the most restrictive and in accordance with the applicable regulations of the Genesee County Sewage Disposal District No. 4. Any parcel required by Village Ordinance to connect to the village sewer system shall do so before final approval of the parcel shall be granted.

#### **Sec. 3.05 Water Supply**

- A. Every building or structure hereafter erected or moved upon any premises and used in whole, or in part, for dwelling, recreational, business, commercial or industrial purposes shall be provided with a safe, adequate and sanitary water supply. All plumbing work relating to the water supply system shall conform to the standards of material and installations set forth by the Michigan State Plumbing Code.
- B. Where a public water system is not available, each fixture for which water for human consumption may be obtained shall be supplied from a system which meets the minimum requirements of the State of Michigan, the Genesee County Health Department, the Michigan State Department of Health or the Village Ordinance.

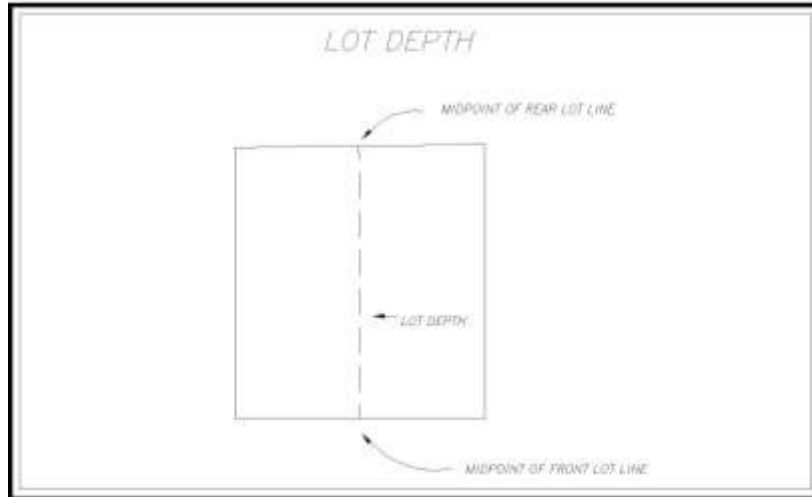
#### **Sec. 3.06 Yard and Lot Area Requirements**

##### **A. Lot Measurements**

No area shall be counted as accessory to more than one principal structure or use, and no area necessary for compliance with the open space requirements for one principal structure or use shall be included or counted in the calculation of the open space accessory to any other principal structure or use. In the determination of a land area where a structure is to be erected, altered, or used, no road right-of-way shall be included in the consumption of the required minimum land area.

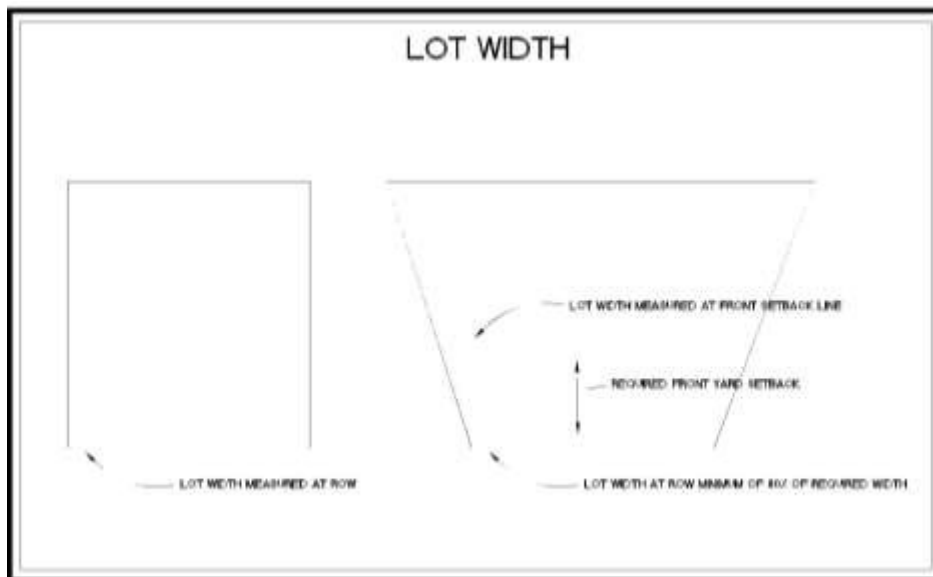
- 1. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points to the side lot lines in front and the rearmost points of the side lot lines in the rear. (See Figure 3-1, next page)

Figure  
3-1



2. Width of a lot shall be the distance along a straight line connecting side lot lines where the intersect the front lot line, , except in the case of lots with non-parallel side lot lines, in which case the lot width at the front lot line shall be a minimum of 80% of the lot width requirement and the lot width at the required front yard setback line. (See Figure 3-2) [3-2]

Figure 3-2

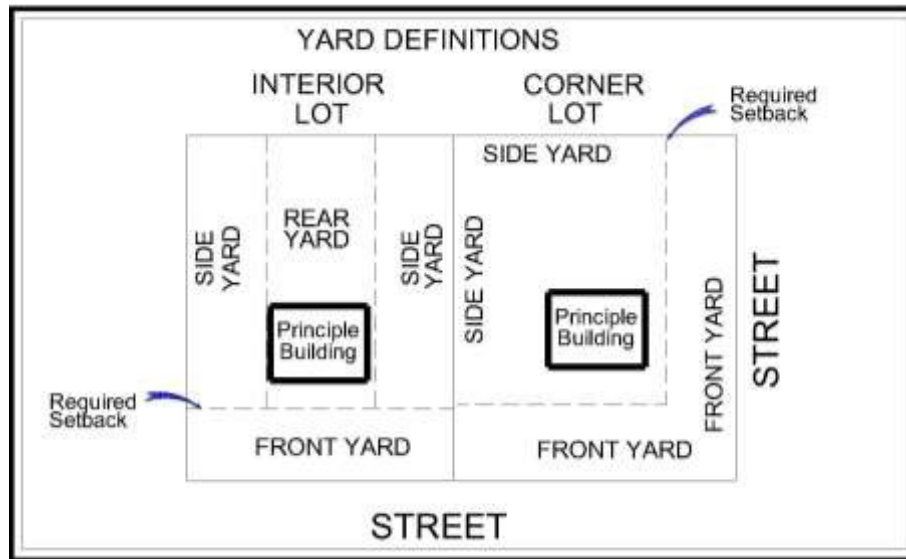


3. The front of a lot shall be the portion nearest the street and, for the purposes or determining yard requirements on corner lots and through lots all sides of a lot adjacent to streets shall

be considered frontage, and setbacks shall be provided as required in this Ordinance.  
(See Figure 3-3.)



**Figure  
 3-3**



**B. Dimension Criteria**

**1. Height Limitations**

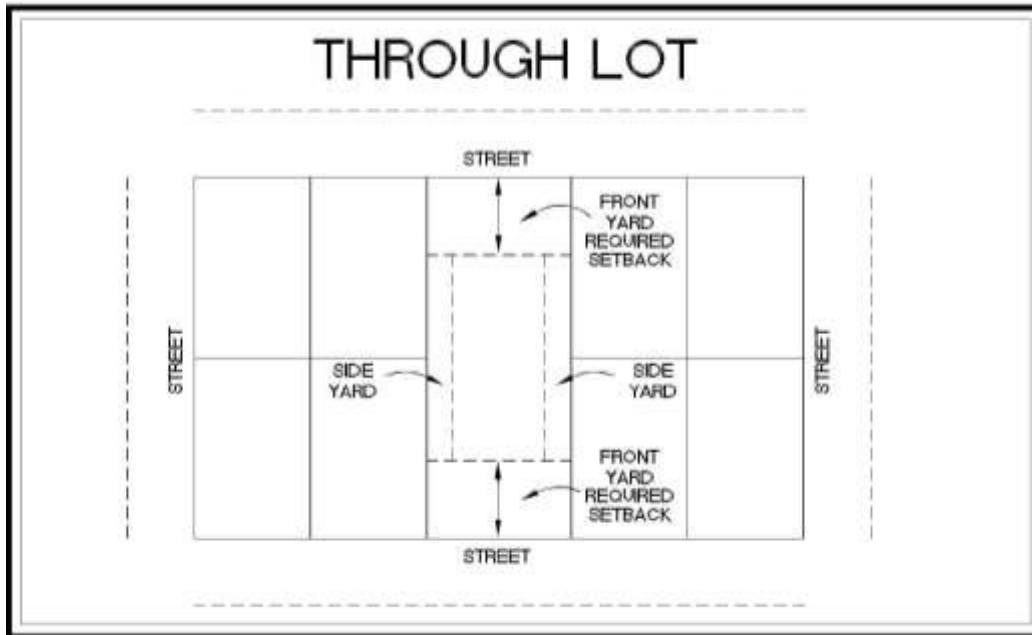
The limitations affecting the height of structures shall not apply to the appendages and structures such as communication towers, parapet walls not exceeding three (3) feet in height, chimneys, smokestacks, church spires, flagpoles, radio or TV towers, masts and aerials, penthouse for mechanical equipment, and water tanks; provided, however, such appendages and structures shall comply with all other provisions of this or any other applicable Ordinance.

**2. Yards**

All front, side and rear yard setbacks shall be the minimum perpendicular distance measured from the principal structure excluding all projections not exceeding three (3) feet in length or three (3) feet in width from the structure wall.

- a. In the case of corner lots which do not have reversed frontage, the front yard requirements shall apply to all sides of the lot which abut a street.
- b. In any district where a lot runs through a block from street to street and where a front yard is required, such front yard shall be provided along each street lot line.
- c. In the case of through lots, side yards shall extend from the setback lines of required front yards. In the case of corner lots, yards remaining after full front yards have been established shall be considered side yards and comply with applicable requirements for side yards. (See Figure 3-4, next page.)

Figure  
3-4



- d. Width of a required side yard shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district regulations.
- e. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district regulations.

**Sec. 3.07 Exception to Yard and Lot Area Requirements**

Lot area and yard requirements normally required within this Ordinance may be waived upon the approval of a variance by the Zoning Board of Appeals in accordance with the provisions of Section 13.03 or subject to the following provisions.

**A. Lot Width**

A single family dwelling may be constructed on any officially platted and recorded lot which is less than the minimum width required by this Ordinance provided that the structure and setbacks comply with all other requirements herein.

**B. Lot Area**

A single family dwelling may be constructed on any officially platted and recorded which has less than the minimum area required by this Ordinance, provided that the structure and setbacks shall comply with all other requirements of this Ordinance.

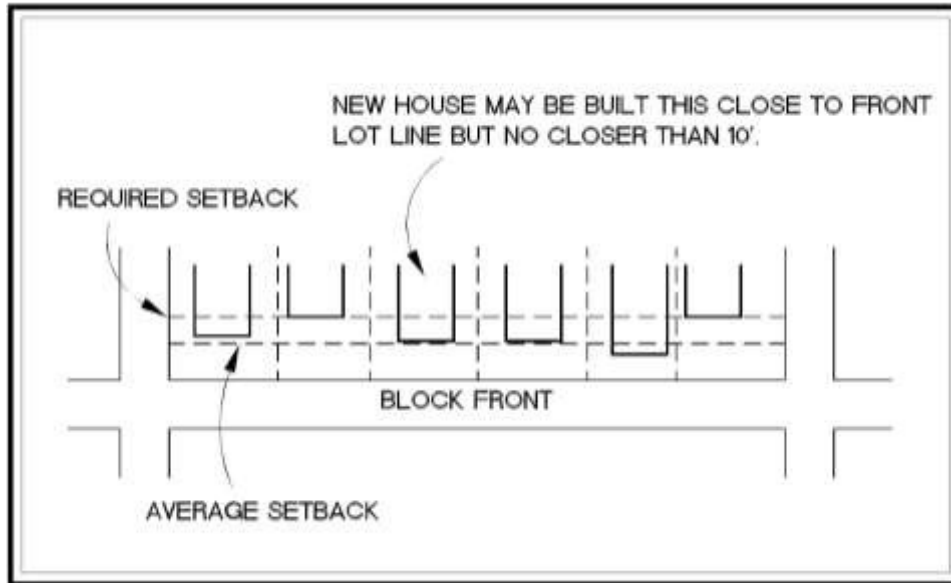
**C. Front Yards**

In all residential districts, the front yard requirement shall not be less than the average depth of existing developed front yards on lots within two hundred (200) feet of said lot and within the same block face. In addition, single-family residential uses may encroach on the front yard setback provided they are no closer to the front lot line than the average of the front yard

**Figure**

setbacks within two hundred (200) feet of said lot and within the same block face, but in no case shall the front setback be less than ten (10) feet. (See Figure 3-5, next page.)

**3-5**



**Sec. 3.08 Accessory Buildings**

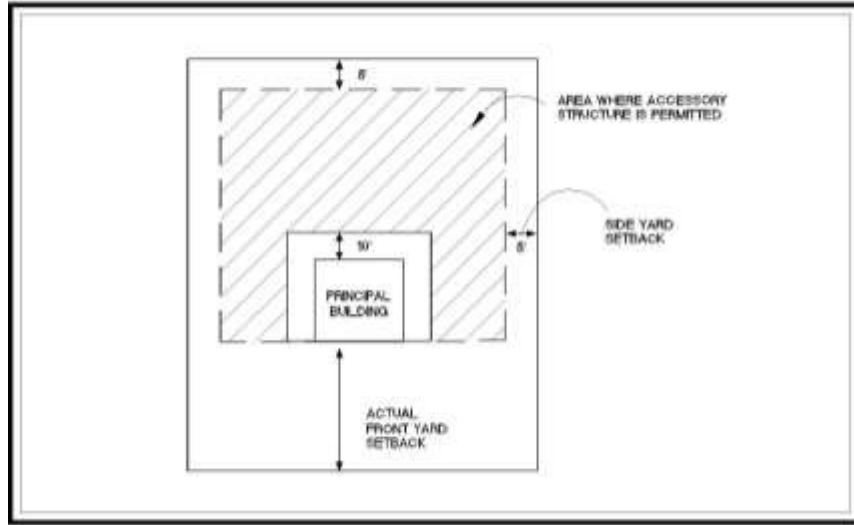
**A. Non-Residential Districts**

1. Any part of a detached accessory building shall be at least twenty-five (25) feet from any front line when the adjoining lot is located in a residential district.
2. Accessory buildings may be erected as a part of or connected to the principal building but in either case shall be considered a part of the principal building provided all yard requirements for a principal building are complied with.

**B. Residential Districts**

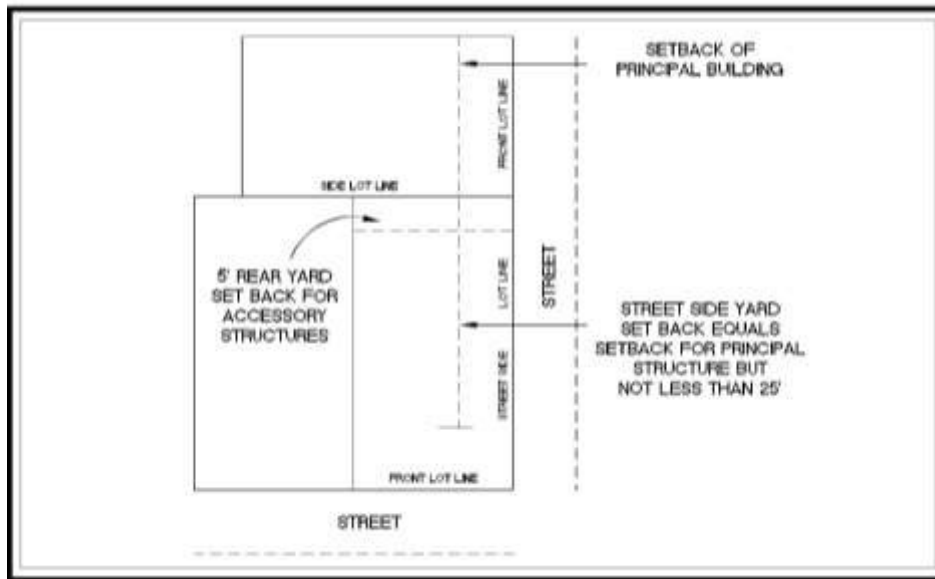
1. No accessory building shall be erected in the actual front yard setback. (See Figure 3-6.)

Figure  
Figure 3-6



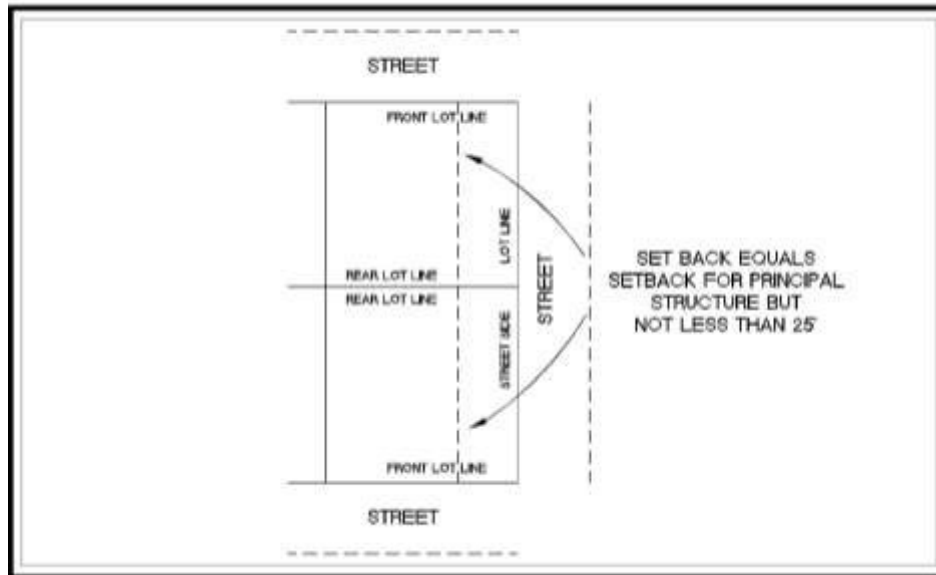
2. Accessory buildings shall not exceed twelve (12) feet in height and shall be at least ten (10) feet distance from any other separate structure on the same lot and shall not be closer than five (5) feet to any lot line.
3. When the rear line of a corner lot abuts the side line of an adjoining lot in a residential district no accessory building shall be within five (5) feet of such abutting lot line nor closer to the side street lot line than the front yard setback by less than twenty-five (25) feet. (See Figure 3-7.)

Figure 3-7



4. When the rear line of a corner lot abuts the rear line of any other lot or is directly across an alley therefrom, no accessory buildings shall be closer to the side street lot line of the corner lot than the street yard setback of the principal building on the corner lot, but in no case shall the setback be less than twenty-five (25) feet. (See Figure 3-8.)

Figure 3-8

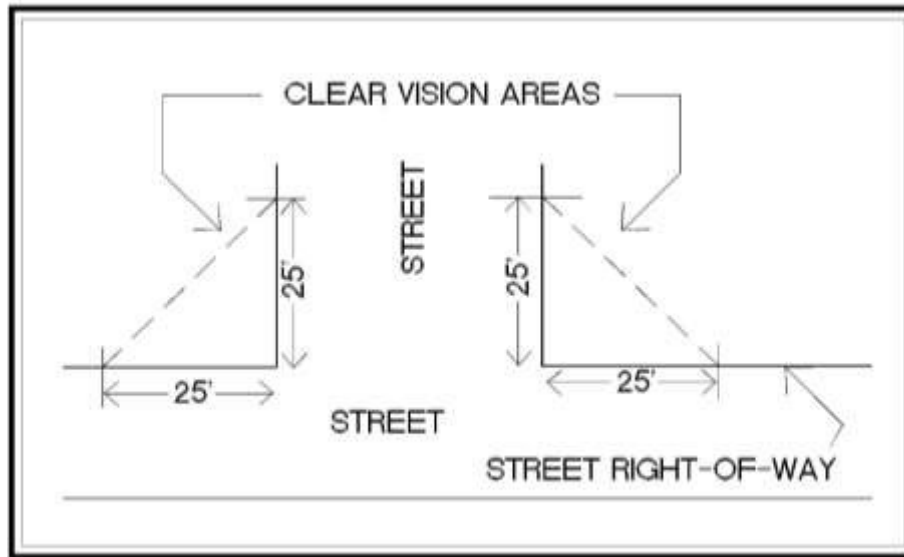


5. Accessory buildings may be erected as a part of the principal building or may be connected thereto by a breezeway or similar structure and in either case shall be considered a part of the principal building provided all yard requirements of this Ordinance for a principal building are complied with.
6. A private garage or a portion thereof may be rented or leased for not more than one (1) motor vehicle (non-commercial type only) to a person not a resident of the dwelling on the lot.

### Sec. 3.09 Clear Vision Zone

There shall be a clear vision zone at all corners of intersecting roads, or road junctions, consisting of a triangular area defined by the point of intersection of the right-of-way lines and the two points extended along such lines a distance of twenty-five (25) feet from the point of intersection, and within which area no obstruction to vision, excluding existing topography, shall be permitted from a height of two (2) feet to eight (8) feet above centerline elevation of abutting streets, except not more than two (2) trees with trunks of not more than thirty (30) inches in diameter each, and clear of any branches for such heights may be located within such area; provided, however, that this section shall not prohibit the requirement of a greater clear vision area where such is necessary in view of permitted traffic, anticipated traffic volumes or geographic conditions. (See Figure 3-9, next page.)

Figure 3-9



### Sec. 3.10 Lot Grades

- A. All structures shall be constructed or located with a ground elevation such as to provide a sloping grade to cause the surface drainage to flow away from the walls of such structures.
- B. Grades on any lot upon which new construction or earth movement is to be carried out shall be related to existing grades and drainage systems such as to provide adequate drainage and not jeopardize such existing drainage systems and shall be approved by the Village Building Inspector and such other authorities having jurisdiction over such system.

### Sec. 3.11 Curb Cuts and Driveways

Curb cuts and driveways may be located only upon approval by the Superintendent of Public Works and such other county and state authorities as required by law such as the Michigan Department of Transportation for state highways; provided, however, such approval shall not be given where such curb cuts and driveways shall cause an unreasonable increase in traffic hazards. The driveway curb cut review and approval process for curb cuts and driveways not accessing M-15 is outlined below:

#### A. Driveways - Permits

An application for a driveway permit shall include:

1. A site plan or sketch showing the driveway for its entire length and its relation to the intersecting road, the proposed location of dwellings or structures, septic systems, existing or proposed surface water swales, diversions, etc.;
2. On any driveway where existing lot grades exceed ten (10) percent, a profile of the driveway showing existing and proposed center line grades and elevations for its entire length shall be required;
3. A plan showing the type of storm drainage to be constructed along the driveway and at the driveway intersection with the road, i.e., dish-type gutter, pipe or culvert. Sizes of pipes, culverts and gutters, grades, elevations, typical cross-sections, construction details, and

any other information deemed necessary to the proper analysis of the installation shall also be shown;

4. Where a driveway existed on the date of the adoption of the ordinance codified in this chapter, and the owner has decided to modify said driveway as defined herein, then the owner shall file an application with Zoning Administrator on forms provided together with a fee established as part of a fee schedule adopted by the Village Council. Driveway plans, profiles, and construction details are not required;
5. The Zoning Administrator shall inspect the premises and review the driveway application and if the proposed improvements comply with the standards of this chapter, the Superintendent of Public Works shall issue a driveway permit. If the determination is that the proposed driveway or driveway modifications do not comply with standards of this chapter, then the applicant shall receive written notice specifying the particulars of noncompliance

**B. Driveways - Conditions**

Upon appropriate application and payment or fees, the Zoning Administrator may issue a permit to construct a driveway in the street area subject to the following conditions, and following site plan review when necessary. When considering approval of a site plan the Planning Commission shall ensure that the plan meets the requirements below:

1. All driveways shall be constructed according to plans, materials, specifications, and any special conditions approved by the Zoning Administrator. Surface material shall be the greater of 4" of Limestone or the surfacing requirements for the parking area connected to the driveway under this ordinance.
2. Location. No portion of a driveway, excluding ramps if required, shall be located closer than 25 feet from the corner of a lot where two streets intersect.
3. Width of driveways. A permit to construct a driveway in the street area is subject to the following width provisions:

Residential driveway		
Private Property Frontage	Minimum Width	Maximum Width
25 ft. or less	10 ft.	20 ft.
26 ft. to 50 ft.	10 ft.	20 ft.
51 ft. to 75 ft.	10 ft.	25 ft.
76 ft. to 100 ft.	10 ft.	30 ft.

4. Driveway parking will require either two stacked parking spots or two adjacent parking spots on the property side of the sidewalk unless granted a variance.
5. More than one driveway may be allowed for frontage up to 100 feet with the approval from the Zoning Administrator and the Planning Commission. No less than 5 feet of straight curb must separate serviced driveways regardless of ownership. Each 100 feet of frontage, or fraction thereof, under single ownership shall, for purposes of this section, be considered a separate frontage.



Commercial driveway		
Private Property Frontage	Minimum Width	Maximum Width
50 ft. or less	15 ft.	25 ft.
51 ft. to 50 ft.	25 ft.	35 ft.

6. Driveways shall be measured lengthwise with the sidewalk on the property line side, and such measurement shall not include the width of ramps extending to the regular sidewalk grade. Ramps, if required, do not constitute part of the required minimum or allowed maximum width. Determination of the need or appropriateness of ramps shall be within the sole discretion of the Zoning Administrator.
7. Adjacent Driveway Openings. A minimum clear distance of twenty-five (25) feet shall separate any two driveways (on the same premises or on adjoining lots) entering upon a single municipal roadway, as measured along the right-of-way line.
8. Drainage Facilities. Each driveway shall be constructed with suitable and adequately designed draining facilities. Wherever possible, driveway drainage shall be directed into natural drainage channels. Driveway drainage may be connected with existing drainage facilities within the municipal roadway, providing said connection does not interfere with existing drainage, or cause erosion or deposits of sediment in the municipal drainage system. Driveway drainage systems shall not discharge onto adjoining properties causing erosion or sediment damage or flooding and shall not discharge onto the paved or traveled portion of any public right-of-way
9. Sight Distance Required.
  - a. Exit Driveways. Any exit driveway shall be designed in profile, grading, and location to permit a minimum sight distance of one hundred fifty (150) feet measured in each direction along the center line of the intersecting road. The sight distance measurement shall be from a sight point on the center line of the exit driveway fifteen (15) feet behind the curb line of the thoroughfare, or if no curb line exists, a minimum of thirty (30) feet from the center line of the intersecting road. A clear sight triangle shall be established connecting the sight points described above, and shall be graded and otherwise kept free of shrubbery, fences, structures, etc. in order to maintain clear vision between sight points.
  - b. Entrance Driveways. Any entrance driveway shall be located to permit a minimum sight distance of one hundred fifty (150) feet, for left turning vehicles, from the intersection of the driveway and roadway center lines.
  - c. Dual Purpose Driveways. A single driveway utilized for both exit and entrance purposes shall conform to the requirements of both subsections (1) and (2) of this section.
  - d. Commercial or Industrial Driveways. For a commercial use as defined by the zoning ordinance, the above minimum sight distances shall be increased by fifty (50) percent. For industrial uses, sight distances shall be increased by one hundred (100) percent.
10. Angle of approach - All driveways constructed or modified shall intersect perpendicular to the existing road pavement or traveled way. Any curved or angular approach of the driveway for aesthetic or topographical reasons shall be accomplished outside of the road right-of-way, or beyond twenty-five (25) feet from the centerline of the existing pavement, whichever is greater.

11. Vertical curves. - To assure adequate access for motor vehicles, any vertical curve on a driveway shall be flat enough to prevent the dragging of any vehicle undercarriage. Vertical curves shall not exceed a three and one-quarter inch crest or a two-inch depression in a ten (10) foot chord.
12. Width. - All driveways shall be designed and constructed to the width standards herein specified. Driveway width shall be the curb-face to curb-face dimension or pavement edge-to-edge dimension where curbs are not required, and shall be measured at the road right-of-way line or at a point twenty-five (25) feet from the centerline of road, whichever is greater
  - a. Single-family residential driveways shall have a minimum width of twelve (12) feet, and may taper to a minimum width of ten (10) feet beyond the right-of-way line. Driveways shall be flared on each side as they touch the intersecting road pavement or traveled way.
  - b. Multifamily, commercial and industrial driveway widths shall be designed to accommodate commercial vehicles and higher traffic volumes, but in no event shall exceed a maximum width of thirty-five (35) feet.
13. Maximum grades and driveway surfacing. - No new driveway shall be constructed at a profile grade exceeding fifteen (15) percent at any point. If a proposed uphill driveway will exceed a profile grade of eight percent anywhere within the first two hundred (200) feet, as measured from the road right-of-way line along the driveway center line, then that portion of the driveway which exceeds eight percent within the first two hundred feet shall be paved with a bituminous concrete, macadam, or portland cement concrete surface.
14. Erosion.- All driveways shall be constructed and maintained at all times in such a manner as to prevent erosion of soil and materials from them and the land behind them. Water and silt shall be prevented from running onto and accumulating upon the traveled way of municipal roads, or filling up road gutters, catch basins, inlets or pipe drains with sediment or debris.

In the event that the construction of any particular driveway in the municipality is subject to the provisions of the Califon Borough soil erosion and sediment control ordinance, the standards contained in such ordinance shall apply whenever such standards are more stringent, detailed or comprehensive than the standards contained herein

15. Ditches and drainage. - All driveways shall be constructed so as not to block or interfere with the drainage within gutters or along the existing road pavement or traveled way. Under no circumstances shall the driveway be allowed to extend beyond the edge of the existing ditch line at an elevation creating an uneven flow line in the gutter or ditch, or beyond the existing edge of pavement creating a hump or uneven driving surface.
  - a. Paved Gutter. The construction of a properly sized dish-type gutter will be permitted, provided that the existing water flow will not be blocked, altered or changed in any manner.
  - b. Culvert or Piping. The installation of a suitably sized reinforced concrete pipe or culvert will be required in the event that the existing flow line or ditch cannot be crossed with a shallow dish-type gutter. The size of the pipe or culvert required shall be determined by the Zoning Administrator. Driveways requiring drainage culvert will extend a minimum of 1 foot on each side of the driveway.
16. Circular driveways and perpendicular parking shall be permitted providing that the driveway does not extend in front of a dwelling meets minimum and maximum

requirements found necessary to insure the safe and orderly flow of pedestrian, bicycles, and vehicular traffic and preserve on-street parking when applicable.

17. Variances from these standards must follow the variance procedures and standards in Article 14 of this ordinance

C. Joint Use

The Zoning Administrator may require joint or shared use of a driveway by two properties in separate ownership. The Zoning Administrator may establish conditions regarding the number, configuration, and use of driveways necessary to ensure the safe and orderly flow of pedestrians, bicycles, and vehicular traffic, preserve on-street parking, preserve or establish street trees, maximize opportunities for vegetated storm water management, reduce conflicts with pedestrians and bicycles and enhance the pedestrian environment.

D. Referrals

The Zoning Administrator may refer any driveway permit application to the Planning Commission, Genesee County Drain Commission, and/or the Michigan Department of Transportation as appropriate, for a review of location, width, and storm water management. The Zoning Administrator shall recommend such conditions and limitations regarding the location and operation of driveways as are found necessary to insure the safe and orderly flow of pedestrian, bicycles, and vehicular traffic and preserve on-street parking when applicable.

E. Unapproved Access

If the Zoning Administrator finds that a property owner is permitting access where a properly constructed driveway does not exist, the Zoning Administrator may notify and require termination of access or construction of a driveway in accordance with the requirements of this Section.

**Sec. 3.12 Essential Services**

A. Nothing in this Ordinance shall prohibit the provision of essential services provided the installation of such service does not violate any other applicable provision of this Ordinance.

**Sec. 3.13 Temporary Living Quarters, Other Temporary Buildings**

A. Nothing in this Ordinance shall prohibit the use of a mobile home upon a lot while construction is diligently pursued upon a residence meeting all requirements of this Ordinance; provided, however, all health requirements affecting the provisions of water and sanitary sewer services are complied with and approved by the Village Building Inspector and provided further, that all such construction shall have been completed within one (1) year from the issuance of the building permit.

B. No cellar, garage, or any incompletely constructed structure shall be used as a dwelling unless such structure has been completed as a dwelling and an occupancy permit is issued for such structure.

C. Nothing in this Ordinance shall prevent the use of a travel trailer, a mobile home, or other similar structure in any district as a temporary construction field office for a period not to

exceed one (1) year, or while the building permit is active, whichever is less; provided, however, such structure is not used for overnight sleeping accommodations and adequate arrangements for sanitary facilities are made; and provided further, that the temporary field office has been certified as such and conforming to this Ordinance by the Zoning Administrator.

### **Sec. 3.14 Storage in Front Yard**

Nothing in this Ordinance shall permit the storage or parking of any vehicle or non-permanent structure within the required front yard of any property within a residential district except that the parking of a licensed operable passenger vehicle on a driveway located on private property shall not be prohibited.

### **Sec. 3.15 Structure Completion**

All structures shall be completed on the outside in conformance with the building code and with finish materials; such as wood, brick, or brick veneer, shingle, concrete or similar performance tested within one (1) year after construction is started unless an extension for not more than one (1) additional year is granted by the Village Zoning Administrator as provided elsewhere in this Ordinance. When a part of the building is ready for occupancy, a temporary occupancy permit may be issued, provided that the premises comply with health and fire standards, required under this Ordinance or any other ordinance, regulations, or statutes.

### **Sec. 3.16 Personal Construction Authority**

Nothing in this Ordinance shall be construed as prohibiting an owner, tenant, occupant, or land contract vendee from doing his or her own building, erecting, altering, plumbing, electrical installation, etc., provided the minimum requirements of Village Ordinance, all applicable state building codes, and the applicable Genesee County Health Department regulations are complied with.

### **Sec. 3.17 Fence, wall and hedge standards**

Barriers including, but not limited to, fences, walls and hedges and other protective barriers of any type or description but not including temporary fences, shall conform to the following requirements.

- A. They shall be durable, weather resistant, rustproof and easily maintainable. Barriers shall be of high-quality durable materials. Traditional farm fencing shall be prohibited on lots one (1) acre or less in area.
- B. They shall be maintained in good condition by the property owner.
- C. Barriers (chain-link, picket, wrought iron fences, etc.) may be a maximum six (6) feet in height in side and rear yards, and forty (40) inches in the actual front yard, however posts may extend six (6) inches above the height of the fence. Gates may extend eighteen (18) inches above the height of the fence and lights may extend twelve (12) inches above the height of the fence but may only be located at the gates. All fences shall comply with the corner clearance section of this ordinance. Materials for masonry walls will include face brick or non-porous facing material to provide a pleasing aesthetic appearance.
- D. The finished side or most visibly attractive side of a wall or fence shall face the exterior of the property line (adjacent view). Posts shall be on the side of the wall or fence facing the interior of the lot or parcel of land upon which the wall or fence is constructed.

- E. In any residential district, barbed wire, spikes, nails or any other sharp point or instrument of any kind on top or on sides of any fence, electric current or charge in said fence is prohibited. Barbed wire or razor wire may be placed on top of fences enclosing public utilities, buildings or wherever deemed necessary by the Zoning Administrator in the interests of public safety.
- F. No fence, wall, hedge, screen or other protective barrier shall be erected within any public right of way.
- G. In non-residential districts, no fence, wall, hedge or other protective barrier shall exceed eight (8) feet, except that a security fence for a permitted commercial or industrial use may include a minimum of one (1) additional foot of barbed wire.
- H. Open fences (over 80% open) may be constructed to a height not to exceed ten (10) feet for the uses listed below. Such fences shall conform to all setback requirements for structures.
  - 1. Recreational uses:
    - a. Tennis courts
    - b. Volleyball courts
    - c. Swimming pools
    - d. Goals and backstops
- I. Nothing in this ordinance shall be deemed to interfere with the erection of temporary fences around construction works, erected or maintained pursuant to building code and other ordinances of the Village.
- J. Fences required as a condition of zoning approval must comply with the standards in Section 10.03.D.

### **Sec. 3.18 Fire Lane Requirements**

Whenever a fire lane is required by the provisions of this ordinance or the order of the Village Fire Chief, the fire lane shall comply with these requirements:

- A. A fire lane should be a minimum of 12' wide and 30' long, and the lettering on the lane should be 12" wide and 18" tall
- B. Signs marking the fire lane should more than 30' apart and poster on or immediately next to the curb or the side of the road. The signs should use 3" lettering to read "no Parking – Fire Lane" and should use red lettering on the white background. The sign should be reflective in nature and the top of the sign not less than 4' or more than 6' from the ground. When posts are required for signs, they shall be a minimum of two-inch galvanized steel or four-by-four inch pressure treated wood. The signs should be placed so they face the direction of vehicular travel

### **Sec. 3.19 Dumpster Enclosures.**

- A. All dumpsters shall be maintained in an enclosure with the service and access gate(s) closed except when being serviced by a commercial refuse/garbage collector or when being used to access the dumpster. Additionally, all dumpsters shall be kept in the following manner:
  - 1. Variances from these standards must follow the variance procedures and standards in Article 14 of this ordinance.
  - 2. Containment of garbage.
    - a. Garbage and trash shall be placed inside the dumpster and not on or around the dumpster or the enclosure. Loose garbage and trash in plain view is a violation of this Code, a health hazard, and aesthetically undesirable. The property owner shall

- be responsible for keeping the enclosure and surrounding area litter, garbage, and/or trash-free at all times.
- b. It shall be a violation of the city Code of Ordinances to allow the dumpster to be filled to overcapacity so that the dumpster lid is prevented from fully closing.
3. Dumpster enclosures shall be kept in good repair at all times.
  4. The location on site of a dumpster enclosure shall require the prior approval of the village planning commission.
- B. Specifications, materials and location of enclosure.
1. Placement
    - a. A dumpster shall be kept in a place easily accessible to authorized collection vehicles at all times and no service shall be given to those placing or permitting objects, ground level or overhead obstructions, or vehicles, to hinder in any way whatsoever the servicing of bulk containers by authorized collection vehicles. Unless in a public right-of-way for purposes of collection only, all dumpsters shall be placed within an approved enclosure.
    - b. It shall be unlawful for any person to place or store, or allow to be placed or stored, a dumpster upon or in any public street, alley or right-of-way; provided, however, that such container or receptacle may be placed in the public right-ofway during the collection/emptying process.
  2. Dumpster space designation and enclosure requirement. All real property in any zoning classification utilizing dumpsters shall provide an enclosure of a size that would permit the moving in or out of the dumpster without damage to the enclosure and the enclosure height shall be a minimum of 12 inches above the dumpster.
  3. Approved enclosure. All enclosures shall consist of masonry, concrete or wood walls. Enclosures shall have a gate for collection equipment access, and may also have a gate for other user access. All walls and gates shall be totally opaque so as to prevent the dumpster from being visible or in plain view. In general enclosures shall be consistent with materials and architectural style of principle building(s). Enclosures shall be constructed of one of the following materials
    - a. Masonry walls: All exterior faces of the wall shall be finished and of professional quality such as stucco, prefinished blocks, stacked block and struck joints, shadow blocks, painted or similarly installed in a workmanlike manner and meeting with the approval of the Development Services Department.
    - b. Concrete walls: Precast concrete walls of quality deemed acceptable to the development services department.
    - c. Wood fencing: Substantial wood fences of durable species, incorporating architectural design features to enhance appearance, of quality and design acceptable to the development services department. In making this determination, consideration shall be given to:
      - i. The thickness of the wood, which must be a minimum of one-half inches;
      - ii. Whether the wood is pressure treated or has a finish that protects the wood from the elements; and
      - iii. Minimum six inches by six inches corner post and four inches by four inches intermediate posts of pressure treated materials.
  4. Maintenance: Approved enclosures shall be maintained in good condition, repair and appearance at all times so as to allow for collection of materials and to eliminate odors.

5. Gates: Dumpster enclosure gates may be constructed of wood mounted on a substantial steel frame, chain link fence with opaque inserts, steel, aluminum or other opaque materials which are installed in compliance with the building code. Servicing gates, upon opening, may not swing into the right-of-way and shall incorporate gate stops that are functional in the full-open and closed positions. Hinge assemblies shall be strong and durable such that access and servicing gates do not sag and function properly. All gates for pedestrian access shall be no more than 48 inches in width and no less than 36 inches in width. Enclosure gates shall be closed at all times except for the time necessary to service the bulk container. Maze style openings shall be permitted in place of a pedestrian access gate. A maze style opening is an opaque wall or fence that can be located no more than 48 inches and no less than 36 inches from the enclosure opening and must be a minimum length of one and one-half times in length of the opening and shall be centered upon the opening. Enclosure openings shall be no more than 48 inches in width and no less than 36 inches in width.
6. Setbacks:
  - a. All dumpster enclosure walls and/or fences shall be located a minimum of five feet from adjoining commercial areas and ten feet from adjoining residential uses unless not physically possible; and
  - b. A minimum of five feet from public and private rights of way unless not physically possible.
7. Garbage containers:
  - a. All receptacles and bulk containers which receive garbage, liquid waste or food from food-handling operations, including, but not limited to, bakeries, meat processing plants, restaurants, or any business establishment where it is determined that garbage, liquid waste or food will be accumulated, shall have a poured to grade level concrete slab. If available, dumpster site shall have facilities for washing containers and ability to drain to an acceptable sanitary disposal system. If the aforementioned facilities are available, or can be reasonably installed, then the dumpster shall have washout plugs. For purposes of this article, storm drains shall not be considered as an acceptable sanitary disposal system.
  - b. If no suitable drain, grease trap or sanitary disposal system is available, the dumpster containers shall be sealed so that no liquid gets on the pad or ground. Dumpster collection shall be frequent enough so as to keep odors to a minimum. Odors shall also be kept at a minimum through artificial means such as masking agents or whatever products are available to handle odors. Containers shall be constructed in accordance with the industry standards and must be approved by and meet the standards of subject regulating agencies.
8. Exceptions to compliance. All dumpsters and trash receptacles must comply with this article except for the following:
  - a. Dumpsters/receptacles located in properly screened service yards. (Those screened from public ways with a minimum six feet high fence and/or suitable dense landscaping, as approved by the village planning commission). The dumpsters/receptacles must not be visible from the public's view.
  - b. Dumpsters/receptacles located at permitted construction sites.
  - c. Dumpsters/receptacles not visible from the public right-of-way, residential areas and/or the public's view.

## **ARTICLE 4 DISTRICT REGULATIONS**

### **Sec. 4.01 District Boundaries**

The boundaries of these districts are hereby established as shown on a map entitled "Zoning Map," Village of Otisville, Genesee County, Michigan, dated October 28, 2004 which accompanies and is hereby made a part of this Ordinance. Except where specifically designated on said map, the district boundary lines are intended to follow lot lines, the center lines of creeks, streams or rivers, the center lines of streets or alleys, the center lines of streets or alleys projected, railroad right-of-way lines, section lines, one-quarter section lines, one-eighth section lines or the corporate limit line, all as they existed at the time of the enactment of this Ordinance; except as otherwise specifically described; but, where a district boundary line does not coincide with lot lines, said boundary lines shall be dimensioned on the Zoning Map.

### **Sec. 4.02 Zoning District Map**

The land areas and sizes of dwellings assigned to these districts the designation of same, and the boundaries of said districts are shown on the map hereto attached and made part of this Ordinance, said map being designated as the Zoning District Map showing use districts and building districts in the Village of Otisville and said map and the proper notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said map were all fully described herein.

### **Sec. 4.03 Zoning Districts**

For the purpose of this Ordinance all of the unincorporated area of the Village is divided into the following Use Zoning Districts:

- Residential "A-1" District
- Residential "A-2" District
- Residential "B" (Multiple Family) District
- Residential "C" (Mobile Home Park) District Commercial
- "A" (Central Business) District
- Commercial "B" (General Business) District
- Industrial "I" District

Uses listed in the Table of Uses are the only uses allowed under this ordinance. Uses not listed are prohibited.



**Sec. 4.04 Table of Purpose**

District	Purpose
Residential A	The purpose of this district is to provide areas suitable for single family detached home neighborhoods which are protected from the negative impacts of incompatible commercial and industrial uses while allowing for supportive non-residential uses such as schools, parks and religious institutions.
Residential B	The purpose of this district is to provide appropriate locations for multi-family residences that are adequately served by public infrastructure and adequately buffered from less intensive uses.
Residential C	The purpose of this district is to provide for appropriate sites for mobile home parks, with adequate parcel size and public infrastructure.
Commercial A	The purpose of this district is to promote the long term health of the village's traditional downtown center with pedestrian circulation and on-street parking.
Commercial B	The purpose of this district is to provide appropriate locations for automobile oriented commercial areas, with adequate off-street parking and setbacks from the highway.
Industrial	The purpose of this district is to provide locations for industrial uses, with adequate public infrastructure and appropriate design standards necessary to protect adjacent land uses and the public health.

**Sec. 4.05 Table of Uses**

Use	Res A-1	Res A-2	Res B	Res C	Com A	Com B	Ind
Residential Uses							
Adult Foster Care Family Home	P	P					
Adult Foster Care Small Group Home (1-6)	P	P	P				
Adult Foster Care Small Group Home (7-12)			P				
Adult Foster Care Large Group Homes (13-20 Persons)			P				
Apartments			P				
Cluster subdivisions	C	C	C				
Family Day Care Home	P	P					
Garden apartment			P				
Group Day Care Home	C	C	P		P	P	
Home occupations	P	P	P				
Keeping of not more than two boarders	P	P	P				
Mobile home parks				P			
One family dwelling, detached	P	P					
Residence as accessory use					P	P	
Townhouse			P				
Two family residences	C	C	P				
Three and four family residences	C	C	P				
Commercial Uses							
Amusements, Commercial						P	
Auto Body Shop							C
Bars, Cocktail Lounges and Taverns					C	P	

Baseball or football stadium							P
Building material sales yard							P
Business and professional offices.	C	C	C		P	P	
Bus Stations						C	

Use	Res A-1	Res A-2	Res B	Res C	Com A	Com B	Ind
Car Washes						P	
Clubs					C	C	
Commercial Educational Institutions					C	P	
Contractor Establishment						P	
Contractors equipment storage yard							P
Dance Studios					C		
Day Care Centers					C	C	
Drive-in Theaters						C	
Financial Institution					P	P	
Funeral Homes and Mortuaries					C	P	
Golf Driving Ranges						C	
Greenhouses						P	
Hotels and Motels					C	P	
Lawnmower Repair						P	
Medical and dental clinics.	C	C		C	C	P	
Mini storage facilities without outdoor storage						C	P
Monument Sales						P	
Music Studios					C		
Newspaper publishers and print shops					C	P	
Outdoor amusement parks							P

Outdoor Commercial Entertainment Facility							P
Personal Service Establishment					P	P	
Restaurants, Without Curb, Drive-In Service or Drive-Thru (service entirely within building)					P	P	
Restaurants with curb, drive-in or drive-thru service						C	C
Retail Establishment					P	P	
Retail lumber yard							P
Service Station						P	
Service Garage						C	
Shopping Centers						C	

Use	Res A-1	Res A-2	Res B	Res C	Com A	Com B	Ind
Special Regulated Uses						C	
Theaters (indoor)					P	P	
Vehicle Sales, Rental and Service						P	
Vet Clinic (no boarding)						C	P
Industrial Uses							
Junk, salvage and recycling facilities							C
Laundry, cleaning and dyeing works and carpet or rug cleaning.							P
Laboratories, experimental or testing							P
Light Industrial Assembly							P
Light Industrial Manufacturing							P
Freight or trucking terminals							P
Industrial park							
Machine Shops, Incidental to a Permitted Use						P	

Machine shop							P
Plumbing or sheet metal shop							P
Railroad repair shop							C
Rock, sand, gravel, distributions, or processing							C
Slaughterhouse							C
Warehouse							P
Wholesale storage of petroleum							C
Institutional Uses							
Adult Day Care (1-6)	C	C	C	C	P	P	
Adult Day Care (7-12)					P	P	
Adult Day Care (13-20)					P	P	
Cemeteries	C	C	C				
Churches, synagogues, temples,			C		C	C	
Fire stations and water towers	C	C	C				
Institutions for Human Care	C	C	C				
Use	Res A-1	Res A-2	Res B	Res C	Com A	Com B	Ind
Private parks and recreational areas	C	C					
Municipal, county, state and federal administration buildings community center buildings	C	C	C		C	P	P
Private parks and recreational areas	C	C					
Public and parochial schools, and colleges	C	C	C				
Public libraries, museums and art galleries	C	C	C				
Public parks, golf courses, country clubs, tennis courts	C	C	C				
Public parks, golf courses, country clubs, tennis courts	C	C	C				
Public utility buildings	C	C			C	P	

Public utility service yard or electrical receiving transforming station							P
Other							
Accessory structures	P	P	P	P	P	P	P
Accessory use	P	P	P	P	P	P	P
Airports or heliports	C	C					
Communication Antennae	C	C	C	C	C	C	P
Communication Tower							C
Excavation of sand and/or gravel	C	C					
Radio and television stations	C	C			C		
On-site signs as provided in the Village of Otisville Sign Ordinance	P	P	P				
Outdoor Recreation Facilities	C	C	C				
Planned unit developments (PUD)	C	C	C				
Solar Energy – Accessory Use	A/C	A/C	A/C	A/C	A/C	A/C	A/C
Solar Farm	C						
Transient Amusement Enterprises	C	C	C	C	C	C	C
Wind energy	C	C	C	C	C	C	C

**Sec. 4.06 District Regulations**

Table of Use Requirements

Use	Definition	Parking	Design Standards
Adult Foster Care Family Home	Private homes with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The number of occupants in a home, other than the licensee and the licensee's spouse, shall not exceed ten (10) persons. The adult foster care family home licensees must provide the care and be a member of the household and an occupant of the home. The ratio of responsible persons to residents shall not be less than one (1) responsible person to six (6) residents and two (2) children under the age of twelve (12) years or ratio thereof. The two (2) previous statements do not apply to those adult foster care family home applicants or licensees who applied for a license or who were issued a license before the promulgation of these rules	Two (2) parking spaces	A license through the Department of Licensing and Regulatory Affairs
Adult Foster Care Small Group Home (1-6)	A group home that has the capacity to receive six (6) or fewer adults. Any occupant of a home, other than the licensee or persons who are related to the licensee, live-in staff or the live-in staff's spouse and minor children, or a person related to a resident who is not in need of foster care, shall be considered a resident and be counted as a part of the licensed capacity. The total number of occupants shall not be more than six (6) over the licensed capacity. Care is provided by paid staff that does not necessarily live on site.	Two (2) parking spaces	A license through the Department of Licensing and Regulatory Affairs

Table of Use Requirements

Use	Definition	Parking	Design Standards
Adult Foster Care Small Group Home (7-12)	A group home that has the capacity to receive not less than seven (7) or more than twelve (12) adults. Any occupant of a home, other than the licensee or persons who are related to the licensee, live-in staff or the live-in staff's spouse and minor children, or a person related to a resident who is not in need of foster care, shall be considered a resident and be counted as a part of the licensed capacity. The total number of occupants shall not be more than six (6) over the licensed capacity. Care is provided by paid staff who do not necessarily live on site.	Two (2) parking spaces	A license through the Department of Licensing and Regulatory Affairs
Adult Foster Care Large Group Homes (13-20 Persons)	A group home that has an approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care. Any occupant of a home, other than the licensee or persons who are related to the licensee, live-in staff or the live-in staff's spouse and minor children, or a person related to a resident who is not in need of foster care, shall be considered a resident and be counted as a part of the licensed capacity. The total number of occupants shall not be more than six (6) over the licensed capacity.	One (1) parking space per staff of the largest shift plus one per four beds of the licensed capacity	A license through the Department of Licensing and Regulatory Affairs
Apartments	A building, or portion thereof, designed for occupancy by three or more families living independently of each other.	2 spaces per unit	



Table of Use Requirements

Use	Definition	Parking	Design Standards
Cluster subdivisions	A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located, in return for the provision of permanent open space.	Based on uses in the subdivision	<ul style="list-style-type: none"> <li>A. The proposed subdivision shall consist of a tract of land at least twenty (20) acres in area.</li> <li>B. The application shall be endorsed unequivocally for such development by all the owners of the tract, and procedures and documents shall be provided to assure development under a single administration and as approved by the Village Planning Commission.</li> <li>C. Residential densities may be at not less than ten thousand eight hundred (10,800) square feet per dwelling unit based upon the total land area.</li> <li>D. The developer shall dedicate not less than twenty (20) percent of the total land area for parks, woodlands, conservation district, playgrounds, golf courses, tennis courts or other open space areas, such as to encourage the preservation of natural features or public or semi-public use. Such land may be dedicated to the Village or may be reserved for private use, in which case satisfactory arrangements shall be made, acceptable to the Village for the development, operation, and maintenance of all such areas. <ul style="list-style-type: none"> <li>1. The location, extent, and purpose of areas dedicated for open space or recreational use within any subdivision shall be approved by the Planning Commission and Village Council.</li> <li>2. The development, operation, and maintenance of dedicated land for private open space or recreational use shall be guaranteed by a trust indenture approved by the Village and shall be filed with the Register of Deeds of Genesee County simultaneously with the recording of the final plat of the subdivision.</li> </ul> </li> </ul>
Family Day Care Home	A child care facility that provides licensed day care in private homes for six (6) or fewer unrelated minor children under the age of eighteen (18). Children receive care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian for more than four (4) weeks during a calendar year.	Two (2) parking spaces	
Garden apartment	A residential structure or group of structures, each of which contain less than five (5) attached one family dwelling units and share common front and/or rear yards.	2 spaces per unit	

Table of Use Requirements

Use	Definition	Parking	Design Standards
Group Day Care Home	A child care facility that provides licensed day care in private homes for not less than seven (7) or no more than twelve (12) unrelated minor children under the age of eighteen (18). Children receive care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian for more than four (4) weeks during a calendar year. Facilities that provide licensed day care to thirteen (13) or more minor children constitute a commercial day care center	Two (2) parking spaces plus one space per employee	A license through the Department of Licensing and Regulatory Affairs
Home occupations	An occupation conducted in a dwelling unit.	1 additional space, may be waived by Planning Commission	<ul style="list-style-type: none"> <li>A. No person other than members of the family residing on the premises shall be engaged in such occupation.</li> <li>B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used for the purposes of the home occupation and shall be carried out completely within such dwelling.</li> <li>C. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the dwelling with no public advertising.</li> <li>D. No home occupation shall be conducted in any accessory building other than a residential garage.</li> <li>E. There shall be no sale of any goods manufactured elsewhere in connection with such home occupation.</li> <li>F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided by an offstreet area, located other than in a required front yard.</li> <li>G. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises</li> </ul>

Table of Use Requirements

Use	Definition	Parking	Design Standards
Keeping of not more than two boarders	A boarder is a person who occupies a bedroom or room as a lodging unit within a dwelling unit, on a long-term residential basis for a consideration and where meals may be provided by the owner or operator.	1 space per bed or each 100 square feet, whichever will require the larger number of parking spaces	
Mobile home parks	A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose, regardless of whether a change is made, therefore, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home.	2 spaces per site	Designed in compliance with the Manufactured Housing General Rules and the Mobile Home Commission Act PA 96 of 1987
One family dwelling, detached	A detached residential dwelling unit, other than a mobile home, designed for and occupied by one (1) family or functional family only	2 spaces per unit	As permitted in Section 11.02
Residence as accessory use	Is a dwelling unit permitted as a secondary use to a principal non-residential use such as an office or a retail establishment	2 spaces per unit	<ul style="list-style-type: none"> <li>A. The residence may be located on the second floor of a commercial building or in the rear of the first floor of a commercial building.</li> <li>B. The residence must meet the minimum square footage of footnote (b) of Section 4.06 District Regulations.</li> <li>C. The residence must provide the off-street parking required in Article 7 of this ordinance in addition to the parking required for the commercial use.</li> </ul>
Townhouse	A residential structure, or group of structures, each of which contains more than four (4) attached to one family dwelling units with individual rear yards and/or front yards designed as an integral part of each one family dwelling unit.	2 spaces per unit	
Two family residences	A dwelling occupied by but two (2) families and so designed and arranged as to provide living, cooking and sleeping accommodations for two (2) families only.	2 spaces per unit	

Three and four family residences	A dwelling occupied by but three (3) or four (4) families and so designed and arranged as to provide living, cooking and sleeping accommodations for three (3) or four (4) families	2 spaces per unit	
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Table of Use Requirements

Use	Definition	Parking	Design Standards
Amusements, Commercial	<p>Indoor entertainment establishments providing recreation that diverts, amuses, entertains, or provides entertainment or other hospitality that may include food service or accommodations, but does not include drive-through establishments. Additional regulations apply to indoor establishments that serve alcohol.</p> <p>Examples include: Bowling alleys, billiard halls, arcade or video game rooms, archery range (indoor) and other indoor entertainment establishments similar to and compatible with the above establishments.</p>	One space per 3 persons based on the maximum occupancy of the building	
Auto Body Shop	A business involving the general repair, rebuilding, or reconditioning of motor vehicles or engines; collision repair, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.	Three (3) spaces per bay; plus one (1) space per employee at the peak shift;	
Bars, Cocktail Lounges and Taverns	A commercial enterprise whose primary activity is the sale of alcoholic beverages to be consumed on the premises.	One (1) space for each one hundred (100) square feet of floor area, or one (1) space for each two (2) persons allowed within maximum occupancy, whichever is greater.	
Baseball or football stadium	Large indoor or outdoor facilities that are generally used for sport competition and contain some type of seating for spectators.	1 space per 4 seats	

Building material sales yard	An establishment providing the sale of building supplies, with some or all of the material stored or displayed outside or in open sheds	1 space per 200 square feet of floor area of the indoor sales area	
Business and professional offices.		1 space per 200 square feet of floor area	

Table of Use Requirements

Use	Definition	Parking	Design Standards
Bus Stations	A facility for the transient housing or parking of motor driven buses, and the loading and unloading of passengers.	As determined by the Planning Commission at the time of Conditional Use Permit approval	
Car Washes	A building, or portions thereof, the primary purpose of which is that of washing motor vehicles	Self-serve: One (1) exterior waiting spaces at entry, plus one (1) exterior drying spaces at exit shall be for each bay; plus one (1) space for each employee.  Automated "tunnel" car wash: Stacking for 12 vehicles plus 3 spaces per bay for manual drying, plus 2 per 3 employees on largest shift	

Clubs	<p>An organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics or the like, but not for profit. A club must be recognized or certified as a non-profit organization.</p> <p>Examples include: Fraternal organizations, Lion Club, Kiwanis, American Legion, Eagle Clubs, Knights of Columbus, Masonic Temple, Moose Lodge, other lodges or clubs that are engaged in not-for-profit activities and other similar clubs compatible with the above organizations.</p>	<p>1 per employee on the largest working shift, plus 1 space per 3 persons permitted based on maximum occupancy</p>	
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Table of Use Requirements

Use	Definition	Parking	Design Standards
Commercial Educational Institutions	<p>A for-profit establishment intended to provide for the teaching of industrial, clerical, managerial, artistic or similar skills</p>	<p>1 space per student of the established maximum capacity of the school plus one per teacher</p>	
Contractor Establishment	<p>A facility housing a general contractor or builder engaged in the construction of buildings, either residences or commercial structures as well as heavy construction contractors engaged in activities such as paving, highway construction, and utility construction</p>	<p>One (1) space per two hundred (200) square feet of office area.</p>	<p>No outdoor storage of materials or equipment</p>
Contractors equipment storage yard	<p>A facility housing a general contractor or builder engaged in the construction of buildings, either residences or commercial structures as well as heavy construction contractors engaged in activities such as paving, highway construction, and utility construction that includes the outdoor storage of materials or equipment</p>	<p>1 per each 200 square feet of usable office floor area</p>	

Dance Studios	An establishment that provides a space in which dancers learn or rehearse.	One (1) space per three (3) persons allowed at maximum occupancy load, as determined by the Fire Marshal or his official designate.	
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Table of Use Requirements

Use	Definition	Parking	Design Standards
Day Care Centers	Facilities (publicly or privately operated), other than a private home, having as their principal function the receiving of one (1) or more preschool or school age children (under the age of eighteen (18)) for care, maintenance, and supervision. Day care centers include facilities that provide care for not less than two (2) consecutive weeks, despite the number of hours per day of care. Day care centers receive minor children for care for periods of less than twenty four (24) hours a day, where the parents, relatives, or legal guardians are not immediately available. Day care centers are also commonly known as child care centers, day nurseries, child care facilities, nursery schools, parent cooperative preschools, play groups, or drop-in centers. These may also include intergenerational day care facilities for both children and the elderly	2 spaces plus 1 space per 8 children of licensed capacity, plus adequate drop off/pick up area	A license through the Department of Licensing and Regulatory Affairs
Drive-in Theaters	An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures on a paid admission basis to patrons seated in automobiles.	1 space per each motor vehicle served, plus 1 space per each 2 employees during period of greatest employment	<ul style="list-style-type: none"> <li>A. The site shall be at least ten (10) acres in area.</li> <li>B. The area of public assembly shall be enclosed within an eight (8) foot uniformly painted solid fence or wall.</li> <li>C. Any structure including fences, shall be at least one hundred (100) feet from all property lines and the said one hundred (100) foot area landscaped with lawn, trees, and shrubs.</li> <li>D. The ticket booth shall be at least two hundred (200) feet from the street right-of-way from which ingress is made.</li> <li>E. Any other requirements and conditions which the Planning Commission deems necessary for the protection of the public.</li> </ul>

Financial Institution	An establishment where the principal business is the receipt, disbursement or exchange of funds and currencies,  Examples include banks, savings and loans, and credit unions.	1 space per 200 sq. ft. of floor area; 6 stacking spaces per drive-up window	
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Table of Use Requirements

Use	Definition	Parking	Design Standards
Funeral Homes and Mortuaries	A building used for human funeral services. Such building may contain space and facilities for embalming and the performance of other services used in the preparation of the dead for burial; the performance of autopsies and other surgical procedures; the storage of caskets, funeral urns, and other related funeral supplies; the storage of funeral vehicles; facilities for cremation and human funeral services	One (1) space for each fifty (50) square feet of assembly room floor space, parlors and slumber rooms.	
Golf Driving Ranges	An area equipped with distance markers, clubs, balls, and tees for practicing golf drives and putting, and which may include a snack-bar and pro shop but excludes miniature golf courses	1.5 off-street parking spaces per tee,	
Greenhouses	A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises, including products used for gardening or landscaping. The definition of nursery does not include space used for the sale of fruits or vegetables	One (1) space for each five hundred (500) square feet of lot area used for retail sales, services and uses.	
Hotels and Motels	Groups of furnished rooms or separate structures providing sleeping and parking accommodations for transient tourist trade, as distinguished from a lodging house	1 space per room plus one per employee per shift	



Lawnmower Repair	Establishments that repair and maintain small motor engines found in lawn mowers along and similar equipment and provide other services for the maintenance of such equipment	One (1) space for each seventy-five (75) feet of floor area of sales area	
Medical and dental clinics.	A facility operated by one or more physicians, dentists, chiropractors or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis.	1 space per 100 square feet of floor area, but not less than 10 spaces	

Table of Use Requirements

Use	Definition	Parking	Design Standards

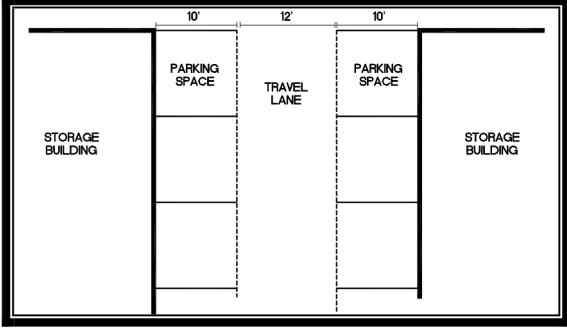
<p>Mini storage facilities without outdoor storage]</p>	<p>A building or group of Buildings divided into separate compartments used to meet the temporary storage needs of small businesses, apartment dwellers, and other residential uses; and may include refrigerated facilities.</p>	<p>Two (2) spaces for the residential caretaker's unit, plus one (1) space per fifty (50) square feet of floor area used for office purposes.</p>	<p>A. Minimum parcel area for the entire development is four (4) acres.                  B. Access to the facility shall be from a major street or state highway.                  C. All outdoor storage areas shall be appropriately screened from surrounding property, as determined by the Planning Commission.                  D. Maximum building height shall be nineteen (19) feet.                  E. Side and rear setbacks shall be a minimum of twenty (20) feet when adjacent to a residential zoning district. The setback shall include any fencing surrounding the storage areas. The setback area shall be landscaped with trees, shrubbery and lawn to create a visual barrier between the facility and the adjacent residential lots.                  F. Parking for the storage leasing office and a caretaker's residence shall be as outlined under this Ordinance's parking regulations. A ten (10) foot wide parking strip shall be required in front of each row of storage units and a twelve (12) foot wide travel lane provided between buildings (see figure below</p> 
<p>Monument Sales</p>	<p>An area of land and buildings used in the forming, engraving and sculpting on monuments and stone art</p>	<p>1 space per 100 square feet of sales area, with a minimum of 5 spaces</p>	

Table of Use Requirements

Use	Definition	Parking	Design Standards
Music Studios	An establishment that provides a space in which musicians can record or rehearse.	1 per 400 square feet	
Newspaper publishers and print shops	An enterprise dedicated to the creation and distribution of a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest.  Also, commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing.	1 space per 200 square feet of sales area, plus 1 space per employee	
Outdoor amusement parks	An entertainment establishment that provide continuous, intermittent or seasonal recreation and/or entertainment-oriented activities in an outdoor setting.	1 space for every 3 persons that the outdoor facilities are designed to accommodate when used to maximum capacity	
Outdoor Commercial Entertainment Facility	A for profit entertainment establishment that provide continuous, intermittent or seasonal recreation and/or entertainment-oriented activities largely in an outdoor setting. There may be concessions, restaurants, retail shops selling items related to the recreation or entertainment uses,	1 space for every 3 persons that the outdoor facilities are designed to accommodate when used to maximum capacity	

Table of Use Requirements

Use	Definition	Parking	Design Standards
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Personal Service Establishment	An establishment primarily engaged in the provision of frequent or recurrent needed services of a personal nature.  Examples include: beauty and barber shops, shoe repair shops, tailor shops, beauty shops, massage facilities, chiropractic clinics, and exercise and fitness facilities	2.5 spaces per chair/station	
Restaurants, Without Curb, Drive-In Service or Drive-Thru (service entirely within building)	A structure in which the principal use is the preparation and sale of food and beverages and where service is provided to patrons exclusively in the restaurant	1 space per 40 square feet of sales area	
Restaurants with curb, drive-in or drive-thru service	A structure in which the principal use is the preparation and sale of food and beverages and where service is provided to patrons in the restaurant, and/or with curb, drive-in or drive-thru service	One (1) space for each one hundred (100) square feet of floor area, or one (1) space for each two (2) persons allowed within maximum occupancy, whichever is greater.	
Retail Establishment	An establishment which supplies commodities on the premises Examples include groceries, drugs, liquor, clothing, dry goods, notions, curios, pet, jewelry, sporting goods, or hardware stores, bakeries, florists and music shops.	1 space per 250 square feet of sales area, with a minimum of 5 spaces	

Table of Use Requirements

Use	Definition	Parking	Design Standards
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Retail lumber yard	A retail facility of more than 30,000 square feet gross floor area, selling lumber and other large building materials, where most display and sales occur indoors	One (1) space per four hundred (400) square feet of floor area plus one (1) space per one thousand (1,000) square feet of warehouse or open or partially covered storage areas.	
Service Station	A building or structure designed or used for the retail sale of fuel lubricants, air, water and other operating commodities for motor vehicles and convenience commercial goods and fast food for the customers.	1 space per 200 square feet of sales area	<ul style="list-style-type: none"> <li>A. Gasoline pumps shall be set back a minimum of twenty-five (25) feet from any street or right-of-way line.</li> <li>B. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed within a building. 3)</li> <li>C. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot screening fence and shall comply with requirements for location of accessory buildings.</li> </ul>

Table of Use Requirements

Use	Definition	Parking	Design Standards
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<p>Service Garage</p>	<p>A building or structure for the storage, minor repair, or servicing of vehicles but not including bumping, painting, refinishing, major repairs and overhauling, steam cleaning or rust-proofing,</p> <p>Examples include quick oil change facilities, tire repair and replacement and muffler/brake replacement facilities provided no major repairs as described above are undertaken</p>	<p>2 spaces per stall + 1 per employee</p>	<p>Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where, in addition, the following services may be rendered and sales made, and no other:</p> <ul style="list-style-type: none"> <li>A. Sale and servicing of spark plugs, batteries, and distributors and distributor parts;</li> <li>B. Tire servicing and repair, but not recapping or regrooving;</li> <li>C. Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;</li> <li>D. Radiator cleaning and flushing;</li> <li>E. Washing and polishing, and sale of automotive washing and polishing materials;</li> <li>F. Greasing and lubrication;</li> <li>G. Replacing or repairing of carburetors, fuel pumps, oil pumps, and lines;</li> <li>H. Emergency wiring repairs;</li> <li>I. Minor motor adjustments not involving removal of the head or crankcase or racing the motor;</li> <li>J. Adjusting and repairing brakes;</li> <li>K. Sale of cold drinks, packaged foods, tobacco, and similar convenience goods for service station customers, as accessory and incidental to principal operation;</li> <li>L. Provision of road maps and other informational material to customers; provision of restroom facilities.</li> </ul> <p>Uses permissible at a service station do not include major technical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other works involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations. A service station is not a repair garage or a body shop.</p>
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Table of Use Requirements

	Definition	Parking	Design Standards
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<p>Shopping Centers</p>	<p>A group or groups of three (3) or more commercial establishments developed in accordance to an overall plan and designed and built as an interrelated project.</p>	<p>1 space per 100 square feet of gross floor area</p>	<p>Shopping centers are permitted by Conditional Use Permit in the Commercial B district subject to a minimum lot area of two (2) acres and provided that the general plan for the shopping center shall include specific evidence and facts showing that the developer has considered and made provision for, and the development shall be executed in accordance with the following essential conditions:</p> <ul style="list-style-type: none"> <li>A. The proposed development shall be constructed in accordance with an overall plan, shall be designed as a complete project covering the total area, with appropriate landscaping, and shall provide initially for the construction of a minimum of seven thousand, five hundred (7,500) square feet of floor area.</li> <li>B. All structures shall be arranged in an integral development.</li> <li>C. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the center without undue congestion to or interference with normal traffic flow.</li> <li>D. All points of vehicular access to and from public streets shall be located not less than two hundred (200) feet from the intersection of any public street lines with each other.</li> <li>E. No part of any parking access and/or service area may be located closer than twenty-five (25) feet of any property line adjacent to a residential district.</li> <li>F. Parking, loading, or service areas used by motor vehicles shall be located entirely within the lot lines of the shopping center and shall be physically separated from public streets.</li> <li>G. Any shopping center development adjoining any residential district shall be provided with a buffer of at least fifteen (15) feet, which buffer shall be provided adjacent to the property line. Such buffer shall be planted with evergreen and other suitable plantings and used for no other purposes. A landscaped planting area shall also be provided along all street frontages which shall not be less than ten (10) feet in width. All plantings shall be approved by the Otisville Village Council.</li> <li>H. All shopping center developments shall have direct access to a primary road as determined by the Village Planning Commission. No regular public access shall be made through a residential local street.</li> <li>I. The site shall be developed and facilities shall be provided in such a manner so as to ensure adequate drainage.</li> <li>J. Lighting facilities shall be required where deemed necessary for the safety and convenience of shoppers and employees. These facilities will be arranged in such a manner so as to protect abutting streets and adjacent properties from unreasonable glare or hazardous interference of any kind</li> </ul>
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Table of Use Requirements

Use	Definition	Parking	Design Standards
Special Regulated Uses	Uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood	As determined by the Planning Commission at the time of Conditional Use Permit approval	As permitted in Section 11.03
Theaters (indoor)	Any building used primarily for the presentation of dramatic spectacles, shows, movies, or other entertainment open to the public, with or without charge.	1 space per 3 persons of the maximum capacity of the building	
Vehicle Sales, Rental and Service	Establishments involved in the sale or rental of automobiles, recreational vehicles and mobile homes. These establishments generally have outdoor display and storage as well as vehicle service as part of the establishment's operation.  Examples include: Automobile and truck (used and new) sales, automobile rental, rental equipment (commercial), trailer sales, and other business establishments that typically have large outdoor displays and other uses similar and compatible with the above establishments.	1 space per 500 sq. ft. of sales room and 2 per service stall	
Vet Clinic	A facility for the examination and treatment of animals, excluding temporary boarding facilities.	4 spaces per vet, plus one per each additional employee	
Industrial Uses			

Table of Use Requirements

Use	Definition	Parking	Design Standards
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Heavy Industrial Manufacturing	<p>Manufacturing establishments that are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods</p> <p>Examples include: The assembly and/or manufacture of automobiles, automobile bodies, parts and accessories, breweries (large commercial producers), distilleries, cigars and cigarettes, electrical fixtures, batteries and other electrical apparatus and hardware. Food processing including fat rendering, smoking, curing, canning or other processing of edible goods. Production of chemicals or refining of petroleum products. Production of aggregate such as a redi-mix plant. Other establishments similar to and compatible with the above</p>	See Footnote (a)	
Junk, salvage and recycling facilities	<p>The use of premises or building for storage or abandonment, keeping, collecting, bailing, of inoperable automobiles, trucks, tractors and other such vehicles and parts thereof, scrap building materials, scrap contractor's equipment, tanks, cases, barrels, boxes, piping, bottles, drums, glass, rags, machinery, scrap iron, paper and any other kind of scrap or waste material for processing and resale</p>	Five spaces plus 1 space per employee if the largest shift	<p>Carried on wholly within a structure</p> <p>A. All junk yards shall be provided with a buffer of at least twenty (20) feet, which buffer shall be provided adjacent to all abutting lands and rights-of-way. Such buffer shall be planted with evergreen and other suitable plants and used for no other purposes.</p> <p>B. All junk yards shall be enclosed on all sides by a tight unpierced fence or wall with a height of not less than the height of the stored objects, but in no case less than ten (10') feet.</p>
Laundry, cleaning and dyeing works and carpet or rug cleaning.	<p>An establishment used for cleaning fabrics, textiles, wearing apparel, or articles of any sort as well as dyeing and similar fabric processing on an industrial scale.</p>	See Footnote (a)	
Laboratories, experimental or testing	<p>A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.</p>	See Footnote (a)	

Table of Use Requirements

Use	Definition	Parking	Design Standards
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<p>Light Industrial Assembly</p>	<p>Manufacturing establishments that are involved in the production of goods requiring limited processing of material as well as packaging and assembly. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Manufacturing processes do not include those that generate excessive noise, vibration, smoke, or odor or which use or store excessive amounts of hazardous materials. Processes do not include use of stamping presses, casting or extruding of metals or chemical treatments such as etching with acid.</p>	<p>See Footnote (a)</p>	
<p>Light Industrial Manufacturing</p>	<p>Manufacturing establishments that are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods</p> <p>Examples include: Manufacture of industrial controls, electronic components and accessories, measuring, analyzing and controlling instruments, photographic equipment and repair (except chemicals and sensitized materials), medical and optical goods, and other similar items. Other establishments similar to and compatible with the above establishments.</p>	<p>See Footnote (a)</p>	
<p>Freight or trucking terminals</p>	<p>A facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Post Office.</p>	<p>See Footnote (a)</p>	

Table of Use Requirements

Use	Definition	Parking	Design Standards
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Industrial Park	An area planned for occupancy for more than one	See Footnote (a)	A. Permitted uses shall include all uses permitted by right within the District.
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industrial establishment.

B. Conditional uses may be permitted, subject to the Conditional ~~4.30~~ Provisions of



			D. The minimum required land area for an industrial park shall be <del>4.32</del> (5)
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			E. contiguous acres.	4-33
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			F. The development of an industrial park shall be in accordance with an overall plan
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			1. for development of the park, which plan shall be approved by the Village
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			2. Planning Commission	4-36
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			G. The developer shall provide within the industrial park, a sanitary sewage system
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			H. which shall be of sufficient size and design to collect all sewage from structures
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			I. within the industrial park, which system shall connect with the village system. If
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			J. public sewers are not available, the park's sanitary sewer system shall be
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			K. designed so as to dispose of all sewage and shall be otherwise constructed and
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			L. maintained in conformity with the statutes, ordinances, and regulations of the
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			N. Minimum lot sizes within an industrial park shall be twenty thousand (20,000) 4- 26 square feet.
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Table of Use Requirements			
Use	Definition	Parking	Design Standards
Machine Shops, Incidental to a Permitted Use	An accessory use involving lathes, presses, grinders, shapers, and other wood- and metalworking machines are used such as by blacksmith, welding, and overhaul shops	See Footnote (a)	
Machine shop	Shops where lathes, presses, grinders, shapers, and other wood- and metal-working machines are used such as blacksmith, welding, and overhaul shops	See Footnote (a)	
Plumbing or sheet metal shop	Shops where material are custom made from sheet metal and similar materials by tinsmith, plumbing, heating, and electrical repair shops; and other similar establishments	See Footnote (a)	
Railroad repair shop	An area of land, a portion of which is covered by a system of tracks, that provides for the repairing, of cars, trains, engines, locomotives, and rolling stock.	See Footnote (a)	
Rock, sand, gravel, distributions, or processing	The processing of minerals, including rock sand and gravel such as crushing, screening, washing and flotation; and other preparation of the material for sale	As determined by the Planning Commission at the time of Conditional Use Permit approval	
Slaughterhouse	A facility for the slaughtering and processing of animals and the refining of their byproducts.	See Footnote (a)	
Warehouse	A building or portion thereof used for storage in connection with production, freight handling, wholesaling of products or the storage of goods, merchandise or other items. Access by the general retail public is generally not allowed, but may involve the pickup of bulk goods. This shall not include mini storage facilities or a storage area in connection with a purely retail business when located on the same property.	See Footnote (a)	

Wholesale storage of petroleum	A facility for the storage of fuels or other volatile products and for their distribution to retail sales facilities or other bulk purchasers	See Footnote (a)	
Institutional Uses			

Table of Use Requirements			
Use	Definition	Parking	Design Standards
Adult Day Care (1-6)	Facilities that provide temporary care for less than a twenty-four (24) hour period for persons over the age of eighteen (18) in a supervised environment. Generally, these establishments provide care for the elderly or disabled. There shall be no more than six (6) clients cared for on the property at any given time.	Four parking spaces plus 1 for each member of the staff	
Adult Day Care (7-12)	Facilities that provide temporary care for less than a twenty-four (24) hour period for persons over the age of eighteen (18) in a supervised environment. Generally, these establishments provide care for the elderly or disabled. There shall be no less than seven (7) and no more than twelve (12) clients cared for on the property at any given time	Eight parking spaces plus 1 for each member of the staff	
Adult Day Care (13-20)	Facilities that provide temporary care for less than a twenty-four (24) hour period for persons over the age of eighteen (18) in a supervised environment. Generally, these establishments provide care for the elderly or disabled. There shall be no less than thirteen (13) clients cared for on the property at any given time	Ten parking spaces plus 1 for each member of the staff	
Cemeteries	Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities.	1 space per employee	A. The use is occupying a site of at least twenty (20) acres B. All buildings are at least one hundred (100) feet from all property lines.

Churches, synagogues, temples,	A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.	1 space per 3 seats or per 21 square feet of assembly space, whichever will require the largest number of parking spaces	
Fire stations and water towers	A building used for fire equipment and firefighters and a structure designed to store municipal water supplies in an elevated position to provide water system pressure	1 space per 3 volunteers plus 1 space per full-time employees on a normal shift	Are located at least fifty (50) feet from all property lines.

Table of Use Requirements

Use	Definition	Parking	Design Standards
Institutions for Human Care	<p>Facilities for the care of people, including accommodations for short term or long term stays onsite.</p> <p>Examples include: hospitals, clinics, sanitariums, nursing or convalescent homes, homes for the aged and other philanthropic and charitable institutions</p>	1 per bed, except that the Planning Commission may modify the requirement by the applicants showing that the standard for their use is less than otherwise required	<p>Hospitals, sanitariums, clinics, nursing and rest homes and charitable institutions for human care, are permitted by Conditional Use Permit in the Residential A-1, Residential A-2 and Residential B Districts provided the following procedures and conditions are met:</p> <ul style="list-style-type: none"> <li>A. The area accommodating any one of these uses shall not be less than one (1) acre in area.</li> <li>B. The building including accessory buildings must be located not less than fifty (50) feet from all property lines.</li> <li>C. The height of any structure shall be related to the location of the structure so as to equal the distance to any adjacent property line; provided, however, the height limitation shall be related to the capability of the fire fighting capability of Forest Township.</li> <li>D. The area must be completely surrounded with screen planting and landscape development, the ultimate height of which shall not be less than six (6) feet. Said planting may be within the above specified setbacks</li> <li>E. Ingress and egress to the area must be located in such a manner so as to provide maximum safety to the public utilizing this facility and the public streets. Said ingress and egress shall be hardsurfaced and properly drained.</li> </ul>
Municipal, county, state and federal administration buildings community center buildings	A building or structure owned, operated, or occupied by governmental agency to provide a governmental service to the public.	1 space per 200 square feet or 1 space per 2 seats of assembly area, whichever is greater	

Table of Use Requirements

Use	Definition	Parking	Design Standards
Private parks and recreational areas		As determined by the Planning Commission at the time of Conditional Use Permit approval	<p>A. Private parks and recreational areas are of at least twenty-five (25) acres in area, including a picnic area and picnic pavilion; softball and baseball diamonds; swimming, boating and ice sport facilities; amusement and other outdoor recreational sport activities, not including games of chance; camping sites for tents, campers and travel trailers limited to not more than fifteen (15) days duration for use of a tent or parking of a camper or travel trailer to use said site only as a private park and recreation facility for such limited time; bath houses, lodges and accessory or incidental local commercial structures or uses which are incidental to the above uses but not including the sale of beer, wine or spirits.</p> <p>B. The proprietor of the tent, camper and travel trailer park shall be deemed to be in violation if any person shall use any tent, or park any camper or travel trailer in violation hereof.</p> <p>C. All camping sites for tents, camper and travel trailers shall have a central water supply system with potable water under pressure piped to within three hundred (300) feet of each trailer, tent or camper site and with fire hydrants available within one hundred fifty (150) feet of each campsite. If a public water supply system is available within three hundred (300) feet of any portion of the land, then the water supply shall be connected thereto.</p> <p>D. An enclosed toilet and sewage facility approved by the Michigan State and County Health Department with hot and cold running water available not further than three hundred (300) feet from every campsite within the park. If public sewer shall be available within five hundred (500) feet of any such park, the park sewer system shall be connected thereto.</p> <p>E. No vehicle, tent, travel trailer or camper shall be allowed within the park except upon an approved camper site.</p> <p>F. The proprietor of any travel trailer, tent, or camper park shall not permit any person not properly parked and registered upon an approved campsite within the park to use any facilities of the park.</p> <p>G. No travel trailer, tent, camper, vehicle or building other than a single family residence will be placed, parked, or erected within fifty (50) feet of any property line of a travel trailer, tent, or camper park.</p>

		H. No structure within such camping park shall have any office or other commercial facility connected thereto or part thereof, unless that office or commercial facility shall be specifically and only for the use of the users of the park and approved by the Village Planning Commission.
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Table of Use Requirements

Use	Definition	Parking	Design Standards
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post-secondary education

junior

high

prior to Michigan Superintendents approval of any construction.



























































































		number of parking spaces	4-31
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Table of Use Requirements

Use	Definition	Parking	Design Standards
Public libraries, museums and art galleries	A room or building for exhibiting, or an institution in charge of, a collection of books; artistic, historical, or scientific objects.	1 space per 800 sq. ft. plus 1 space per employee	
Public parks, golf courses, country clubs, tennis courts	Public and private outdoor recreational uses	As determined by the Planning Commission at the time of Conditional Use Permit approval	Public parks, golf courses, country clubs, tennis courts, and similar recreational uses are permitted by Conditional Use Permit (including restaurants when such use is conducted within an area accessory thereto, is an integral part thereof and is entered from within the main building) when all buildings are at least one hundred (100) feet from any property line.
Public utility buildings	Any building used to house or service the public utility for the purpose of providing utility services that is owned and controlled by a municipality or a utility company.	1 space plus 1 per employee	
Public utility service yard or electrical receiving transforming station	A site used by a municipal or other public utility for storage of equipment and material used in maintenance and repair of the utility and a site where the interconnection and usual transformation of electrical service takes place between systems	1 space plus 1 per employee	
Other			
Accessory structures	A detached structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.	None, unless the use is expected to generate traffic independent of the principal use, in which case the parking will be based on the requirements of a similar principal use listed in this table	

Table of Use Requirements

Use	Definition	Parking	Design Standards
Accessory use	A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use.	None, unless the use is expected to generate traffic independent of the principal use, in which case the parking will be based on the requirements of a similar principal use listed in this table	
Airports or heliports	A transportation facility to accommodate the takeoff, landing, shelter, supply, service and repair of aircraft, and the receiving and discharging of passengers and cargo.	Per MAC and FAA requirements	Design standards are established by the Michigan Aeronautics Commission (MAC) and the Federal Aeronautics Agency (FAA)
Communication Antennae	Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals and radio frequencies.	One parking space	
Communication Tower	A radio, telephone or television transmission, reception or relay structure including but not limited to monopole, skeleton framework, or other design which is attached directly to the ground or to another structure, used for the transmission or reception of radio, televisions, microwave, or any other form of telecommunication towers and any tower erected by a public entity for hazard warning or other communication purpose	One parking space	
Excavation of sand and/or gravel	An area of land from which material is removed in connection with the production or extraction of sand and gravel, or other natural mineral deposits by surface or open pit mining methods,	As determined by the Planning Commission at the time of Conditional Use Permit approval	

Table of Use Requirements

Use	Definition	Parking	Design Standards
Radio and television stations	Facilities for the production and broadcast of information and entertainment to radios and tevlvisions	Two spaces plus 1 space per employee of the largest shift	<ul style="list-style-type: none"> <li>A. All buildings shall be at least one hundred (100) feet from all property lines.</li> <li>B. All masts, towers, aerials and transmitters shall be at least a distance, equal to the height of such structures, from all property lines.</li> <li>C. All buildings shall conform to the character of the neighborhood in which they are located</li> </ul>
On-site signs as provided in the Village of Otisville Sign Ordinance	Any device designed to inform or attract the attention of persons not on the premises on which the sign is located	N/A	
Outdoor Recreation Facilities	A park licensed under the provisions of the Trailer Coach Park Act of 1959, being Act 243, Public Acts of 1959, as amended, and being designed specifically to permit the parking of travel-trailers	As determined by the Planning Commission at the time of Conditional Use Permit approval	
Planned unit developments (PUD)	An integrated and coordinated development of various land uses, developed in accordance with the conditions as prescribed under provisions of this Ordinance.	Based on the uses allowed within the PUD	As permitted in Section 11.01

Table of Use Requirements

Use	Definition	Parking	Design Standards
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<p>Solar Energy – Accessory Use</p>	<p>The installation of solar panels, either freestanding or on a structure, primarily for the purpose of generation of electricity for on-site purposes</p>	<p>N/A</p>	<p>A. Freestanding Panels</p> <ol style="list-style-type: none"> <li>1. Up to four (4) free standing solar panels may be permitted to located on a parcel as accessory structures. Installation of more than four (4) free standing panels shall require a Conditional Use Permit</li> <li>2. Freestanding solar panels shall not be located in the front or side yard;</li> <li>3. All freestanding solar panels shall be regulated as an accessory structure and shall meet all applicable accessory building requirements of the ordinance;</li> <li>4. No freestanding solar panel shall be permitted to exceed a height of fifteen (15) feet;</li> </ol> <p>B. Roof or Structural Mounted Panels including solar shingles</p> <ol style="list-style-type: none"> <li>1. Shall not project more than two (2) feet above the roof line. However, the solar panel when installed shall not exceed the maximum height allowed in the Zoning District. The use of flat mount solar panels or solar shingles are preferred;</li> <li>2. May be constructed on any roof surface of an existing structure.</li> <li>3. Shall not be located within three (3) feet of any peak, eave or valley to maintain adequate accessibility.</li> </ol> <p>Requirements for All Panels</p> <p>C.</p> <ol style="list-style-type: none"> <li>1. The solar panels, solar shingles and arrays of panels shall be reviewed by the Fire Department.</li> <li>2. The panel array shall be fitted with an automatic shut off or breaker switch as approved by the Fire Department to isolate the panels in case of fire.</li> <li>3. The Fire Department shall keep on file the type of system that the solar panel array is a part of, either photovoltaic or thermal.</li> <li>4. All panels shall have tempered, non-reflective surfaces.</li> <li>5. It shall be shown that all panels are adequately secured to the surface upon which they are mounted and that the mounting structure has the capability of supporting the panels.</li> <li>6. The installation of the panels shall not require or be reliant on the clear cutting of trees or other vegetation.</li> </ol>
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Table of Use Requirements

Use	Definition	Parking	Design Standards



to generate electrical power for use off-site

1. The application shall provide verification that adequate



















































			<p>Requirements for All Panels</p> <p>B. 1. The solar panels, solar shingles and arrays of panels shall be reviewed by the Fire Department.</p> <p>2. The panel array shall be fitted with an automatic shut off or breaker switch as approved by the Fire Department to isolate the panels in case of fire.</p> <p>3. The Fire Department shall keep on file the type of system that the solar panel array is a part of, either photovoltaic or thermal.</p> <p>4. All panels shall have tempered, non-reflective surfaces.</p> <p>5. It shall be shown that all panels are adequately secured to the surface upon which they are mounted and that the mounting structure has the capability of supporting the panels.</p> <p>6. The installation of the panels shall not require or be reliant on the clear cutting of trees or other vegetation.</p>
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Table of Use Requirements

Use	Definition	Parking	Design Standards
Transient Amusement Enterprises	Special events that run for longer than one day but not longer than two weeks, are intended to or likely to attract substantial crowds, and are unlike the customary or usual activities generally associated with the property where the special event is to be located including circuses and carnivals	Based on the projected maximum capacity of the event	Transient amusement enterprises are permitted based on a finding that the location of such activity will not adversely affect adjoining properties, nor adversely affect public health, safety, morals, and the general welfare; provided, however, the Commission may require the posting of a bond running to the Village in an amount sufficient to hold the Village free of all liabilities incident to the operation of such activity and to indemnify any adjoining land owner for any damages resulting from the operation of such activity, and which damages shall be provable before a court having jurisdiction over the premises on which the damages occurred and payable through such court.
Wind Energy	The installation of a wind energy conversion system, either freestanding or on a structure, primarily for the purpose of generation of electricity for on-site purposes		See Section 11.05

**Sec. 4.07 District Regulations**

Zoning District	By Use	Lot Area			Setbacks (feet)	Building Height	Minimum
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		(sq ft)	Lot width (feet) (p)	Lot Depth (feet)	Front (a)	Sides	Rear	Stories	Feet	Floor Area (sq ft)
Residential A-1		15,000	125	120	25	10	25	2 ½	25	(b)
Residential A-2	1 family dwelling	9,600(o)	80	120	25	8	25	2 ½	25	(b)
	2 family dwelling	12,000	100	120	25	8	25	2 ½	25	
	3 family dwelling	15,000	125	120	25	8	25	2 ½	25	
	4 family dwelling	15,840	132	120	25	8	25	2 ½	25	
Residential B	1-4 family dwelling	(c)	(c)	(c)	(c)	(c)	(c)	(d)	(d)	
	Townhouses, apartments	1.5 acres	275	240	25	25	25	(d)	(d)	
Residential C	Comply with the requirements of the Mobile Home Commission Act									
Commercial A		-	-	-	(e)	(f)	15	(g)	(g)	-
Commercial B		(h)	-	-	50	(i)	25 (j)	-	35	-
Industrial		3 acres (k)	-	-	75	5 (l)	5 (m)	(n)	(n)	-

Industrial Parks - Industrial uses in industrial parks shall comply with the requirements in the Section 11.09 of this ordinance

FOOTNOTES:

- (a) See front yard exceptions, Section 3.07C
- (b) The minimum floor space of dwelling units in a planned unit development exclusive of garages, carports, crawl spaces, porches, and breezeways shall be in accordance to the following table:

Dwelling Description	First Floor Area	Other Area Limitations
Single family, one or one and a half story with basement	864 square feet (24 x 36)	
Single family, one or one and a half story without basement	1008 square feet (26 x 36)	
Single family, two story without basement	816 square feet (24 x 34)	
Single family, multilevel with basement, with partial basement or without basement		864 square feet*
Two family residential structure		864 square feet*
Three and four family residential structures		864 square feet*
Garden apartment and/or townhouse, three bedrooms		864 square feet*
Garden apartment and/or townhouse, two bedrooms		744 square feet*
Garden apartment and/or townhouse, one bedroom		624 square feet*
* This square footage requirement represents the minimum living space per dwelling unit, exclusive of furnace and utility rooms, attics, stairwells and any floor area below grade.		

- (c) Per Residential A requirements.
- (d) The height of any structure shall be related to the location of the structure such as to equal the distance to any adjacent property line; provided, however, the height limitation shall be related to the fire fighting capabilities of Forest Township and provided this provision shall not affect any structure less than thirty-five (35) feet.
- (e) There shall be no front yard requirements; provided, however, that no building shall be erected or altered in such a manner so as to be located closer to the street right-of-way than the average number of feet of other buildings located in the same block on the same side of the street.
- (f) No side yards shall be required along interior side lot lines; except as otherwise specified in the Building Code; provided, however, that any lot which borders on a residential district shall be provided with a side yard of not less than five (5) feet along the side yard adjacent to such residential district.
- (g) The maximum height of any structure shall be related to the fire fighting capabilities of Forest Township.
- (h) Minimum lot area shall be that necessary to provide the required setbacks plus the necessary structure areas, including areas for parking, servicing and driveways; provided, however, no area shall be used for a parking area where the use of such area results in headlight glare into any adjacent residential district which cannot be corrected by adequate plantings.
- (i) No minimum side yard shall be required except upon a lot adjacent to a residential district in which case a minimum side yard of five (5) feet shall be required; provided further that side yards adjacent to roads



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shall not be less than fifty (50) feet; and provided further that nothing in the Article shall prohibit the use of party walls between structures housing permitted uses located within this district.

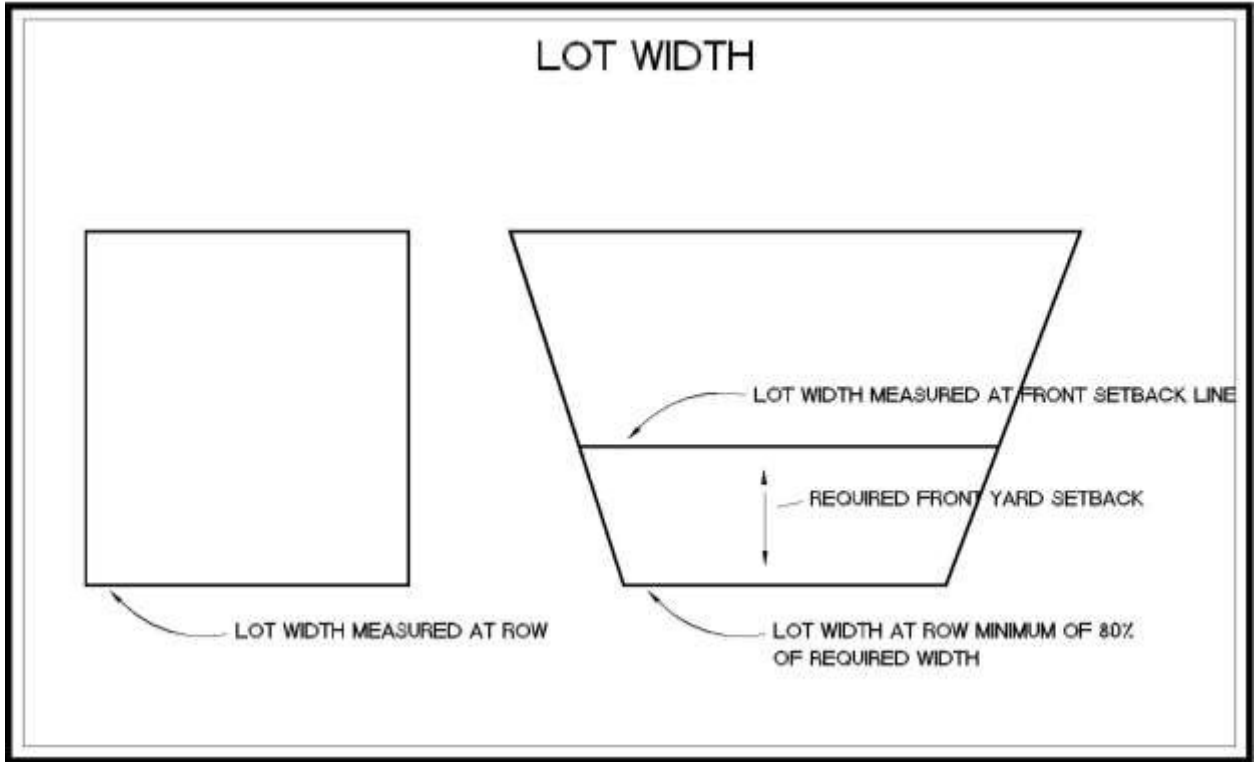
- (j) A rear yard setback of not less than twenty-five (25) feet shall be required; provided further that where a rear yard is adjacent to any residential district a rear yard setback of not less than fifty (50) feet shall be required; provided further that where a rear yard is adjacent to a road, a rear yard setback of not less than fifty (50) feet shall be required.

Article <sup>1</sup> Adopted

District Regulations

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- (k) Minimum lot area for any manufacturing use shall be three (3) acres; provided further that if the intended use of the land is within an industrial park, the minimum lot size shall be 20,000 square feet; provided further that the maximum building coverage for any industrial use shall not exceed twentyfive (25) percent.
  - (l) Side yard adjacent to roads shall not be less than seventy-five (75) feet from the existing right-of-way; provided further that side yard adjacent to any residential district shall not be less than seventy-five (75) feet, provided further that the minimum side yard in any other situation shall be five (5) feet.
  - (m) Rear yard adjacent to roads shall not be less than seventy-five (75) feet; provided further that rear yard adjacent to residential districts shall not be less than seventy-five (75) feet; provided further that the minimum setback from any property line shall be five (5) feet.
  - (n) The height of any structure shall be related to the location of the structure so as to equal the distance to any adjacent property line; provided, however, that the height limitations shall be related to the fire fighting capabilities of Forest Township.
  - (o) One (1) acre minimum lot size if not served by municipal sewer.
  - (p) Lots on cul-de-sacs or curvilinear streets with non-parallel sides may have lot widths of 80% of the requirement, provided they meet the minimum lot width at the required front setback line (see Figure 4-1).

**Figure 4-1**



## ARTICLE 5 SITE PLAN REVIEW

### Sec. 5.01 Intent

These site plan review procedures are instituted to provide an opportunity for the Village Planning Commission to review the proposed use of a site in relation to drainage, pedestrian and vehicular circulation, off-street parking structural relationships, public utilities, landscaping, accessibility and other site design elements which may have an adverse effect upon the public health, safety, morals, and general welfare, as well as to provide for the best interests of the property owner.

### Sec. 5.02 Procedures

#### A. General

A site plan shall be required before the issuance of any zoning permit which changes either the size or usage of a structure except single family residences and their associated accessory structures. Site plans are also required for all uses permitted by Conditional Use Permit and for all condominium projects. For any projects that only involve a change in a permitted use, an addition of 600 sq. ft. or less or construction of an accessory structure of 600 sq. ft. or less, or a CUP request that does not involve any changes to the dimensions of the structure or the exterior of the site such as the parking lot, a simple site plan may be submitted. In all other cases, a detailed site plan must be submitted.

#### B. Simple Site Plan

A simple site plan shall be drawn to a standard scale of no less than 1"=50' and shall including the following.

1. The parcel dimensions.
2. The dimensions of all existing and proposed structures, including height.
3. The distance of all existing and proposed structures from lot lines.
4. The dimensions of all existing and proposed parking, the type of surface (gravel, asphalt, concrete) and the dimensions of all existing and proposed drives and curb cuts.
5. Show existing easements and utility lines with a simple sketch of drainage patterns.

#### C. Detailed Site Plan

A detailed site plan shall be drawn to a standard scale of not less than 1"=30', unless subject parcel is over ten (10) acres in size, in which case the site plan shall be no less than 1"=50' and shall include the following.

1. Statistical data including: Number of dwelling units (e.g., 1-bedroom, 2-bedrooms, and 3-bedrooms), if any, total gross acreage involved. In the case of mobile home parks the size and location of each mobile home site shall be shown. In all other cases, the location, type, horsepower, fuel, dimension, and other data of all machinery to be used on the proposed site.
2. The location of principal and accessory buildings on the lot and the relationship of each structure to another (to determine compliance with setback and separation requirements).
3. Vehicular traffic and pedestrian circulation features within and without the site to verify compliance with Article 7 Parking.
4. The location and dimensions of all off-street parking areas including maneuvering lanes, handicapped, service lanes, off-street loading spaces and other service areas within the development, and the parking calculations based on the requirements of Article 7 to verify compliance with that article.
5. The location, dimensions, and proposed use of all on-site recreation areas, if any.
6. The location of all proposed landscaping, fences or walls (to determine compliance with minimum landscape standards and maximum height).

7. The height and dimensions of all structures (to determine compliance with dimensional requirements).
8. Front, rear, and side elevation of any typical structure proposed for development (to determine compliance with height requirement).
9. The location and capacity of private or public water and sanitary services and solid waste disposal facilities servicing the site, including fire hydrant locations (to determine adequacy of infrastructure for the proposed use).
10. The location, dimensions, and lighting of all signs (to determine compliance with clear vision and lighting requirements).
11. The location, intensity, and orientation of all lighting, including a photometric plan of lighting intensity (to determine compliance with requirements regarding lighting being directed off adjacent premises and road ROW).
12. A location map at a larger scale, indicating the relationship of the site to the surrounding land use, including the zoning of adjacent parcels (to determine compliance with requirements relating to setbacks from adjacent land use or to identify access issues).
13. The plan shall show an appropriate descriptive legend, north arrow, scale, date of preparation and the name and address of the individual or firm preparing the same, and a note "Not to be Used for Construction Drawings".
14. The seal of the professional engineer, architect or surveyor that prepared the site plan.
15. The property shall be identified by lot lines and general location together with dimensions, angles and size correlated with the legal description of the property. The legal description shall be tied to existing monumentation. Information on net and gross land area shall be included (to determine compliance with minimum lot size and density standards and verify the site's location).
16. Location of all-natural features such as wood lots, streams, rivers, lakes, wetlands, unstable soils and similar features shall be shown (to determine compliance with any standards related to the protection of natural features and/or compliance with applicable local, state and federal laws).
17. Existing man-made features within 100 feet of the parcel shall be shown (to determine compliance with any setback standards linked to structures on adjacent lots, or in the case of a conditional use permit, to determine suitability of the site for the proposed use based on proximity to incompatible uses).
18. Floor plan showing existing and proposed uses (to verify floor area vs. usable floor area and principal vs. accessory uses).
19. All proposed and existing streets, driveways, sidewalks and other vehicle or pedestrian circulation features upon and adjacent to the site shall be shown including existing or proposed acceleration, deceleration and passing lanes and driveways or streets opposite the site (to determine compliance with traffic access standards including adequacy of access, conflicts between vehicles and pedestrians, turning movement conflicts between the site and other nearby driveways).
20. Designation of fire lanes (to determine compliance with fire code requirements).
21. Outdoor storage or activity areas (to comply with standards relating to outdoor storage of material or outdoor activities).
22. Location of trash receptacles (to determine compliance with ordinance requirements regarding location and screening).
23. Listing of type, quantity, storage location and secondary containment provisions for any hazardous material stored or used on the site (to verify compliance with any groundwater protection requirements).

24. The topography of the site with at least two-foot contour intervals extending 50 feet beyond the property line (to determine compliance with any minimum or maximum grade requirements, clear vision requirements and height requirements, and to check drainage information).
  25. The proposed finished floor and grade line elevations of proposed buildings.
  26. Cross section showing construction of drives and parking area (to show compliance with requirements regarding pavement surface and adequacy of base material).
  27. The location, use and size of open spaces together with landscaping (shown on a separate landscape plan meeting the requirements of Article 9), screening, entrance details, fences, walls and proposed alterations of topography or other natural features shall be indicated (to determine compliance with screening and landscaping requirements).
  28. Any earth-change plans required by state law shall also be submitted with the application.
  29. Proposed surface water drainage for the site including run-off calculations and method of retention or detention (to ensure that adequate drainage will be provided to the property, and that the proposed development will not direct any additional surface water onto adjacent property).
  30. Traffic impact studies for new commercial development on M-15 if determined necessary by the Planning Commission.
  31. Such other information as may be determined to be necessary by the Village Planning Commission because of any peculiar features of the proposed development.
  32. The Planning Commission may waive, either by general rule or on a case by case basis, any of the above informational requirements they determine unnecessary to evaluate a site plan's compliance with the standards for approval under this zoning ordinance.
- D. The applicant shall provide twelve (12) copies of the site plan along with one electronic copy in "pdf" format to the Village Clerk. The site plan shall be referred by the Village Clerk at least fourteen (14) days prior to the Planning Commission meeting at which it is to be reviewed to the Village Planning Commission, Fire Chief, Village Police Chief and Village DPW Director for their review and evaluation.
- E. The Planning Commission shall review and communicate its approval or recommended site plan modifications to the applicant and the Village Zoning Administrator within not more than forty-five (45) days after the receipt of a complete site plan. In cases where modifications have been recommended, the applicant shall resubmit a site plan incorporating those modifications to the Planning Commission for their review.
1. The Planning Commission shall approve a site plan only upon a finding that the proposed site plan complies with the requirements of this ordinance.
- F. If revisions to the submitted site plan are required, upon receipt of the modified site plan, the Village Planning Commission shall evaluate the changes which have been made and if deemed acceptable shall communicate its approval of the site plan to the applicant and the Village Zoning Administrator within not more than forty-five (45) days after receipt of the modified site plan.
1. Such modified site plan shall be disapproved if it is determined to not comply with the requirements of this ordinance.
  2. If a site plan is determined to be in compliance with the ordinance, except for requirements for which a variance may be granted by the ZBA, the Planning Commission may approve contingent on approval of the variance.

3. Two (2) copies of the approved final site plan, including any required conditions, shall be maintained as part of the village records for future review and enforcement. One (1) copy shall be returned to the applicant.

### **Sec. 5.03 Criteria for Review**

#### **A. Site Plan Review Standards**

All site plan reviews shall use the following set of standards, along with the other applicable requirements in the ordinance such as district regulations, general provisions, parking, etc.

Should lack of off-site improvements create unacceptable conditions, then that lack of offsite improvement is sufficient justification for denial of a site plan.

1. **Building Relationships.** Buildings and structures shall meet or exceed all setback standards, height and other dimensional standards, and be placed to preserve environmentally sensitive areas. Maximum building and lot coverage shall be consistent with standards prescribed in Article 4. Any accessory buildings and structures (garages, decks, fences, etc.) except those in an approved mobile home/manufactured housing park, shall meet the standards in Article 3 of this ordinance.
2. **Impact on Surrounding Land Uses and Zoning.** The proposed site plan will be harmonious with, and not harmful, injurious, or objectionable to, existing and planned future uses in the immediate area. The proposed development will be coordinated with improvements serving the subject property and with other developments in the vicinity.
3. **Preservation of Natural Features.** Regulated and non-regulated wetlands and other natural features are preserved or modified in an acceptable manner. A ten (10) foot setback from the identified natural feature will be provided.
4. **Access and Circulation.** Proposed driveways shall meet the design and spacing standards provided in Article 7 of this ordinance. Streets and parking lots shall be designed to promote safe, convenient, uncongested and well defined vehicular and pedestrian circulation. Access to the site shall be designed to minimize conflicts between vehicles and pedestrians and with traffic using adjacent streets and driveways. Shared access or service/frontage drives shall be used where appropriate.
5. **Parking and Loading Spaces.** The number and dimension of off-street parking and loading/unloading, the design and setback of parking and loading areas and the number of barrier free spaces shall meet the standards indicated in Article 7 of this ordinance and the State of Michigan Barrier Free Standards.
6. **Utilities.** The development shall have access to adequate sanitary sewer facilities. The development shall have access to or provide adequate water to meet the current and future needs of the proposed development. All proposed watermain and sewer extensions shall be approved by the Michigan Department of Environmental Quality (DEQ), the Village's engineer and any other regulatory agency.
7. **Conditional Use.** If the site plan review is being conducted for a proposed Conditional Use Permit, any Conditional Use Standards relating to the proposed use, as identified by Chapter 6, also shall be satisfied.
8. **Phasing.** Any phases of the development shall be in logical sequence so that any phase shall not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
9. **Agency Coordination.** The applicant shall have secured the approval of and provide evidence for the proposed site plan meeting standards of other governmental agencies.

10. Views and Building Elevations. Placement and height of buildings, structures and parking shall preserve existing views of woodlands and other significant visual resources to the greatest extent reasonable. Proposed architecture shall complement the character of the surrounding area.
11. Storm Water Management and Soil Erosion Control. The development shall not substantially reduce the natural retention storage capacity of any watercourse, thereby increasing potential flooding. Provisions shall be made to accommodate storm water, which complements the natural drainage patterns and wetlands, prevents erosion and the formation of dust. On-site storage or sedimentation ponds may be required to reduce or filter storm water runoff. Storm water runoff on paved areas will be collected at intervals but will not obstruct the flow of vehicular or pedestrian traffic, create standing water or cause unnecessary erosion of soil or other material.
12. Preservation of Topography. The site plan and impact assessment shall demonstrate judicious effort to preserve the integrity of the land, existing topography and natural drainage patterns. Grading or filling shall not destroy the character of the property or the surrounding area and shall not adversely affect the adjacent or neighboring properties.
13. Preservation of Woodlands and Trees. The site plan shall be designed to preserve existing woodlands and individual quality trees with a caliper of twelve (12) inches to the greatest extent reasonable. Woodlands, trees and natural areas to be preserved shall be protected during construction by fencing or other barrier obvious to construction personnel. If any trees are proposed for transplant, transplant methods shall be adequately described.
14. Greenbelt, Landscaping and Screening. The amount, type and minimum size of landscaping meets Ordinance standards and are properly labeled and identified in Article 9 of this ordinance. Trees and shrubs native to Michigan should be used where appropriate.
15. Traffic Impacts and Mitigation. Traffic impacts shall be addressed in the Traffic Impact Study, if required. Improvements, such as deceleration lanes, where warranted.
16. Emergency Vehicle Access. Adequate access shall be provided for emergency vehicles to the site and all buildings or groups of buildings. The Forest Township fire department should approve location of fire hydrants and access points. Building plans should be reviewed for compliance with Section 23.11.510 of the International Fire Code – Emergency Responder Radio Coverage
17. Waste Receptacles. Waste receptacles (dumpsters, compactors and individual recycling stations) shall meet all applicable standards in this ordinance.
18. Site Lighting. Site lighting fixtures shall be designed to direct lighting within the site. The height of fixtures shall meet the accessory use standards in Article 3. The intensity of the fixtures shall meet the standards for glare and lighting in Article 3 or the Village Sign Ordinance, where appropriate.
19. Signs. Proposed signage shall meet the standards of the Sign Ordinance and are generally complementary with the surrounding signs and traffic operations.
20. Storage of Potentially Hazardous Materials or Waste. The applicant meets all of the standards for hazardous waste storage and handling established by the Michigan Department of Environmental Quality, State Health Department and the County Health Department.
21. Design and Construction Standards. All construction approved under site plan shall comply with village adopted construction and design standards.

## B. Engineering Review

In granting final site plan approval, the Planning Commission may defer those engineering issues they believe can be reviewed and approved by the village engineer.

**Sec. 5.04 Conditions**

The Planning Commission may condition approval of a site plan including conditioning approval on conformance with the standards of another local, county or state agency, such as but not limited to the County Drain Commission, County Health Department and the Department of Environmental Quality. They may do so when such conditions:

- A. would ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity;
- B. would protect the natural environment and conserve natural resources and energy;
- C. would ensure compatibility with adjacent uses of land; and
- D. would promote the use of land in a socially and economically desirable manner.

In determining appropriate conditions, the Planning Commission shall ensure that there is a rational nexus and rough proportionality between the condition imposed and the impact it is mitigating. As used in this ordinance, rational nexus refers to a condition that clearly is intended to address an impact anticipated as a result of the approval of the proposed used and rough proportionality refers to the reasonable correlation between the impact of the proposed impact the extent of the condition to address that anticipated impact.

**Sec. 5.05 Appeals**

An individual with a vested interest in a Planning Commission decision related to a site plan may appeal the Planning Commission decision to the Zoning Board of Appeals. A site plan that has been appealed to the Zoning Board of Appeals and denied may not be resubmitted to the Planning Commission for one (1) year unless the Planning Commission determines that substantial changes have been made to the nature and scope of the project other than minor changes approved by the zoning administrator as outlined.

**Sec. 5.06 Conformity to Approved Site Plan**

A. Revocation of Site Plan Approval

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan, inclusive of any amendments, which have received the approval of the Planning Commission other than minor changes, approved by the Zoning Administrator as outlined below. If construction and development does not conform with such approved plan, the approval of the Site Plan shall be revoked by the zoning administrator of the Village by written notice of such revocation posted upon the premises involved and mailed to the owner at his last known address. Upon revocation of such approval, all construction activities shall cease upon the site until such time as the violation has been corrected or the Planning Commission has, upon proper application of the owner and after hearing, approved a modification in the site plan to coincide with the owner's construction or altered plans for construction as being in compliance with the criteria contained in the site plan approval provisions and with the spirit, purpose and intent of the Village Zoning Ordinance.

B. Minor Changes



A minor change to a site plan are changes that do not increase the overall building size by over 100 square feet, do not need a variance, do not result in an increase in the number of required parking spaces and does not affect a condition of approval.

**Sec. 5.07 Amendment to Site Plan**

A proposed amendment, modification or alteration to a previously approved site plan may be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed.

**Sec. 5.08 Time Limits**

- A. The applicant shall have twelve (12) months from the date of final approval of the site plan to begin physical construction of the project.
- B. The applicant shall have eighteen (18) months from the date that physical construction has commenced to complete the project.
- C. The applicant may apply to the Planning Commission for an extension of up to eighteen (18) months. The applicant must demonstrate that suitable progress has been made on the project. If an extension is granted, the project must be completed by the end of the extension period.

**Sec. 5.09 Performance Guarantee**

The Planning Commission shall have the right and authority to require the developer to file with the Village Zoning Administrator at the time of application for a building permit, a performance bond in such amounts as may be determined by the Planning Commission to ensure the development of the site in accordance with the approved site plan, conditioned upon such property construction and development. Such bond, if required, shall continue for the duration of the construction and development of the site and shall be in a face amount which covers the estimated total cost of construction and site development.

- A. Performance guarantee as used herein shall mean a cash deposit, certified check or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator.
- B. Where the Planning Commission requires a performance guarantee, said performance guarantee shall be deposited with the Village Treasurer prior to the issuance of a zoning permit. The village shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an account.
- C. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.
- D. In the event the performance guarantee deposited is a cash deposit or certified check, the Village of Otisville shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposit funds when one hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee may be applied by said applicant to assure compliance with Zoning Ordinance standards and the specifications of the approved site plan.

- E. Upon the satisfactory completion of the improvements for which the performance guarantee was required, as determined by the Zoning Administrator, the Treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- F. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Village, the Village shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the Village to complete the improvements for which it was posted, the applicant shall be required to pay the Village the amount by which the costs of completing the improvements exceeds the amount of the performance guarantee. Should the Village use the performance guarantee or a portion thereof, to complete the required improvements, any amount remaining after said completion shall be applied first to the Village's administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the Village of Otisville to ensure completion of an improvement associated with the proposed project prior to the Village's conditional approval, the applicant shall not be required to deposit with the Village of Otisville a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the Village and prior to the issuance of a building permit, the applicant shall enter an agreement incorporating the provisions hereof with the Village of Otisville regarding the performance guarantee.

## ARTICLE 6 CONDITIONAL USE PERMITS

### Sec. 6.01 Intent

These conditional permit review procedures are instituted to provide an opportunity to use a lot for an activity which, under certain circumstances, would be detrimental to other permitted land uses but which can be permitted under circumstances unique to the proposed location and subject to conditions acceptable to the community and providing protection to adjacent land uses. These procedures are adopted to provide guidelines for the Village Planning Commission to follow in arriving at any decision, over which such Commission has jurisdiction, and to provide for the public health, safety, morals, and general welfare, as well as to provide for the interest of the property owner.

### Sec. 6.02 Procedures

- A. An application for the approval of a conditional shall be made by an owner of an interest in the land on which the conditional use is to be located, to the Village Clerk accompanied by the necessary fees and documents as provided herein.
- B. The application shall be accompanied by a site plan complying with the requirements of Section 5.02C of this ordinance. Plot plans may be used for CUP requests involving existing buildings as outlined in Section 5.02.A
- C. If the proposed conditional use is not allowed in the district the subject parcel is zoned, the applicant must first apply for and receive the necessary rezoning, following the procedures outlined in Article 13 before a CUP application may be considered.
- D. The CUP application shall be referred by the Village Clerk at least twenty-eight (28) days prior to the Planning Commission meeting at which it shall be reviewed to the Village Planning Commission, Fire Chief, Police Chief and DPW Director for its review and comment.
- E. The Commission shall hold a public hearing and shall hear any person wishing to express an opinion on the application and review the conditional use permit application at the next regular meeting, following receipt of the application, that provides adequate time to notify adjacent property owners and post a notice of public hearing, as required.
  - a. The Zoning Administrator shall post a notice of such public hearing in a newspaper of general circulation within the Village not less than fifteen (15) days before the public hearing.
  - b. The Zoning Administrator shall mail a copy of such notices to each resident and owner of all properties as listed on the tax roll and located within three hundred (300) feet from the property involved in the application not less than fifteen (15) days before the public hearing
- F. The Commission shall, within thirty days (30) of the public hearing at which the application was considered, advise the applicant, the Village Zoning Administrator, and the Village Clerk of its finding regarding the request.
- G. Basis for Decision. In making their decision, the Planning Commission shall identify how the application does or does not meet the requirements for approval of site plans in Article 5 and for Conditional Uses in Article 6. Any proposed conditions shall be included in their decision, together with the reasons for such conditions.

### Sec. 6.03 Standards

No conditional use shall be approved by the Planning Commission unless they find:

- A. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare.
- B. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor shall it substantially diminish and impair property values within its neighborhoods.
- C. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- D. That adequate utilities, access roads, drainage and necessary facilities have been or are being provided.
- E. That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
- F. That the conditional use shall, in all other respects conform to the applicable regulations of the district in which it is located, any specific requirements established for that use in Article 11 and to any additional conditions or procedures as specified in Section 6.04.

#### **Sec. 6.04 Conditions and Guarantees**

- A. The Planning Commission may place conditions on approval of a conditional use permit including conditions that require conformance with the standards of another local, county or state agency such as, but not limited to, the County Drain Commissioner, County Health Department and the Michigan Department of Environmental Quality. They may do so when such conditions would achieve all of the following:
  - 1. Would ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
  - 2. Would protect the natural environment and conserve natural resources and energy.
  - 3. Would ensure compatibility with adjacent uses of land.
  - 4. Would promote the use of land in a socially and economically desirable manner.
- B. In determining appropriate conditions, the Planning Commission shall ensure that there is a rational nexus and rough proportionality between the condition imposed and the impact it is mitigating. As used in this ordinance, rational nexus refers to a condition that clearly is intended to address an impact anticipated as a result of the approval of the proposed use and rough proportionality refers to the reasonable correlation between the impact of the proposed use and the extent of the condition to address that anticipated impact.
  - 1. There is a rough proportionality between the cost to the developer to provide an improvement in relationship to the impact to be mitigated.
  - 2. There is a reasonable connection between the condition imposed and the impact it is mitigating.

#### **Sec. 6.05 Performance Guarantees**

The Planning Commission shall have the right and authority to require the developer to file with the Village Zoning Administrator, at the time of application for a building permit, a performance bond in such amounts as may be determined by the Planning Commission to ensure the development of the site in accordance with the approved site plan, conditioned upon such property construction and development. Such bond, if required, shall continue for the duration of the

construction and development of the site and shall be in a face amount which covers the estimated total cost of construction and site development.

- A. Performance guarantee as used herein shall mean a cash deposit, certified check or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator.
- B. Where the Planning Commission requires a performance guarantee, said performance guarantee shall be deposited with the Village Treasurer prior to the issuance of a zoning permit. The Village of Otisville shall deposit the performance guarantee, if in the form of a cash deposit, certified check or performance bond in an account.
- C. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.
- D. In the event the performance guarantee deposited is a cash deposit or certified check, the Village of Otisville shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposit funds when one hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee may be applied by said applicant to assure compliance with Zoning Ordinance standards and the specifications of the approved site plan.
- E. Upon the satisfactory completion of the improvements for which the performance guarantee was required, as determined by the Zoning Administrator, the Treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- F. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Village, the Village shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the Village to complete the improvements for which it was posted, the applicant shall be required to pay the Village the amount by which the costs of completing the improvements exceeds the amount of the performance guarantee. Should the Village use the performance guarantee or a portion thereof, to complete the required improvements, any amount remaining after said completion shall be applied first to the Village's administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the Village of Otisville to ensure completion of an improvement associated with the proposed project prior to the Village's approval, the applicant shall not be required to deposit with the Village of Otisville a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the Village and prior to the issuance of a building permit, the applicant shall enter into an agreement incorporating the provisions hereof with the Village of Otisville regarding the performance guarantee.

**Sec. 6.06 Effect of Denial of a Conditional Use**

No application for a conditional use which has been denied wholly or in part by the Planning Commission shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of change or conditions found to be valid by the Planning Commission.

**Sec. 6.07 Time Limits**

In any case where a conditional use has not been established within 18 months after the date of granting such use, or when the use is abandoned for twelve consecutive months authorization of that use shall automatically be null and void without further action by the Planning Commission.

**Sec. 6.08 Revocation of Permit**

In any case where a conditional use is constructed or operated in a manner that violates the conditions placed on its approval or the general requirements of this ordinance, the Zoning Administrator shall schedule a public hearing before the Planning Commission following the notice requirements in Section 6.02E of this article for the applicant to show cause why their permit should not be revoked. If the Planning Commission determines that the property is out of compliance with the terms of its permit or this ordinance and that a procedure to bring them into compliance agreeable to the Planning Commission is not identified, the Planning Commission shall revoke the Conditional Use Permit.

**Sec. 6.09 Changes to Conditional Use Permit**

Any changes to the Conditional Use Permit, including changes in the uses permitted, revisions to the conditions for approval or changes to the site plan that require Planning Commission review must follow the application, review and approval process outlined in this article.

## ARTICLE 7 PARKING

### Sec. 7.01 Off-Street Parking Space Requirements:

- A. Exception to parking requirements in Table of Use Requirements
  1. The parking requirements for all uses proposed on a lot shall be cumulative, including accessory uses, unless the Commission shall find that the parking requirements of a particular land use occur at different hours from those of other contiguous land uses, such that such particular land use parking requirements can be advantageously used during other non-conflicting hours by the other contiguous land uses, in which event the required parking spaces for such particular land uses may be the greatest number of spaces required for any of such contiguous land uses.
  2. The parking requirements in the Commercial A zoning district may be met by public or private parking within 300 feet of the subject parcel.
  3. The Planning Commission may require the provision of an easement to be regulated by the village, providing access to adjacent parking lots when reviewing site plans for developments in the Commercial B district.
- B. Off-street parking regulations within residential district
  1. All residential buildings or non-residential buildings in a residential district shall be provided with required parking areas on the same lot with the building or on a lot immediately adjacent to the lot with the building intended to be served.
  2. Such parking areas shall not be located in any required front yard or required side yard except in a case of a dwelling with a driveway leading to a garage or parking area, the drive may be used for parking. Yard requirements for parking areas shall be the same as those required for accessory buildings in the residence district in which such parking is located. One turn around / parking space shaped space is permitted in the front yard on residentially zoned lots provided the space does not exceed 20' x 10' in size and the parking space service shall be gravel, asphalt or concrete.
  3. All parking areas, except for one (1) and two (2) family dwellings, shall be screened on all sides abutting a residential district or a street. Such screening shall consist of an ornamental fence, or planting hedge not less than three (3) feet or more than six (6) feet high of a type which will obscure vision at all seasons from adjoining property. In the event that a hedge is used, the above minimum height shall be achieved no more than three (3) years after planting.
  4. No parking area shall be used for parking or storing or any commercial vehicle exceeding one (1) ton capacity in a residential district.
  5. No commercial repair work, servicing, or selling of any kind shall be conducted on such areas, and no sign of any kind other than those indicating entrances, exits and conditions of use shall be erected thereon. No charge shall be made for parking or storage of vehicles.
  6. The establishment and operation of off-street parking areas in such parts of a residential district that is immediately adjacent to or across an alley from a business or industrial district and is intended to serve said business or industry may be authorized by the Village Planning Commission subject to the conditional use provisions of Article 6, and subject to the following requirements:
    - a. Entrance and exit drives shall be at a distance of at least twenty (20) feet from any adjoining property line in a residential district.
    - b. All requirements of this section shall be complied with together with any other requirements deemed necessary or desirable by the Zoning Board of Appeals for the

protection of the parking area and the residential district in which such parking areas are to be located.

- C. When the calculation of required parking spaces results in a fraction, any fraction less than  $\frac{1}{2}$  is rounded down, any fraction greater or equal to  $\frac{1}{2}$  is rounded up.
- D. The Planning Commission shall determine the requirements for a use not listed in this ordinance.

**Sec. 7.02 Off-Street loading requirements**

Off-street loading spaces for specified land uses shall be provided in accordance with the following requirements:

A. Retail Uses

All retail sales facilities under 10,000 square feet in floor area shall provide one (1) loading space unless the Planning commission determines due to the nature of the proposed use that a loading space is not required. All retail sales facilities exceeding 10,000 square feet of floor area provide one (1) additional loading space for each additional 30,000 square feet of floor area over 10,000 square feet.

B. Industrial Uses

All industrial land uses shall provide one (1) loading space for each 10,000 square feet of floor area, with a minimum of not less than two (2) loading spaces.

All loading spaces shall be located and designed to avoid creating traffic hazard to public use of all public rights of-way.

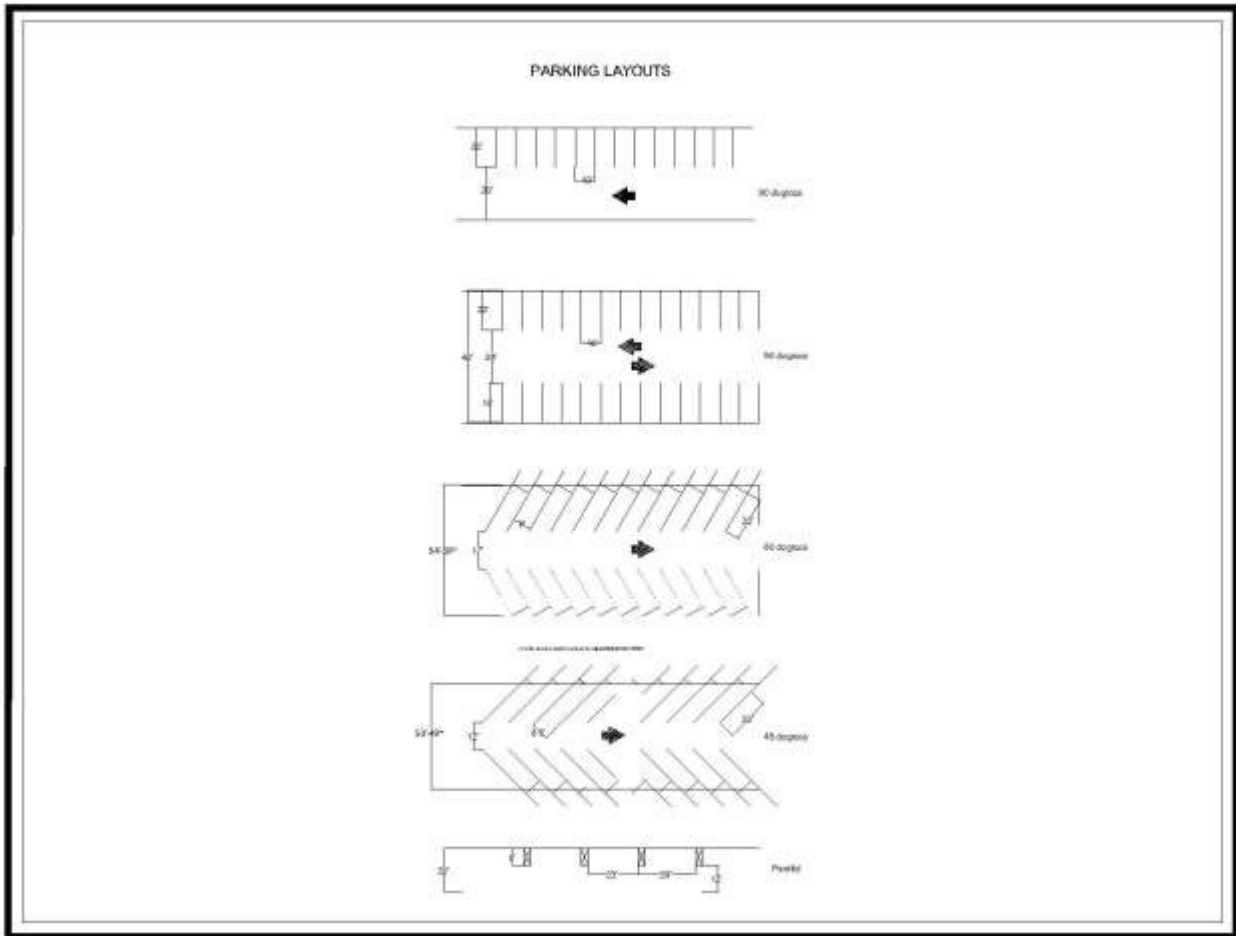
**Sec. 7.03 Design Requirements**

An off-street parking and/or loading area and dimensional requirements showing compliance with this Ordinance shall be submitted to the Village Zoning Administrator and shall be reviewed by the Planning Commission as part of site plan review for approval before the issuance of a zoning permit for the structure for which the parking facility and/or loading area is required.

- A. Each parking space shall consist of an area not less than ten (10) feet wide by twenty (20) feet deep; provided, however, such dimensions shall be increased, when necessary, to permit safe ingress and egress thereto, and provided angle spaces shall comply with the requirements in Figure 7-1.



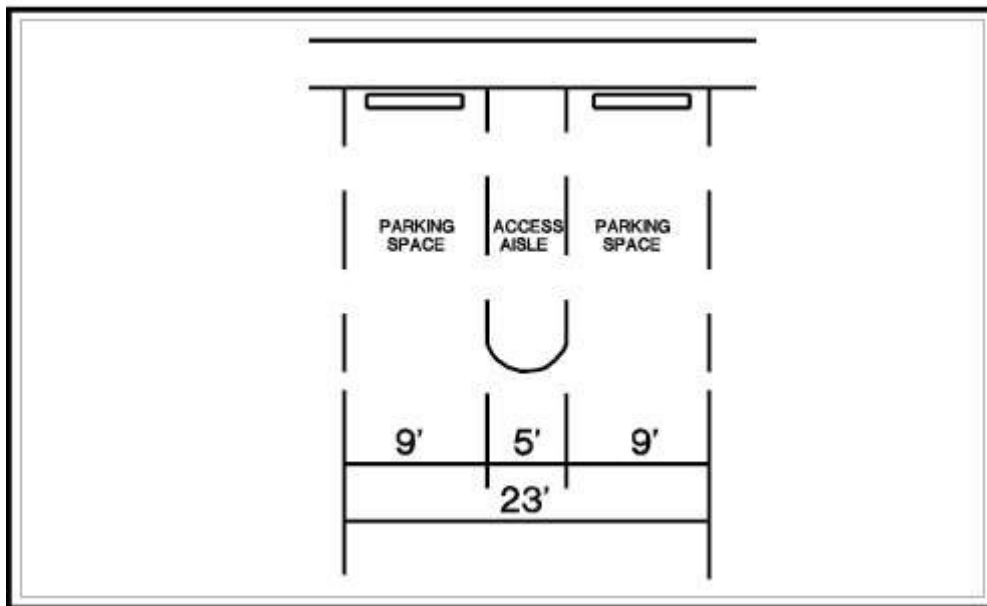
**Figure 7-1**



- B. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and maneuvered without moving or damaging another.
- C. There shall be a curb or bumper rail provided wherever an off-street parking and loading area adjoins a public sidewalk or right-of-way so designed to prevent any portion of a vehicle from encroaching upon said walk or right-of-way.
- D. Any lighting used to illuminate any off street parking loading area shall be so arranged so as to direct light away from adjoining property and streets.
- E. Off-street parking and loading areas shall be surfaced with asphalt, bituminous or concrete pavement, and shall be graded and drained to dispose of all surface water into the storm sewer system in compliance with adopted village construction and design standards.
- F. Any construction or rearrangement of existing drives which involve the ingress and/or egress of vehicular traffic to or from a public street shall be so arranged so as to ensure the maximum of safety and the least interference with traffic upon said streets and shall be approved by the Superintendent of Public Works, in writing.

- G. In no case shall a parking space be permitted which would necessitate the backing of a motor vehicle into a street or over a public walk.
- H. Parking spaces for handicapped citizens shall be located as close as possible on the most direct route to barrier free building entrances. Where possible, this route will not cross parking lot maneuvering lanes. Signs shall be provided to indicate the direction of travel to barrier free building approaches when the barrier free entrance is not visible from the accessible parking space or spaces. Each accessible parking space shall not have more than a nominal 3% grade and shall not be less than twelve (12) feet wide, or not less than ten (10) feet wide and adjacent to an access aisle which is not less than five (5) feet wide and which is not a traffic lane. At least one (1) of every ten (10) handicapped spaces shall be “van accessible”, requiring an access aisle a minimum of eight (8) feet wide. There shall be a barrier free route of travel from the accessible parking spaces to the nearest barrier free building approach. Two (2) handicap parking spaces may share the same access aisle (see Figure 7-2).

**Figure 7-2**



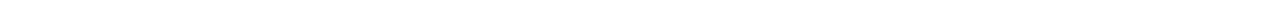
<b>Total Spaces in Lot</b>	<b>Minimum Number of Accessible Parking Spaces Required</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4

101 to 150	5
151 to 200	6

- I. Parking and loading areas shall conform to a twenty (20) foot front yard setback from any street and shall comply with the side yard setback required for accessory structures. Parking spaces shall be no closer than five (5) feet from any building.
- J. If a parking lot is expanded, it must be brought into compliance with the requirements of this section, including the requirement that the parking lot surface be paved.

## **ARTICLE 8 SIGNS**

The sign ordinance has been removed from the Zoning Ordinance and a separate Sign Ordinance has been adopted.





## ARTICLE 9 CONDOMINIUMS

### Sec. 9.01 Intent

The intent of this article is to regulate the division and development of land under the Condominium Act (PA 59 of 1978) so that the development is comparable in quality of design to property divided and developed by other methods.

### Sec. 9.02 Review Requirements

In order to ensure compliance with this Ordinance, all condominium developments including developments consisting solely of single family or duplex residences, which may otherwise not be required to prepare a site plan, shall be required to submit a site plan pursuant to Article 5. In addition to the information required in Article 5 Site Plan, all applicants for condominium site plan review shall submit the following information.

- A. A copy of the proposed condominium master deed.
- B. A copy of the proposed condominium subdivision plan (this may replace the site plan normally required for site plan review).
- C. A copy of the proposed condominium by-laws.

### Sec. 9.03 Zoning Ordinance Standards

#### A. Lot Size

In conventional condominium development, the condominium unit is enclosed air space, such as condominium apartments. In a conventional condominium the entire site must meet the minimum lot size requirements for the zoning district in which the parcel is located. For site condominium developments, the condominium unit is a piece of land that is sold as a building site just as lots in a subdivision are sold. Each condominium unit in a site condominium and its associated limited common area are considered equivalent to a "lot" and must meet the minimum lot size requirements for the zoning district in which the parcel is located.

#### B. Setbacks

In conventional condominium development, the buildings must be setback from the site's boundaries as required in the zoning district the parcel is located in. For site condominium developments, the setbacks shall be from the outer edge of the "lot" consisting of condominium units and their associated limited common area, and shall be consistent with the setbacks for principal structures in the zoning district in which it is located (See Figure 11-1 and 11-2).

Figure 11-1

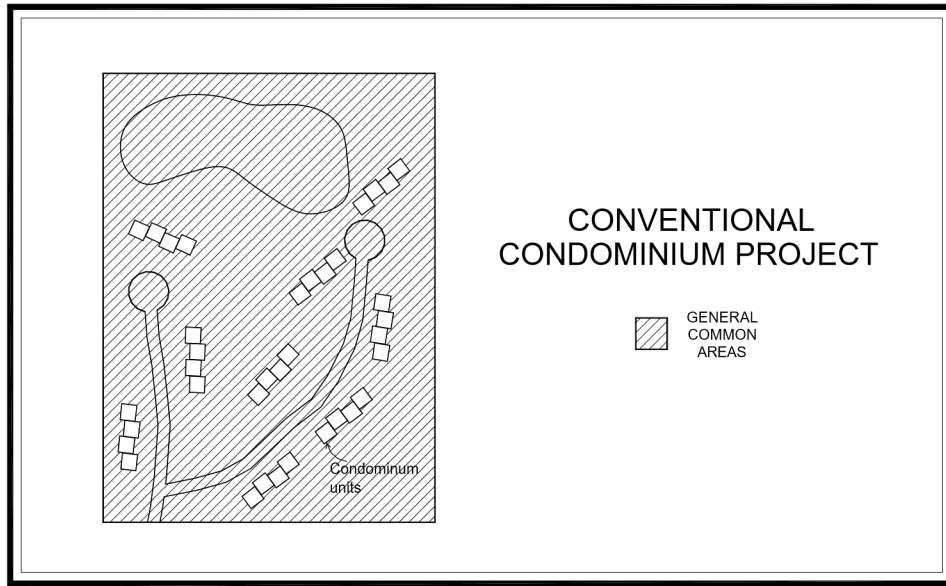
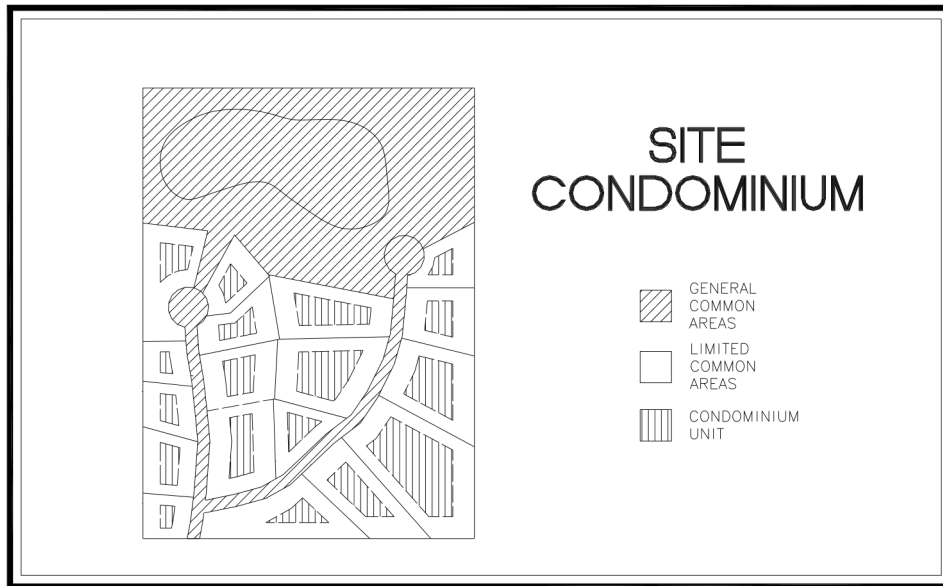


Figure 11-2



**Sec. 9.04 Condominium Design Requirements**

Conventional and site condominium developments shall comply with all applicable design standards in the Village of Otisville Zoning Ordinance. Street standards shall be consistent with the standards adopted by the Village of Otisville. In addition, site condominiums shall comply with the design standards contained in the Village of Otisville Subdivision Control Ordinance.

### **Sec. 9.05 Survey Requirements**

Conventional condominiums shall comply with the monumentation requirements contained in the Condominium Act, PA 59 of 1978. Site condominium shall comply with the following requirements: **[9-1]**

- A. Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within their traveled portion of a street to mark angles in the boundary of the subdivision if the angle's points can be readily reestablished by reference to monuments along the sidelines of the streets.
- B. All monuments used shall be made of solid iron or steel at least ½ inch in diameter and 36 inches long and completely encased in concrete at least four inches in diameter.
- C. Monuments shall be located in the ground at all angles in the boundaries of the site condominium; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the site condominium and at the intersection of alleys with the boundaries of the site condominium; at the points of curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.
- D. If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impractical, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plat and referenced to the true point.
- E. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least ½ inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.
- F. All required monuments shall be placed flush with the ground where practicable.
- G. The corner of each area consisting of a unit and the associated limited common area reserved for that unit, and treated as a "lot" under this ordinance shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and ½ inch diameter, or other approved markers.
- H. The Village Council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition that the proprietor deposits with the Village, cash or a certified check, or irrevocable bank letter of credit running to the Village, whichever the proprietor selects, in an amount not less than \$100.00 per monument and not less than \$400.00 in total, except that lot corner markers shall be at the rate of not less than \$25.00 per markers. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified. If the proprietor defaults, the Village shall promptly require a surveyor to locate the monuments and markers in the ground as certified on the plat, at a cost not to exceed the amount of the security deposited and shall pay the surveyor.



## ARTICLE 10 LANDSCAPE STANDARDS

### Sec. 10.01 Intent

The intent of this article is to promote the public health, safety, and welfare by establishing minimum standards for the design, installation and maintenance of landscaping as buffer zones between zoning districts, along roadways, between adjacent buildings, and in parking lots.

The standards of this article are intended to guide and encourage the protection and enhancement of the environment through requirements for site design and the use of landscape materials. Implementation will minimize negative impacts on adjacent land uses including, but not limited to air pollution, glare, violation of privacy, trash and dirt. Applicants are encouraged to provide landscaping in addition to the minimum requirements of this ordinance to improve the function, appearance and value of their property.

### Sec. 10.02 Application

The requirements set forth in this article shall apply to all uses for which site plan review is required. No site plan shall be approved unless said site plan provides landscaping consistent with the provisions of this article.

The Planning Commission may grant an exception from the landscaping provisions of this article if the commission determines that dimensional conditions unique to the parcel or existing vegetation or topographic characteristics would prevent development of required buffer zones, off street parking area, landscaping or green belts or make such requirement redundant.

The following are minimum landscape standards and nothing will preclude the developer and Village from agreeing to more stringent standards. If applicable, this determination will be made during site plan review.

#### A. Landscape Plan Required.

A separate detailed landscape plan shall be submitted as part of a site plan review. The landscape plan shall include, but not be limited to the following items:

1. Minimum scale of one (1) inch to twenty (20) feet. A scale of one (1) inch to fifty (50) feet may be used for parcels over five acres in size.
2. Proposed plant location, spacing, size and species (common and botanical name).
3. Existing and proposed contours on site and 100 feet beyond the site at intervals not to exceed two (2) feet.
4. Straight cross section including slope, height and width of berms and type of ground cover, or height and type of construction of wall or fence, including footings.
5. Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain existing natural drainage patterns.
6. Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed materials.
7. Identification of existing trees and species proposed to be saved. These trees can, at the discretion of the Planning Commission, be used toward meeting the requirements prescribed herein. Clearly reference on the plan the total number of trees proposed to be preserved and methods thereof.

**Sec. 10.03 Minimum Buffer Zones**

**A. Level of Use**

For the purposes of determining the density and type of coverage in the required buffer zone, existing land uses have been classified based on level of use, as follows:

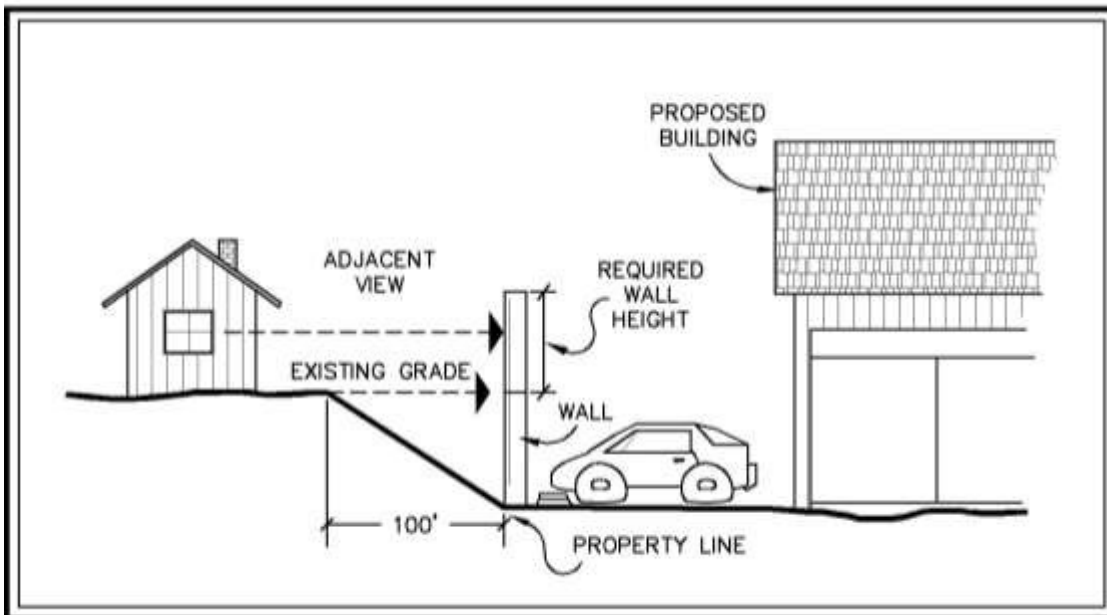
LEVEL OF USE	LAND USES*
Level 1	Single family attached homes
Level 2	Mutli-family homes
Level 3	Offices, churches and similar uses
Level 4	Commercial
Level 5	Industrial

\*Where there is a question regarding classification of a land use, the Planning Commission shall make the determination. When a development is proposed adjacent to a vacant lot, the classification shall be based on the principal types of uses allowed on that parcel based on its zoning district.

**B. Buffer Zone**

A buffer zone shall be provided within the setback between the subject site and all adjacent properties according to Table 9-1 and 9-2. Walls/fences and berms with a height greater than 36 inches shall typically be prohibited along a public street right of way or in a front yard unless specifically approved by the Planning Commission. The height requirement of a wall/fence or berm shall be measured from the existing grade at the principal structure (within 100 feet of the property line) nearest to that property, to the top of the proposed berm or wall on the applicant=s site (see Figure 10-1). All walls/fences shall meet the standards described in Section 10.03.D. Buffers utilizing a combination of plant materials, berming and walls/fences shall be encouraged.

**FIGURE 10-1**



**TABLE 10-1, BUFFERING FOR PROPERTY SIDE AND REAR YARDS**

LEVEL OF USE OF SUBJECT SITE	LEVEL OF USE OF ADJACENT SITE				
	Level 1*	Level 2*	Level 3	Level 4	Level 5
Level 1	None	None	None	None	None
Level 2	Type II	None	None	None	None
Level 3	Type II or 5 foot high wall/fence/berm	Type I or 5 foot high wall/fence/ berm	None	None	None
Level 4	Type III or 5 foot high wall/fence/berm	Type III or 5 foot high wall/fence/berm	Type I	None	None
Level 5	Type III or 8 foot high wall/ fence/berm	Type III or 8 foot high wall/fence/ berm	Type II	Type II	None

All property line distances shall be rounded upward to the nearest foot. See Fig. 10-2 for buffer type requirements.

\*Where the adjacent property, including property across a public street or private road, is zoned or used as single family residential, the Planning Commission may require additional landscaping (trees, shrubs, wall or berm) along the property line or within the site to sufficiently screen the parking lot, vehicle headlights, loading zones, outdoor display areas, storage yards, accessory structures, or use.

\*When a land use increases in intensity, the Planning Commission shall review the site plan to determine if additional buffer material is required and to what extent and type.

**TABLE 10-2, BUFFER ZONE PLANTINGS**

(Minimum Required Plantings per 100sft of buffer zone)					
Type	Width	Coniferous Trees*	Deciduous Trees	Berm	Fence
I	20'	four (4)	no	yes	no
	15'	five (5)	no	no	yes
	10'	six (6)	no	no	yes
II	25'	four (4)	one (1)	yes	no
	20'	five (5)	one (1)	yes	no
	15'	six (6) six	two (2)	no	yes
	10'	(6)	two (2)	no	yes
III	30'	four (4)	one (1)	yes	no
	25'	four (4)	one (1)	yes	no
	20'	five (5)	two (2)	yes	no
	15'	five (5)	three (3)	no	yes

\*Ornamental trees and evergreen shrubs can be substituted on a two to one (2:1) ratio up to fifty (50%) of the required material.

**C. Parking and Storage**

When a parking lot is proposed to be located adjacent to a Res A, Res B, or Res C land a buffer zone is required as follows:

- 5-15 spaces = type I buffer
- 16-30 spaces = type II buffer
- 31+ spaces = type III buffer

This requirement is not in addition to a required buffer zone where both provisions would require buffering along the same lot line.

When a parking lot or entry drive is proposed adjacent to commercial land, a minimum 10 foot green belt is required. This width can be shared between properties as approved by the planning commission.

#### D. Wall or Fence Standards

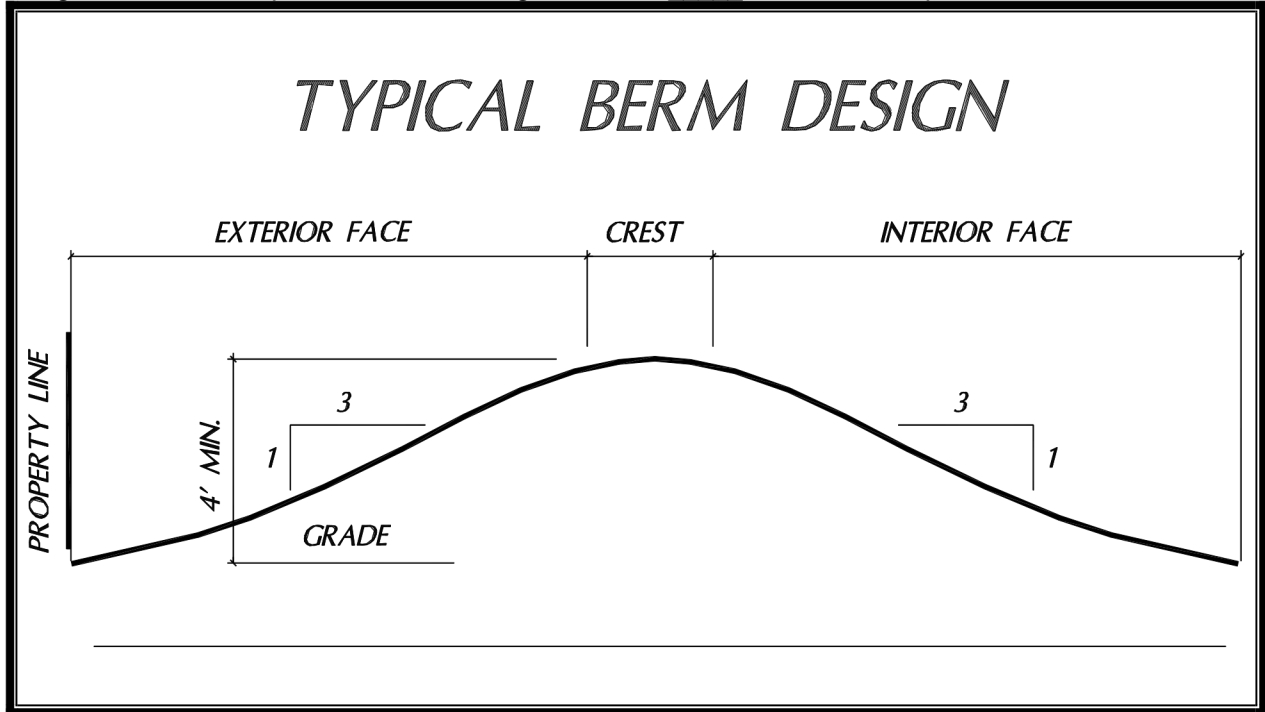
Required walls or fences shall comply with the standards listed below.

1. Walls or fences shall be located so as to offset six inches within the applicant's property except where underground utilities interfere or where this ordinance requires conformance with yard setback lines; as approved by the planning commission.
2. Walls or fences must be maintained in good condition by the property owner.
3. The finished side or most visibly attractive side of a wall or decorative wood fencing shall face the exterior of the property line. Posts shall be on the side of the wall or fence facing the interior of the lot or parcel of land upon which the wall or fence is constructed.
4. Fences in non-residential zoned areas and for the purpose of screening storage or dumpsters shall be opaque in nature, board on board style or solid masonry, six (6) feet in height.
5. No fence, wall or hedge plantings shall exceed a height of three (3) feet within twentyfive (25) feet of any street right-of-way line.
6. Fences, walls or structural screens shall not exceed three (3) feet in any front yard within Res A.
7. Fences, walls or structural screens in a front yard must be chain link or constructed in such a way that they can be seen through for the length of the fence in any residential or agricultural/residential zoning district. Fences, walls or structural screens other than those in front yards, shall not exceed six (6) feet in height in any residential or agricultural/residential zoning district.

#### E. Berm Standards

Required berms shall be constructed as landscaped earth mounds with a crest area at least three (3) feet in width. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace or other means acceptable to the Zoning Administrator or Planning Commission depending on who has site plan approval. Proper and adequate drainage for adjacent properties shall be maintained. Whenever an earthen slope is provided, it shall be constructed with a slope not to exceed one (1) foot of vertical rise to three (3) feet of horizontal distance (1:3). (See Figure 10-2.) Free form naturalistic contouring and berm shaping is encouraged.

FIGURE 10-2



**Sec. 10.04 Green Belts Required Along the Public Right of Way.**

A green belt shall be planted adjacent to the right of way of any public street. The green belt plantings shall be planted within the required setback. The Planning Commission may allow such planting to be placed anywhere within the front yard if there is no front yard parking. The green belt shall meet the following standards:

**A. Use of Living Material**

The green belt shall include only living materials and planting beds, except for approved sidewalks, signs, driveways and essential services.

**B. Density of Trees**

The green belt shall include one (1) deciduous canopy per thirty (30) linear feet of the frontage including any openings for driveways, sidewalks or easements. This requirement may be reduced or waived by the Planning Commission with the showing of necessity by the applicant.

**C. Use of Coniferous Trees**

The Planning Commission may approve substitution of coniferous trees for up to fifty percent (50%) of the required green belt trees upon determining evergreens would be consistent with the existing character of the area.

**D. Vision Triangle / Emergency Access**

Landscaping material arrangement shall ensure adequate site visibility for motorists, adequate clearance for pedestrians and vehicles and accessibility to fire hydrants and other means of ingress/egress, as required by the police chief or building inspector. Plant materials within the twenty-five (25) foot site distance triangle shall not be more than thirty (30) inches in height. (See Section 3.09)

**Sec. 10.05 Parking Lot Landscaping**

Parking lots shall be buffered on their perimeter by landscaping meeting the requirements of

Village of Otisville Adopted Article 10 Zoning Ordinance, 2018 Landscape Standards  
Section 10.04 of this Ordinance. This provision does not require the “doubling up” of landscaping of parking lots adjacent to a right of way.

### **Sec. 10.06 Minimum Standards for Installation and Maintenance**

#### **A. Installation**

Landscaping shall be installed in a sound workman like manner and conform to the American Standard for Nursery Stock ANSI Z60.1. If building or paving construction is completed during a planting season, then no certificate of occupancy will be issued unless the landscaping meets the requirements herein provided. If building or paving construction is completed in an off planting season, the certificate of occupancy will be issued only after the owner provides a performance bond equal to the cost of purchasing and installing material to ensure installation of required landscaping as weather permits.

#### **B. Material Removal**

Tree stakes, guy wires and tree wrap are to be removed by the applicant after one year.

#### **C. Maintenance**

Greenbelt areas and plant materials required by this ordinance shall be kept free from refuse and debris. Plant materials shall be maintained in a healthy growing condition, neat and orderly in appearance in perpetuity from the time of planting. If any plant material required by this Ordinance dies or becomes diseased, they shall be replaced by the applicant/owner within thirty (30) days of written notice from the Village mailed by certified mail to the owner’s last known address or within an extended time period as specified in said notice.

Should owner fail to repair and/or replace planting material, fences or other barriers within the thirty (30) days and the owner fails to provide reason in writing, via certified letter, as to why he/she is unable or not required to make said improvements, the Village shall make the necessary improvements and assess the owner for all costs associated with or arising from same.

### **Sec. 10.07 Enforcement**

A violation of any provision of this section or non-compliance with written notifications pertaining to this section shall constitute a violation of this Ordinance.

### **Sec. 10.08 Plant Material Specifications**

All plant material shall be free of disease and insects at time of planting and conform to the American Standard for Nursery Stock of the American Association of Nurserymen ANZI Z60.1. No petrochemical or other non-living material shall be used.

Ground surfaces within the buffer zone shall be a maintained lawn, perennial ground cover and/or attractive mulch (stone, gravel or wood chips) of sufficient depth to prevent the growth of weeds. Mulch shall be properly contained.

#### **A. Suggested Plant Materials**

1. Coniferous Trees: Minimum four (4) feet in height, Red Cedar, White Cedar, Fir, Spruce, Hemlock, Pine, Fir.
2. Conifer shrubs: Minimum three (3) gallon pot: juniper, yew.
3. Ornamental Trees: five (5) feet in height or 2" caliper, Flowering Crab, Mountain Ash, Redbud Hornbeam, Magnolia, Dogwood, Rose of Sharon, Hawthorn, Serviceberry.

4. Large Deciduous Shrubs: Minimum six (6) feet in height, Honeysuckle, Mock-Orange, Lilac, Cotoneaster, Euonymus, Viburnum, Forsythia, Ninebark, Hazelnut, Privet, Sumac.
5. Deciduous Trees: Minimum eight (8) feet in height or 1.5 inch caliper. Oak, Hackberry, Planetree (Sycamore), Sweet Gum, Linden, Maple, Ginkgo (male species), Birch, Honey Locust, Ash.
6. Trees and shrubs should be selected that can tolerate our climatic zone, as well as the stresses particular to the site (existing shade, salt tolerance, heat or scorch resistance, etc.).

B. Required Plant Material Spacing

1. Plant material shall be placed so the drip line shall be no closer than two (2) feet from the fence line or property line when plants are two-thirds of mature size.
2. Where plant materials are planted in two (2) or more rows, planting shall be staggered.
3. Trees shall be planted not more than thirty (30) feet on center.
4. Ornamental trees shall be planted not more than ten (10) feet on center.
5. Large deciduous shrubs shall be planted not more than four (4) feet on center.
6. Natural grouping of material is encouraged.

C. Prohibited Trees

The following trees are not permitted to be used to meet the landscaping requirements of this article as they split easily, their wood is brittle and breaks easily, they bear fruit or seed pods that can stain vehicles, drives and sidewalks and they are unusually susceptible to disease or insect pests.

1. Common Names
  - a. Boxelder
  - b. Horse Chestnut
  - c. Hickories
  - d. Catalpa
  - e. Black Walnut
  - f. Mulberry
  - g. Poplars
  - h. Willows
  - i. American Elm
  - j. Ash

## **ARTICLE 11 DESIGN STANDARDS**

### **Sec. 11.01 Planned unit developments (PUD)**

Planned unit developments (PUD) are permitted by Conditional Use Permit in Residential A-1, Residential A-2 and Residential B Districts provided the following conditions are met and provided such development is found not detrimental to the public health, safety and general welfare of the occupants and the community:

#### **A. Requirements Regarding Tract**

1. The minimum required land area for a planned unit development shall be sixty (60) contiguous acres.
2. The developer shall provide within the planned unit development a sanitary sewage system which shall be of sufficient size and design to collect all sewage from all present and proposed structures in the planned unit, shall connect with the Village's system, and shall be otherwise constructed and maintained in conformity with the statutes, ordinances, and regulations of the State of Michigan, the Genesee County Health Department, the Genesee County Drain Commissioner's Office and the Village.
3. The developer shall provide within the planned unit development a storm drainage system which shall be of sufficient size and design as will in the opinion of the Village's Engineers collect, carry off and dispose of all predictable surface water run-off within the development and any adjoining tributary area, and shall be so constructed as to conform with the statutes, ordinances and regulations of the State of Michigan, the Genesee County Drain Commissioner's Office, and the Village.
4. If a public water system is not available, the developer shall provide within the planned unit development a potable water system which shall be of sufficient size and design to supply potable water to each of the structures to be erected in the development.
  - a. The developer shall provide a fire hydrant within four hundred (400) feet of each structure.
  - b. Water systems shall conform to the statutes, ordinances, and regulations of the State of Michigan, the Genesee County Health Department, the Genesee County Drain Commissioner's Office, and the Village.

#### **B. Permitted Uses**

1. Single family attached or detached dwelling
2. Apartment building or townhouse
3. Accessory private garage
4. Public or private park or recreation area which may include a golf course, swimming pool, tennis court, ski slope, toboggan run, ice skating rink, and other similar recreational uses, but which may not include any use or activity which produces noise, glare, odor, air pollution, fire, or other safety hazards, smoke, fumes or other pollutants detrimental to existing or prospective adjacent structures or to existing or prospective occupants or the general public.
5. Municipal building
6. School
7. Church, temple, synagogue, parsonage or parish house, convent
8. Art gallery or professional office
9. Theatre for stage productions or films, but not a drive-in theatre



10. Studio of artist, sculptor, musician or photographer, but no goods or objects shall be sold or publicly displayed on the premises
11. Restaurant
12. Business activities of a local or neighborhood character, conducted within an enclosed building only, providing necessary services for the day-to-day operation of a household, and which can be supported economically by a small neighborhood area, including business of the type included in, although not limited to, the following:
  - a. Barber and beauty shop
  - b. Cigar store
  - c. Cleaning and dyeing distribution shop (no processing)
  - d. Dairy products, retail sales
  - e. Delicatessen
  - f. Drugstore
  - g. Laundry collecting shop, self-service laundry, self-service dry cleaner, and hand laundry
  - h. Local store selling, at retail, fish, fruit, food, hardware, meats (no slaughtering) and vegetables, and beer and wine under SDM license and gasoline from not more than two gasoline pumps; provided further, that such store may not exceed twelve thousand (12,000) square feet of sales floor area
  - i. Newsstand

C. Density and Design Standards

1. Area limitations for various uses:

Within a planned unit development the following percentages of the total land area shall be devoted to the specified uses:

  - a. A maximum of eighty (80) percent for residential use; land devoted to residential use shall be deemed to include those streets, alleys, parking areas, private open spaces and courts which abut and service primarily residences or groups of residences, but it shall not include useable open space which is available for use by the general public or by persons who do not live in the residences or groups of residences immediately adjacent to it unless otherwise provided herein.
  - b. A maximum of twenty (20) percent for non-residential uses and required parking, provided however that open air recreational uses, other open space uses and land devoted to streets shall not be included in determining non-residential use.
  - c. A minimum of twenty (20) percent for open air recreational uses and other useable open space.
    - 1) Useable open space shall be defined as an open area designed and developed for common use by the occupants of the development or by others for recreation (whether commercial, private or public) courts, gardens or household service activities such as clothes drying, which space is effectively separated from automobile traffic and parking and is readily accessible; the term shall not include space devoted to streets and parking.
    - 2) Residential density: The density of residences shall not exceed six (6) units per acre of the land within the development which is devoted to residential use and useable open space.
    - 3) Lot size: There shall be no minimum lot size, no minimum setbacks no minimum percentage of coverage and no minimum lot width for any unit; provided, however, that in areas of single family and/or townhouse structures which are to be sold and

for which the care and maintenance of the grounds and exteriors associated with such structures will be the responsibility of the purchaser of such structure or parts of structures, such area shall be platted with applicable and recordable provisions of the Subdivision Regulations. For purposes of determining overall densities within the planned unit development the number of units located in such platted areas shall be included.

- 4) Height: The height of any structure within a planned unit development shall be related to the location of the structure such as to equal the distance to any adjacent property line; provided, however, the height limitation shall be related to the fire fighting capability of Forest Township and provided further, that this provision affect any structure of less than thirty-five (35) feet.
- 5) Location of structures: The proposed location and arrangement of structures shall not be detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood.
- 6) Every single family dwelling shall have access to a public street court, walkway or other area dedicated to public use. No structure and no group of structures (such as semi-detached dwellings or a row of townhouses) shall be erected within twenty-four (24) feet of any other structure or group of structures.
- 7) Protection of open spaces: Open spaces between structures including those spaces being used as public or private recreational areas, shall be protected by adequate covenants running with the land or by conveyances or dedications, as the Planning Commission shall specify.
- 8) Roads and parking areas: The dimensions and construction of roads, alleys, and parking areas within the development, whether or not dedication of them to the Village is contemplated, shall conform to all applicable state, county and Village ordinances.

#### D. Procedure

1. Before any conditional use permit or building permit is issued for land or a building in a PUD, the developer shall obtain approval by the Village Planning Commission of an overall plan for development of the land. For this purpose, he shall submit to the Planning Commission a plan prepared by a registered community planner, or a registered architect which:
  - a. shall state the acreages to be devoted to specific uses;
  - b. shall set forth the proposed density of dwelling units;
  - c. shall include a major thorough fare plan and a public utility plan; and
  - d. shall include a separate plan showing the location of parks, open recreation areas and other open spaces, schools and other public or community uses.
2. The criteria for approval of any planned unit development shall be those which are included within the Conditional Use Permit Review Procedures Section of this Ordinance in Article 6. These criteria shall include the desirability of the planned unit development's design in terms of traffic safety, health, drainage, densities, land use relationships of proposed uses to each other and uses adjacent to the site and its overall relation to a community development plan if such a plan exists.
3. If the plan is approved by the Planning Commission, the developer shall thereafter submit a detailed plan, containing all the information required of this Ordinance.
  - a. The Planning Commission shall review the detailed plan to determine that it complies with this Ordinance and with the overall plan originally submitted by the developer.

- b. Approval of any detailed plan shall lapse unless construction is started in that section within one year.
- c. No conveyance of land within the development may be made until the developer has complied with all Village regulations.

**Sec. 11.02 One family dwelling, detached**

Single Family dwellings in the Village of Otisville not located in a mobile home park shall comply with the following standards.

- A. It complies with the minimum square footage requirements of this Ordinance for the zone in which it is located.
- B. It has a minimum width across any section of 20 feet and complies in all respects with the Village Building Code, including minimum heights for habitable rooms. This size requirement shall not make any houses existing at the date of amendment non-conforming so that they cannot be enlarged or improved. C. The roof shall have a minimum 4/12 pitch.
- D. It is firmly attached to a permanent foundation, constructed on the site in accordance with the Village Building Code and coextensive with the perimeter of the building, which attachment shall also meet all applicable building codes and other state and federal regulations.
- E. It does not have exposed wheels, towing mechanism, under-carriage or chassis.
- F. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.
- G. The dwelling contains storage area either in the basement under the dwelling, in an attic area, in closet areas or a separate structure being standard construction similar to or of better quality than the principal dwelling. Such storage shall be in addition to the space for the storage of automobiles and shall be equal to not less than 10 percent of the minimum square footage requirement of this Ordinance for the zone in which the dwelling is located. In no case, however, shall more than two-hundred (200) sq. ft. of storage area be required by this provision.
- H. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six (6) inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage along the sides of the dwelling; with not less than two (2) exterior doors with one being in the front of the dwelling and the other being either the rear or side of the dwelling; contains permanently attached steps connected to said exterior areas or to porches connected to said door areas where a difference in elevation requires the same. 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 a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals under the terms of Section 13.06 of this ordinance. Any determination of compatibility shall be based upon the standards set forth in the definition of "dwelling" as well as the character of residential development outside of mobile home parks within three hundred (300) feet of the subject dwelling where such area is developed with dwellings to the extent of not less than twenty (20) percent of said area; where said area is not so developed, by the character of residential development outside of mobile home parks throughout the Village. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

- I. The dwelling contains no additions or rooms or other areas which are not constructed with similar materials and which are similar in appearance and which have similar quality of workmanship as the original structure, including the above-described foundation and permanent attachment to the principal structure.
- J. The dwelling complies with all pertinent building and fire codes including, in the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled Mobile Home Construction and Safety Standards, effective June 15, 1976 as amended.
- K. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by a state or federal law or otherwise specifically required in the Ordinance of the Village pertaining to such parks.

### **Sec. 11.03 Special regulated uses**

Special regulated uses are permitted by Conditional Use Permit in the Commercial B district subject to the following:

#### **A. Purpose:**

1. In the development of a community it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this article.

Uses subject to these controls are as follows:

#### **a. Group "A" - Special Regulated Uses:**

- 1) Adult Book Store
- 2) Adult Motion Picture Theater
- 3) Adult Mini-Motion Picture Theater
- 4) Massage Establishments
- 5) Establishments for the consumption of beer or intoxicating liquor on the premises and having adult entertainment
- 6) Steam Baths
- 7) Health Clubs
- 8) Taxi Dance Halls

Any other use, including Group "B" special regulated uses, which provides goods or services which are distinguished or characterized by their emphasis on matters depicting, describing or related to "specified sexual activities" or "specific anatomical areas" or which provides goods or services in a manner which is distinguished or characterized by its emphasis on "specified sexual activities" or "specified anatomical areas". These other uses as listed below are for the purpose of illustration and not limitation.

#### **b. Group "B" - Special Regulated Uses:**

- 1) Hotel, Motel and public lodging houses
- 2) Pawn shops

- 3) Pool or billiard halls
- 4) Secondhand stores
- 5) Shoeshine parlors
- 6) Liquor stores

B. Application to establish a special regulated use

Application to establish any of the special regulated uses as itemized in Sec. 11.18.A1 shall be made to the Village of Otisville Planning Board which shall not approve any such request unless the locational standards listed in the following sections are adhered to.

C. Locational standards-Relationship to similar uses

1. Group "A" Special Regulated Uses (Sec. 11.18A1a). An application to establish a Group "A" Special regulated use shall not be approved if there is already in existence two (2) or more Group "A" and/or Group "B" special regulated uses within one thousand (1,000) feet of the boundaries of the site of the proposed uses, excepting as provided for in Sec. 11.17E.
2. Group "B" Special Regulated Uses (Sec. 11.18A1b). An application to establish a Group "B" Special Regulated Use shall not be approved if there is already in existence four (4) or more Group "B" Special Regulated Uses within one thousand feet (1,000) of the boundaries of the site of the proposed regulated uses, excepting as provided for in 11.17E.

D. Locational Standards - Relationship to Residential Area and Other Uses

1. Group "A" Special Regulated Uses (Sec. 11.18A1a) An application to establish a Group "A" Special Regulated Use shall not be approved if the proposed location is within one thousand (1,000) feet of any Residentially Zoned District, trailer park, K through 12 school, park, or church, excepting as provided form Sec. 11.18F.
2. Group "B" Special Regulated Uses (Sec. 11.18.A1b) An application to establish a Group "B" Special Regulated Use shall not be approved if the proposed location is within three hundred (300) feet of a Residentially Zoned District, trailer park, K through 12 school, park, or church, excepting as provided for in Sec. 11.18.F.

E. Waiver of Locational Standards

1. Relationship to similar uses

The Zoning Board of Appeals may waive the locational standards of Sec. 11.18.A.1, limiting the location of Group "A" and Group "B" uses as they relate to similar uses if the following findings are made:

- a. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of the Ordinance will be observed.
- b. That the proposed use will not enlarge or encourage the development of a "skid row" area.
- c. That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal.
- d. That all applicable regulations of the Ordinance will be observed.

2. Relationship to Residential Areas and Other Uses

The Zoning Board of Appeals may waive the locational standards of Sec. 11.18.D, limiting the location of Group "A" and Group "B" uses as they relate to Residentially Zoned Districts, trailer parks, K through 12 schools, parks or churches, provided that a validated

petition requesting such a waiver, signed by owners or purchasers of at least seventy (70) percent of the parcels of land within five hundred (500) feet of the proposed location is presented to the Board.

- a. The circulator of the petition requesting a waiver shall subscribe to an affidavit attesting to the fact that the circulator personally witnessed the signatures on the petition and the same were affixed to the petition by the person whose name appeared thereon.
- b. The petition will be so worded that the signers of the petition will attest to the fact that they are the owners or purchasers of the parcel of land identified by the permanent parcel number opposite their signature.
- c. For the purpose of this section, parcels of land shall equate to the permanent parcel number assigned by the Village of Otisville to all property within said five hundred (500) feet.

#### F. Application to the Zoning Board of Appeals

An applicant requesting a waiver of the locational requirements of Sec. 11.18.A.1.a and Sec. 11.18.D shall file according to the procedures outlined in Sec. 13.01 of the Village of Otisville Zoning Ordinance.

#### G. Conditions on Waivers

Prior to the granting of a waiver of the locational requirements, the Zoning Board of Appeals may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operations of regulated use as may in its judgment be necessary for the protection of the public interest. Any evidence and guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

#### H. Definitions for the Purposes of these Articles

1. **Adult Book Store.** An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below), or an establishment with a segment or section devoted to the sale or display of such materials.
2. **Adult Motion Picture Theater.** An enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below), for observation by patrons therein.
3. **Adult Mini Motion Picture Theater.** An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below), for observation by patrons therein.
4. **Adult Entertainment.** Any conduct which presents material by books, films, slides, or the like or by live presentation which includes services to the patron of an establishment, which material is distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Areas" or "Specified Anatomical Areas".
5. **Massage Establishment.** Any establishment where massages are administered for pay, including but not limited to massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly which massages are administered only to the scalp, the face, the neck or shoulders. This

definition shall not be construed to include a public or non-profit organization such as a school, park department, YMCA or YWCA operating a community center, swimming pool or other educational, cultural, recreational facilities for the residents of the area.

6. Specified Sexual Activities

- a. Human genitals in a state of sexual stimulation or arousal;
- b. Acts of human masturbation, sexual intercourse or sodomy;
- c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

7. Specified Anatomical Areas

- a. Less than completely and opaquely covered:
  - 1) human genitals, pubic region
  - 2) buttock
  - 3) female breast below a point immediately above the top of the areola
- b. Also human male genitals in a discernibly turgid state, even if completely and opaquely covered.

I. Regulations

Any permit granted under Sec. 11.18.A.1.a, Group "A" shall be subject to the following rules and regulations.

- 1. There shall be no outside advertising of material, except name of business.
- 2. No material on display within said establishment shall be visible from surrounding property or roadways.

**Sec. 11.04 Performance Standards**

Uses in all commercial and industrial districts shall conform to the following.

A. Smoke Control

No individual or individuals shall cause, suffer, or allow to be discharged in the atmosphere from any source, smoke the shade or appearance of which is equivalent to or greater than that density described as No. 2 of the Ringelmann chart; provided, however, that smoke the shade or appearance of which is equivalent to but not darker than No. 2 of the Ringelmann chart for a period or periods aggregating four (4) minutes in any thirty (30) minutes shall be permitted and provided further, that smoke, the shade or appearance of which is equivalent to but not darker than No. 3 of the Ringelmann chart for a period or periods aggregating three (3) minutes in any fifteen (15) minutes shall also be permitted when building a new fire or when breakdown or malfunctioning of equipment occurs such as to make it evident that the emission was not reasonably preventable.

B. Control of Noise

At no point on the boundary of any non-industrial district shall the sound pressure level of any operation exceed the described levels in the designated octave bands below:

Octave Band in Cycles per Second	Maximum Permitted Sound level in decibels
0 to75	72
75 to 150	67
150 to 300	59

300 to 600	52
600 to 1200	46
1200 to 2400	40
2400 to 4800	34
Above 4800	32

C. Control of Odors

There shall be no emission of odorous matter in such quantities as to be offensive at lot boundary lines.

1. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that the control will be maintained if the primary safeguard system should fail.
2. There is hereby established as a guide in determining such quantities of offensive odors, Table III, (Odor Thresholds) in Chapter 5, "Air Pollution Abatement Manual" copyright 1951 by Manufacturing Chemists' Association, Inc., Washington, D.C.

D. Control of Glare or Heat

Any operation producing intense glare or heat shall be performed within an enclosed building or behind a solid fence in such a manner as to be completely imperceptible from any point beyond the lot lines of the lot upon which the source of such glare or heat is located.

E. Control of Vibrations

No vibration which is discernable to the human sense of feeling shall be perceptible at any point beyond the lot line of the lot upon which the source of such vibration is located.

F. Control of Radioactivity or Electrical Disturbance

There shall be no activities which emit dangerous or harmful radioactivity. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation of any equipment located beyond the property of the creator of such disturbance.

G. Outdoor Storage and Waste Disposal

1. No flammable or explosive liquids, solids, or gases shall be stored in bulk above ground; provided, however, that tanks or drums of fuel directly connecting with energy devices, heating devices or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision.
2. All outdoor storage facilities for fuel, raw materials, and products and all fuel; and all raw materials and products stored outdoors shall be enclosed by a fence adequate to conceal the facilities from any adjacent properties.
3. No materials or wastes shall be deposited upon a lot in such a form or manner that may be transferred off the lots by natural forces or causes.
4. All material or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

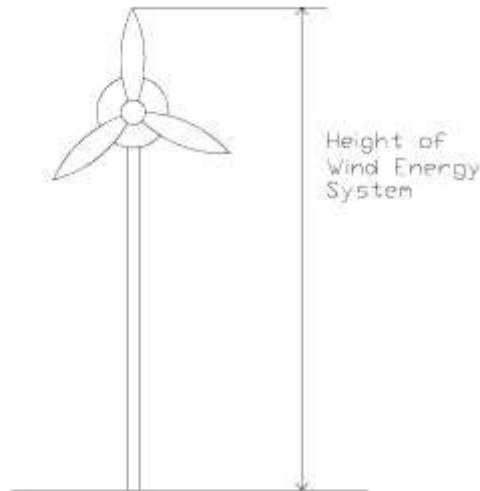


**Sec. 11.05 Wind Energy**

Wind energy is a use allowed by Conditional Use Permit in all zoning districts. Uses in all commercial and industrial districts shall conform to the following.

- A. The system is designed to primarily serve the needs of a home, farm, or small business.
- B. Shall have a tower height of sixty-six (66) feet or less.
- C. Property Set-back: The distance between an onsite wind energy system and the owner's property lines shall be equal to the height of the wind energy system tower including the top of the blade in its vertical position (See figure 11-1). The distance between an onsite wind energy system and any structure on an adjacent residential lot shall be equal to twice the height of the wind energy system tower including the top of the blade in its vertical position. No part of the wind energy system structure, including guy wire anchors, may extend closer than ten feet to the owner's property lines, or the distance of the required setback in the respective zoning district, whichever results in the greater setback.

Figure 11-1

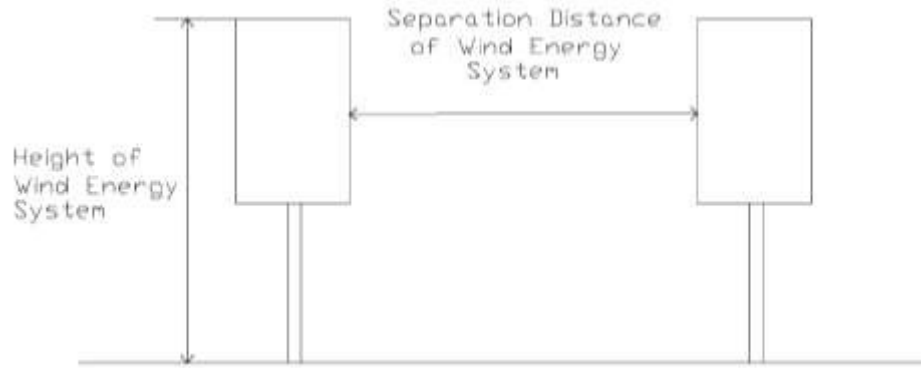


- D. Sound Pressure Level: On-site wind energy systems shall not exceed the standards contained in Section 11.04 of this ordinance.
- E. Construction Codes, Towers, & Interconnection Standards: On site wind energy systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On-site wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 *et seq.*), and the Michigan Tall Structures Act (Public Act 259

of 1959, MCL 259.481 *et seq.*), An interconnected on site wind energy system shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

- F. Safety: An onsite wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors. Guy wires are not allowed for towers in residential zoning districts. The minimum vertical blade tip clearance from grade shall be twenty (20) feet for a wind energy system employing a horizontal axis rotor.
- G. In addition to the siting and design requirements listed above, the structure mounted wind energy systems shall be subject to the following:
1. Height: The height of a structure mounted wind energy system shall not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.
  2. Setback: The setback of the structure mounted wind energy system shall be a minimum of fifteen (15) feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of a structure. If the structure mounted wind energy system is affixed by any extension to the side, roof, or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of fifteen (15) feet. The setback shall be measured from the furthest outward extension of all moving parts
  3. Location: The structure mounted wind energy system shall not be affixed to the wall on the side of a structure facing a road
  4. Quantity: No more than three (3) structure mounted wind energy system s shall be installed on any parcel of property
  5. Separation: If more than one structure mounted wind energy system is installed, a distance equal to the height of the highest structure mounted wind energy system must be maintained between the furthest outward extension of any moving part of each structure mounted wind energy system.

Figure 11-2



## ARTICLE 12 ADMINISTRATION

### Sec. 12.01 People Involved in the Zoning Process

The provisions of this Ordinance shall be carried out by the Otisville Village Planning Commission, the Zoning Board of Appeals, the Village Council, and the Village Zoning Administrator in conformance with applicable State of Michigan enabling legislation.

#### A. Zoning Administrator

The Village Council, with the recommendation of the Planning Commission, shall employ a Zoning Administrator to carry out day to day administration and enforcement of this Ordinance. The Village Council may designate the Building Inspector, Village Manager or other existing village staff as the Zoning Administrator. Conditions of the Zoning Administrator's employment, including compensation, shall be established by the Village Council. Additional staff may be employed, under the supervision of the Zoning Administrator, to assist with administration and enforcement of this Ordinance, at the discretion of the Village Council.

The Zoning Administrator's duties shall include the following items and any other tasks that may be assigned by the Village Council or provisions of this Ordinance.

1. Accept and Record Applications, Issue and Record Permits. All applications for Zoning Permits shall be submitted to the Zoning Administrator who shall keep a record of all applications which have been submitted and their disposition. When all applicable provisions of this Ordinance have been met regarding any application, the Zoning Administrator shall issue a Zoning Permit for the proposed use. When conditions are not met, the Zoning Administrator shall consult with the applicant to determine the proper course of action. The Zoning Administrator shall maintain a record of all applications and related Zoning Permits, including documentation for each.
2. Issue Written Denial. When any application for Zoning Permit is denied, the Zoning Administrator shall provide the applicant with a written denial, stating the reasons for the denial.
3. Notice of Hearings. Whenever a zoning matter is the subject of a Public Hearing before the Planning Commission or the Zoning Board of Appeals, the Zoning Administrator shall prepare notices of the hearing and disseminate said notices as required by this Ordinance.
4. Inspections. The Zoning Administrator shall be empowered to make inspections of buildings or premises to carry out enforcement of this Ordinance.
5. Record Conditional Uses. The Zoning Administrator shall keep a record of all Conditional Use Permits issued under the terms of this Ordinance for the purpose of carrying out provisions of Article 6.
6. Record Interpretations of Ordinance. The Zoning Administrator shall maintain a concise record of all interpretations of this Ordinance rendered by the Zoning Board of Appeals to fulfill requirements of Article 14. This record shall be consulted whenever questions arise concerning interpretation of any provision of this Ordinance to determine whether any applicable precedents have been set.
7. Public Information. The Zoning Administrator shall respond to inquiries and dispense information or copies of this Ordinance to make the public aware of and familiar with the provisions of this Ordinance. Public awareness and acceptance of the Zoning Ordinance will help to maintain compliance with it.

8. Respond to Complaints. The Zoning Administrator shall respond within five (5) business days, whenever possible, to any written complaint regarding an alleged violation of the terms or conditions of this Ordinance or any permit issued pursuant to it. The Zoning Administrator shall provide a report for each regular Planning Commission meeting summarizing the nature and disposition of complaints that have been received.
9. May Not Change Ordinance. Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance or to vary the terms of this Ordinance.

B. Planning Commission

The Village Planning Commission shall be responsible for the following administrative and enforcement activities under this Ordinance.

1. Site Plan Approval. The Planning Commission shall review site plans and issue its approval, conditional approval or denial of same as provided by Article 5.
2. Conditional Use Permits. The Planning Commission shall conduct a Public Hearing on any application for a Conditional Use Permit. Following a Public Hearing, the Planning Commission shall review and approve or deny said application. The Planning Commission shall also take any necessary action to revoke a Conditional Use Permit as provided by Article 6.
3. Rezoning or Text Amendment. The Planning Commission may initiate and shall conduct public hearings for proposals to rezone property or amend the text of this Ordinance as provided by Article 13. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed rezoning or text change to the Village Council. The Planning Commission may initiate a text change or rezoning, subject to the requirements for notice, hearing and Village Council approval.

C. Zoning Board of Appeals

The Village Zoning Board of Appeals shall have the power to act on those matters where this Ordinance provides for an appeal of an administrative decision, interpretation, or variance as defined in this section. The Board of Appeals shall NOT have the power to alter or change the zoning district classification of any property, or to make any change in the terms or intent of this Ordinance.

1. Appeal of Administrative Decision. The Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or by any other official administering enforcing provisions of this Ordinance.
2. Interpretation. The Board of Appeals shall have the power to interpret, upon request, the provisions of this Ordinance in such a way to carry out the intent and purpose of the Ordinance.
3. Variances. The Board of Appeals shall have the power to authorize variances from any quantifiable requirements of this Ordinance where practical difficulties prevent carrying out the strict letter of this Ordinance.
4. Change of Nonconforming Use. Permit a legal non-conforming use of land or structures to be changed to another non-conforming use under the procedures contained in Section 15.06 and 15.07 of this Ordinance.

D. Village Council

The Village Council shall have the following responsibilities under this Zoning Ordinance.

1. Designate the Zoning Administrator. The Village Council has the responsibility to designate the person who shall be responsible for administration of this Ordinance and to identify the people to whom the Zoning Administrator may delegate his authority.
2. Appointment of ZBA and Planning Commission Members. The Village Council shall be responsible for appointing members of the Zoning Board of Appeals and for approving the Village President's appointments to the Planning Commission.
3. Establish Fees. The Village Council shall set all fees for permits and reviews required under this Ordinance by resolution. The Council may update the fees from time to time as they determine necessary.
4. Initiate Amendments to Zoning Ordinance. The Village Council may initiate amendments to the Zoning Ordinance text or map.
5. Approve/Disapprove Zoning Amendments. The Village Council shall approve or disapprove requests for amendments to the Zoning Ordinance following a public hearing and written recommendation by the Village Planning Commission
6. Serve as ZBA. The Village Council may serve as the ZBA as provided for in the Michigan Zoning Enabling Act, P.A. 110 of 2006

## **Sec. 12.02 Zoning Permits**

### **A. Issuance**

A zoning permit shall be obtained from the Village Zoning Administrator before any new construction, alteration of a non-conforming structure, change in use of a parcel or addition to any existing structure may be undertaken, or before any structure is relocated into or within the Village. No permit shall be valid until the required fee has been paid.

### **B. Application for Zoning Permit**

Application for a Zoning Permit shall be made ten (10) days before construction of a new or enlarged building or structure, or a new or enlarged use of a parcel, is intended to begin. Form and content of the application package shall be as specified by the following material.

#### **1. Application Form**

Applicants for a Zoning Permit shall submit a zoning application form with all requested information completely filled in.

#### **2. Submission with Building Permit Application**

When a Building Permit is also required, application for a Zoning Permit may be made at the same time.

#### **3. Property Information**

The Zoning Application form must be accompanied by a copy of a property survey, deed or tax records sufficient to allow identification of the parcel in the Village Assessor's property maps. When the applicant is anyone other than the property owner identified by the Assessor's records, evidence of the owner's concurrence or a change in ownership must also be submitted.

4. Plot Plan

The Zoning Application form must also be accompanied by a plot plan drawn at size and scale sufficient to clearly identify:

- a. The exact dimensions of the parcel.
- b. All abutting streets, alleys or easements.
- c. The size, position and height of all existing and proposed buildings or structures on the property, including their setback from lot lines.
- d. Location, capacity and surfacing of all existing and proposed parking.
- e. Any other information deemed necessary by the Zoning Administrator for the proper enforcement of this Ordinance.

C. Application Review Process

On submission of an application for a Zoning Permit, the Zoning Administrator will review the application material. Whenever possible, it is desirable for this review to be conducted with the applicant present to facilitate any necessary explanation. If all requirements have been met, the Zoning Administrator shall issue a Zoning Permit. When failure to meet any standard prohibits issuance of a permit, the problem shall be identified and the applicant advised of his or her options. In all cases, a full review shall be conducted to identify all potential obstacles to issuance of a Zoning Permit.

D. Record Maintained

The Zoning Administrator shall keep a record of each application for a Zoning Permit which has been submitted, including the disposition of each one. This record shall be a public record, open for inspection upon request.

E. Expiration

A zoning permit shall become void unless a building permit is issued (if required), and construction or operations are commenced within six (6) months from the date of issuance, unless such time is extended by the Village Zoning Administrator for reasons that the construction was delayed by causes beyond the control of the applicant. All zoning permits shall expire one (1) year after the date of issue; provided that the Village Zoning Administrator may, on application, renew a permit for not to exceed one (1) additional year, without additional charge, if a satisfactory degree of progress in construction is shown. All permits or renewals thereof shall be in writing.

F. Violations and Cancellation of Permit

1. Should the Village Zoning Administrator determine that the construction is not proceeding according to the plan filed, or is in violation of any provision of this ordinance, or any other applicable ordinance, regulation, or law, he shall so notify the permit holder and further construction shall be prohibited until correction has been effected and approved by the Village Zoning Administrator, upon notice and request for re-inspection duly made.
2. Should the permit holder fail to comply with any applicable requirements, at any stage of construction, the Village Zoning Administrator is hereby empowered to terminate the zoning permit issued and shall cause notice of such termination to be mailed to the applicant of record. Mailing of such notice shall be considered sufficient notification to the

permit holder of termination thereof. No further work shall be undertaken or permitted upon such construction until a new zoning permit shall have been issued.

3. Any permit holder whose construction shall have been prohibited under subparagraph 1 above, or whose zoning permit shall have been terminated under subparagraph 2 above, shall not be granted any zoning permit for any other construction of any type whatever, until correction has been effected and approved as provided in subparagraph 1 above, or until a new zoning permit shall have been issued to replace the terminated zoning permit as provided in subparagraph 2 above.

#### G. Land Division Act

No building permit shall be issued for the construction of any structure on any lot tract, or parcel of land subdivided in violation of Act 288 of Michigan Public Acts of 1967, as amended.

#### **Sec. 12.03 Penalties for Violation**

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards required as conditions for the grants of variances or appeals, or conditional permits shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one hundred (\$100.00) dollars or imprisoned for not more than ninety (90) days, or both, and in addition shall pay all costs and expenses involved in the case. A. Each day such violations continue shall be considered a separate offense.

- B. The owner or tenant of any building, structure premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- C. Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **Sec. 12.04 Schedule of Fees, charges, and Expenses**

- A. Fees, charges, and expenses shall be assessed as part of the application for conditional use permits, variance applications, zoning permits, site plan applications, appeals, interpretations, and amendments to defray expenses incurred in processing such application.
- B. The Village Council shall establish a schedule of fees, charges, and expenses, and establish a procedure for their collection.
  1. The schedule of fees, charges, and expenses shall be conspicuously posted at the office of the Village Building Inspector.
  2. The schedule of fees, charges, and expenses may be altered or amended by resolution duly adopted by the Village Council.
  3. Charges for site plan reviews, environmental impact studies and all professional services shall be charged to the applicant at a rate equal to the actual cost to the Village, plus ten (10) percent.

No action shall be taken on any application or appeal until all applicable fees, charges, and expenses have been paid in full.



## **ARTICLE 13 AMENDMENTS**

### **Sec. 13.01 Changes and Amendments**

- A. A proposal for an amendment to the Zoning Ordinance text or map may be initiated by the Village Council, Planning Commission or ZBA upon filing with the Village Zoning Administrator a resolution duly adopted identifying the proposed amendment. The Village Planning Commission may recommend the initiation of a text amendment to the Village Council.
- B. Any proposal for an amendment to the Zoning Map (i.e. to rezone a parcel(s)) may be initiated by the owner of that parcel(s) or a person with written permission of the owner. The process is initiated with the filing of the following with the Zoning Administrator:
  - 1. An application for rezoning.
  - 2. A map at a scale of not less than 1"=50' showing the subject parcel in relation to adjoining parcels of land.
  - 3. The necessary fees for such zoning change.
  - 4. A copy of the deed to the property.
- C. A proposed text amendment to the text of the Zoning Ordinance may be initiated by a resident or property owner of the village by the filing of a petition requesting consideration of the amendment signed by at least fifteen (15) qualified electors of the village and a copy of the proposed text amendment.

### **Sec. 13.02 Procedures**

- A. The Zoning Administrator shall give notice of the Planning Commission Public Hearing at which the amendment will be heard, by publication of a notice in a newspaper of general circulation in the Village not less than fifteen (15) days prior to the date of the hearing. The notice shall include the following:
  - 1. The nature of the request.
  - 2. Indicate the property that is the subject of the request by street address. If the property does not have an address, the property shall be indicated by use of ot's tax parcel id number and a general description of its location.
  - 3. When and where the hearing will be held
  - 4. When and where written comments on the request can be submitted
  - 5. The places and times at which the proposed amendment may be examined prior to the meeting.
- B. Fifteen (15) days notice shall also be given by mail to each public utility company and to each railroad company owning or operating any public utility or railroad within zoning districts affected that registers its name and mailing address with the Village for the purpose of receiving the notice. An affidavit of mailing shall be maintained.
- C. In the case of a proposed map amendment, the Clerk shall give similar notice by mail of the time and place of such hearing to the owner or owners of the property or properties in question, as well as all the owners of property within three hundred (300) feet of the parcel as identified in the most recent tax roll of the Village, not less than eight (8) days before the hearing. Owners of property within three hundred (300) feet of the parcel located outside the Village shall also receive notice.
- D. The Village shall also give notice at least eight (8) days before the meeting to the Forest Township Planning Commission of any proposed rezoning within three hundred (300) feet of the Township/Village boundary.

- E. At the Public Hearing where the proposed zoning ordinance amendment is considered, the Planning Commission shall provide the public and the applicant with a reasonable opportunity to comment on the proposal.
- F. Following the Public Hearing, the Planning Commission shall consider the request. At the meeting the Planning Commission may recommend approval, denial or postpone the request for further study. In making a recommendation on the proposed amendment, the Planning Commission shall consider the following:
1. In the case of a proposal to amend the Zoning Ordinance text, the Planning Commission must find:
    - a. The change is necessary to clarify a provision of the ordinance, or
    - b. The change is necessary to correct a mistake in the ordinance, or
    - c. The change is necessary to implement a goal or policy of the Village Growth Management Plan, or
    - d. The change is necessary to improve administration of the ordinance or to better serve the community.
    - e. In addition to one (1) or more of the above findings, the Planning Commission must determine that the requested amendment is in compliance with the Village Master Plan or that a mistake in the Plan, or changes in conditions or Village policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
  2. In the case of a proposed zoning map amendment (rezoning) the Planning Commission must find one of the following:
    - a. The requested amendment is in compliance with the Village Master Plan or that a mistake in the plan, or changes in conditions or Village policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
    - b. The property cannot be reasonably used as it is currently zoned and the proposed request represents the most suitable alternative zoning classification based on the Master Plan.
- G. The Planning Commission shall provide a record of the Public Hearing concerning the proposed amendment, a written recommendation, and reasons for the recommendation, to the Village Council for their consideration.
- H. At the next regularly scheduled Village Council meeting following receipt of the Planning Commission's report, the Village Council shall consider the proposed amendment and may take the following actions on a zoning amendment.
1. Approve the proposed amendment.
  2. Deny the request.
  3. Hold a Public Hearing on the matter before making the decision. If the Village Council chooses to conduct a formal public hearing on the request, they must first provide notice as required for the Planning Commission public hearing outlined in Section 13.02.A.
  4. Consider changes to the proposed amendment.
  5. Postpone action on the request for further information.

- I. Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to a Zoning Ordinance which is the object of the petition shall be passed only by a  $\frac{3}{4}$  vote of the Village Council. The protest petition shall be presented to the Village Council before final legislative action on the amendment, and shall be signed by one of the following:
  1. The owners of at least twenty (20) percent of the area of land included in the proposed change.
  2. The owners of at least twenty (20) percent of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.
  3. Publicly owned land shall be excluded in calculating the twenty (20) percent land area requirement.
- J. Following adoption of the zoning amendment, one (1) Notice of Adoption shall be published in a newspaper of general circulation in the Village within fifteen (15) days of adoption. The notice shall include:
  1. A summary of the regulatory effect of the amendment or the actual text of the amendment.
  2. The effective date of the ordinance.
  3. The place and time where a copy of the ordinance may be purchased or inspected.

### **Sec. 13.03 Conditional Rezoning Agreements**

- A. **AUTHORITY.** The Village Council may, after a public hearing by the Village Planning Commission, enter into an agreement with a property owner to rezone property pursuant to the authority contained in Michigan Compiled Law Section 125.3405, being part of the Michigan Zoning Enabling Act.
- B. **APPLICATION.** Any offer to enter into a conditional rezoning agreement shall be submitted to the Village Clerk along with a rezoning agreement fee, in an amount established by the Village Council. Whenever a petitioner offers to enter into a rezoning agreement, the person shall be the fee owner of the premises concerned or else have the fee owner subscribe to the offer. Proposed rezoning agreements may only be initiated by a property owner/applicant and not by the Village.
- C. **PUBLIC HEARING AND RECOMMENDATION.** After due notice, a public hearing in compliance with all regular procedural rezoning requirements shall be conducted by the Planning Commission as to the proposed rezoning agreement. The Commission shall subsequently adopt recommendations as to the approval, approval with revisions, or denial of the proposed rezoning agreement.
- D. **VILLAGE COUNCIL.** Upon receipt of the recommendations of the Village Planning Commission, the Village Council shall undertake consideration of the proposed rezoning agreement. Any decision by the Village Council which results in a rezoning agreement shall be incorporated in a written document duly executed by the Village Council and the property owner. The proposed agreement shall be reviewed for legal sufficiency by the Village Attorney before to final approval. Any such agreement shall be recorded with the Register of Deeds and shall run with the land. The Village shall either record the agreement or shall receive verification that the applicant has recorded the agreement.
- E. **STANDARDS FOR DECISION.** In deciding whether or not to approve a proposed rezoning agreement, the Planning Commission and the Village Council shall base their decisions on the following factors:

1. a. The terms of the offer must be reasonably related to the property covered in the agreement.
  2. The proposed land use must be designed in such a way as to be compatible with surrounding land uses
  3. The proposed land use must be consistent with the goals and policies of the Village, including the Village Master Plan.
- F. LIMITATIONS ON AGREEMENTS. A rezoning agreement shall not be used to allow any land uses which would not otherwise be permitted in the proposed new zoning district. Any agreement shall include a specific time period during which the terms of the agreement must be completed.
- G. ZONING REVERSION. If the terms of a zoning agreement are not fulfilled within the time specified in the agreement, the Village Council shall initiate a proposed rezoning to revert the property back to the original classification.

## **ARTICLE 14 ZONING BOARD OF APPEALS**

### **Sec. 14.01 Membership of Zoning Board of Appeals**

- A. The Village Council may act as the Zoning Board of Appeals. Alternately, the Village may appoint a Zoning Board of Appeals. It shall consist of five (5) regular members and may include two (2) alternate members all of whom shall be appointed by the Village Council. Not more than one (1) regular member of the Zoning Board of Appeals may be a member of the Planning Commission and not more than one (1) regular member may be a member of the Village Council.
- B. If a Zoning Board of Appeals is appointed, the remaining regular and any alternate members of the Zoning Board of Appeals shall be selected from the electors of the Village. An employee or contractor of the Village may not serve as a member of the Village Zoning Board of Appeals. Members of the Zoning Board of Appeals shall be removable by the Village Council for non-performance of duty or misconduct in office upon written charges and after a Public Hearing. A member shall disqualify himself from a vote in which he has a Conflict of Interest. Failure of a member to disqualify himself from a vote in which he has a Conflict of Interest shall constitute misconduct in office.
- C. If a Zoning Board of Appeals is appointed, the terms of each regular member shall be for three (3) years, however the terms of office shall be staggered so that not more than two (2) or less than one (1) appointment shall expire in any given year. All vacancies for unexpired terms shall be filled for the remainder of the terms.
- D. If a Zoning Board of Appeals is appointed, the Village Council may appoint not more than two (2) alternate members of the Board of Appeals to serve for a three (3) year term. An alternate member of the Zoning Board of Appeals shall serve as a regular member of the Zoning Board of Appeals in the absence of a regular member. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of a Conflict of Interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals. An alternate member shall be called to serve on a rotating basis by the Chairman of the Zoning Board of Appeals or the Acting Chairman in the absence of the chairman, when the absence, unavailability or Conflict of Interest of a regular member becomes known to the Chairman or Acting Chairman.

### **Sec. 14.02 Meetings**

- A. Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman, and at such times as the Zoning Board of Appeals may determine. If the Village Council is acting as the Zoning Board of Appeals, it may combine Village Council and ZBA meetings provided it is clear at which points in the meeting they are acting as the ZBA.
- B. The Village Zoning Board of Appeals shall not conduct business unless a majority of the regular or alternate members of the Village Zoning Board of Appeals are present. C. All meetings of the Zoning Board of Appeals shall be open to the public.
- D. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its findings, decisions, evidence presented at the hearing, proceedings at hearings

and other official actions, all of which shall be filed as soon as they are available in the office of the Village Clerk and shall be a public record.

- E. The Zoning Board of Appeals shall adopt Rules of Procedure for the operation of the Board and the conducting of hearings. The Rules of Procedure must include a definition of conflict of interest, procedures for determining if a conflict exists and the limitations on a ZBA members participation in a matter in which they have a conflict.

### **Sec. 14.03 Powers of the Zoning Board of Appeals**

The Zoning Board of Appeals shall have the authority to:

- A. Grant non-use variances from the requirements of this Ordinance.
- B. Interpret the Zoning Ordinance and the Zoning Map.
- C. Hear appeals of administrative decisions including approval or denial of site plan or Conditional Use Permits.
- D. Permit a legal non-conforming use of land or structures to be changed to another nonconforming use under the procedures contained in Sections 15.06 and 15.07 of this Ordinance.

### **Sec. 14.04 Non-use Variances**

The Zoning Board of Appeals shall have the power to authorize variations to any requirement of this Ordinance which can be expressed in terms of numbers. The Zoning Board of Appeals may not authorize a use variance. In consideration of all non-use variances, the Zoning Board of Appeals shall review each case individually as to its compliance with each of the following standards and may only approve non-use variance requests which comply with all of them:

- A. The standard for which the non-use variance is being granted would unreasonably prevent the owner from using property for a permitted purpose or would render conformity unnecessarily burdensome.
- B. The non-use variance would do substantial justice to the applicant as well as to other property owners in the zoning district and a lesser relaxation of the standard would not provide substantial relief and be more consistent with justice to others.
- C. The problem is due to circumstances unique to the property and not to general conditions in the area.
- D. The problem that resulted in the need for the non-use variance was not created by the applicant or previous owners of the property.
- E. Issuance of the non-use variance would still ensure that the spirit of the Ordinance is observed, public safety secured and substantial justice done.

### **Sec. 14.05 Interpretation**

The Zoning Board of Appeals may interpret provisions of this Ordinance as outlined below. Each such interpretation shall establish the precedent for future treatment of the issue being addressed. To achieve the objective of consistent enforcement of this Ordinance, whenever an interpretation question arises which has been addressed previously by the Zoning Board of Appeals, the earlier interpretation shall apply without requiring further action by the ZBA. The Zoning Administrator shall keep a concise record of all interpretations made by the Zoning Board of Appeals to facilitate such reference.

- A. The Zoning Board of Appeals may determine the precise location of the boundary lines between zoning districts. Standards for this interpretation are provided in Section 4.01 of this ordinance.
- B. The Zoning Board of Appeals may classify any activity which is not specifically mentioned in Article 3 - District Regulations for any Zoning District as a use by right provided that said classification shall be consistent with the classification of similar uses and with the purpose and intent of each Zoning District. In carrying out this interpretation, the Zoning Board of Appeals may not interpret a specific use as being included in a broader class of uses if that specific use is listed separately in other zoning districts.
- C. The Zoning Board of Appeals may determine the off-street parking and loading space requirements of any use for which these requirements are not determinable using the information provided for this purpose in Chapter 3, District Regulations.
- D. The Zoning Board of Appeals may interpret any portion of this Ordinance when the Zoning Administrator is unable to clearly determine its intent or effect.

#### **Sec. 14.06 Appeals**

These appeals procedures are instituted to hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of the Village Zoning Ordinance.

- A. An appeal shall be filed with the officer from whom the appeal is taken and with the Village Zoning Board of Appeals, through the Village Zoning Administration specifying the grounds for the appeal.
- B. Applications for appeals of administrative actions shall be submitted to the Zoning Administration within thirty (30) days of the date of such actions.
- C. The officer from whom the appeal is taken shall forthwith transmit to the Village Zoning Board of Appeals all papers constituting the record upon which the appeal is taken.
- D. An appeal stays all proceedings in furtherance of action appealed from, unless the officer from whom the appeal is taken certifies to the Village Zoning Board of Appeals after the Notice of Appeal shall have been filed with them, that by reason of facts stated in the certificate, a stay would in their opinion cause imminent 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 Village Zoning 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. The Village Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirements or determination appealed from and in making an order, requirement, decision or determination, shall have the powers of the officer or body from whom the appeal is taken.
- F. In exercising this authority, the ZBA shall reverse an administrative decision based on one of the following criteria:
  - 1. The action or decision was arbitrary or capricious, or
  - 2. The action or decision was based on an erroneous finding of a material fact, or
  - 3. The action or decision constituted an abuse of discretion, or

4. The action or decision was based on erroneous interpretation of the zoning ordinance or zoning law.

### **Sec. 14.07 Procedures**

#### **A. Applications**

Application for non-use variance, appeal, interpretation or changes in non-conforming uses shall be submitted to the Village Zoning Administrator at least thirty (30) days prior to the Zoning Board of Appeals meeting at which it will be heard.

#### **B. Notice**

Notice of the hearing of an appeal, non-use variance, or other matter before the Zoning Board of Appeals shall comply with Section 6.02 E of this Ordinance except for the provisions of that section dealing with notice to residents and property owners within three hundred (300) feet. Those requirements shall only be applied to notices on Zoning Board of Appeals matters that involve a specific parcel.

#### **C. Zoning Board of Appeals Decision**

1. Following the hearing on an issue brought before them, the Zoning Board of Appeals may only reverse an administration decision or grant an applicant's request by a majority vote of the members of the Zoning Board of Appeals. If there is less than a full complement of members, the applicant may request the matter to be tabled prior to the vote.
2. In making a decision on a request, the Zoning Board of Appeals shall state the basis for their decision, including any findings of fact and how those facts relate to the standards used by the Zoning Board of Appeals in making their decision.
3. The Zoning Board of Appeals shall return a decision upon each case within thirty (30) days of the filing of a complete request application unless an extension is agreed to by the applicant.
4. Any decision of the Zoning Board of Appeals shall not take effect until five (5) days after the decision, unless the Zoning Board of Appeals certifies on the record that the decision must be given immediate effect for the preservation of property or personal rights. No Zoning Permit shall be issued until the decision has taken effect.

#### **D. Record of review**

A record of any decision shall be filed with the Village Clerk, including:

1. A copy of the submitted application.
2. A copy of any meeting minutes related to the application.
3. A copy of any other relevant records related to the application.

#### **E. Appeal of Zoning Board of Appeals decision**

Any person aggrieved by the decision of the Zoning Board of Appeals in granting or denying a request may appeal the decision to Circuit Court.

#### **F. Resubmission**

An applicant may not resubmit an application for one (1) year following a decision, unless a change in circumstances or new facts relevant to the decision are presented.



### **Sec. 14.08 Time Limits**

A. Deadline to commence construction/use

A Building Permit for a project with a Zoning Board of Appeals approved non-use variance shall be filed with the Village Building Inspector within six (6) months from the date of Zoning Board of Appeals approval of a non-use variance. If a Building Permit is not filed within six (6) months, Zoning Board of Appeals approval of the non-use variance shall expire. In cases where construction is not required, the approved use of land or buildings must have commenced within six (6) months.

B. Deadline for completion

A project with a Zoning Board of Appeals non-use variance approved shall be completed within the time frame of the Building Permit issued. If an occupancy permit is not granted within the time frame of the Building Permit issued, Zoning Board of Appeals approval of the non-use variance shall expire.

### **Sec. 14.09 Conditions**

A. The Zoning Board of Appeals may place conditions on an affirmative decision when such conditions:

1. Would ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
2. Would protect the natural environment and conserve natural resources and energy.
3. Would ensure compatibility with adjacent uses of land.
4. Would promote the use of land in a socially and economically desirable manner.

B. In determining appropriate conditions, the Zoning Board of Appeals shall ensure that:

1. There is a rough proportionality between the scope of the conditions in relationship to the impact to be mitigated.
2. There is a reasonable connection between the condition imposed and the impact it is mitigating.

### **Sec. 14.10 Performance Guarantees**

In the interest of ensuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of the Village and future users or inhabitants of an area for which a request for Zoning Board of Appeals approval has been submitted, the Zoning Board of Appeals may require the applicant to deposit a performance guarantee as set forth herein. Performance guarantees shall be required in instances where an Occupancy Permit is requested prior to completion of all improvements required as condition of Zoning Board of Appeals approval. The purpose of the performance guarantee is to ensure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

- A. Performance guarantee as used herein shall mean a cash deposit, certified check or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator.

- B. Where the Zoning Board of Appeals requires a performance guarantee, said performance guarantee shall be deposited with the Village Treasurer prior to the issuance of a Zoning Permit. The Village shall deposit the performance guarantee, if in the form of a cash deposit, certified check or performance bond in a non-interest-bearing account.
- C. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the Building Permit.
- D. In the event the performance guarantee deposited is a cash deposit or certified check, the Village shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposit funds when one hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee may be applied by said applicant to assure compliance with Zoning Ordinance standards and the specifications of the approved site plan.
- E. Upon the satisfactory completion of the improvements for which the performance guarantee was required, as determined by the Zoning Administrator, the Treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- F. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Village, the Village shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements, and the right to charge administrative costs related to the performance guarantee. If the performance guarantee is not sufficient to allow the Village to complete the improvements for which it was posted, the applicant shall be required to pay the Village the amount by which the costs of completing the improvements exceeds the amount of the performance guarantee. Should the Village use the performance guarantee or a portion thereof, to complete the required improvements, any amount remaining after said completion shall be applied first to the Village's administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the Village to ensure completion of an improvement associated with the proposed project prior to the Village's approval, the applicant shall not be required to deposit with the Village a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the Village and prior to the issuance of a Building Permit, the applicant shall enter an agreement incorporating the provisions hereof with the Village regarding the performance guarantee.