

APPENDIX A - ZONING

An ordinance to establish zoning districts, provisions and regulations in the Village of Pigeon, County of Huron, State of Michigan in accordance with the provisions of Act No. 207 of the Public Act of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended.

ARTICLE 1. - SHORT TITLE AND PURPOSE

Sec. 1.1. - Short title.

This ordinance shall be known as the Pigeon Village Zoning Ordinance.

Sec. 1.2. - Purpose.

The fundamental purpose of this ordinance is to promote and safeguard the public health, safety, morals and general welfare of the people of the village. The provisions herein are intended to encourage the use of lands, waters and other natural resources as they pertain to the social, physical and economic well-being of the village; to limit the improper use of land and natural resources; to reduce hazards to life and property; to provide for orderly development within the village; to avoid overcrowding of the population; to provide for adequate light, air and health conditions in dwellings and buildings hereafter erected or altered; to lessen congestion on the public roads and streets; to protect and conserve natural recreational, residential and other areas suited to particular uses; to facilitate the establishment of an adequate and economic system of transportation, sewage disposal, safe water supply, education, recreation and other public facilities; to conserve the expenditure of monies for public improvements and services to conform with the most advantageous uses of land, resources and properties; and to be one means of implementing the policies, goals and objections [objectives] as set forth in the village's comprehensive plan.

ARTICLE 2. - DEFINITIONS

Sec. 2.1. - Definitions.

Abandonment: The cessation of activity in or use of a dwelling, structure, or lot, other than that which would normally occur on a seasonal basis, for a period of six months or longer.

Abutting: Having property or district line in common, e.g., two lots are abutting if they have property lines in common.

Accelerated soil erosion: The increased lay of the land surface that occurs as a result of man's activities.

Access: A way of approaching or entering a property. For purposes of this ordinance, all lots of record shall have access to a public street or highway or to a private street meeting public standards.

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

Alley: A public right-of-way, not more than 30 feet in width, affording a secondary means to the main use of the land or building.

Alteration: Any structural change, addition or modification in construction or type of occupancy, or any change in the structural members of a building, such as bearing walls, beams, or girders, which may hereinafter be considered as "altered" or "reconstructed."

Attached: Any structure or part of a structure immediately adjacent to another structure or part of a structure and fastened securely to same.

Automobile repair: Any activity involving the general repair or reconditioning of motor vehicles, engines, or trailers; collision service, such as body, frame, or fender straightening and repair; overall painting and rustproofing of automobiles.

Automobile service station: A building used for the retail sale of fuel (stored only in underground tanks and to be dispensed from fixed equipment), lubricants, air, water, and other commodities designed for motor vehicles, aircraft, and boats. Such an operation includes space and facilities for selling, installing or adjusting tires, batteries, parts and accessories within a building provided that such repair and installation are of minor nature.

Automobile washing establishment: A building, or portion thereof, where automobiles are washed as a commercial enterprise.

Bedroom: A dwelling room used or intended to be used by human beings for sleeping purposes.

Billboard: A constructed unit upon which a verbal and/or pictorial sign or advertisement is fastened for the purpose of disseminating of information to the general public, but not including bulletin boards on government property used to display official or public notices and information.

Block: A property surrounded by streets, or abutting one side of a street and situated between the two nearest intersecting streets, or bound by a combination of streets, waterways, parks, unplatted acreage, corporate boundary lines, or other natural or manmade physical or artificial barrier to continual development.

Board of appeals: As used in this ordinance, this term means the Pigeon Village board of appeals.

Boardinghouse: A dwelling where lodging or meals or both are provided for compensation to three or more individuals on a prearranged basis for a definite period of time.

Boat livery: Any premises on which boats or floats of any kind are kept for the purpose of renting, leasing or providing use thereof, to persons other than the owners for a charge or fee.

Buildable area: The space remaining on a lot or lots of record after the minimum setback and open space requirements have been complied with.

Building: An independent structure, temporary or permanent, having a roof supported by columns, walls, or other means of stabilization and used for the enclosure and protection of persons, animals, chattels or for the operation of a business. This shall include tents, awnings or vehicles situated on a property and used for the above purposes. Structures with interiors not accessible for human use, such as tanks, smokestacks, grain elevators, coal burners, oil cracking towers, or similar structures shall not be considered as buildings.

Building height: The vertical distance from the established grade of a building to the following rooflines:

- A. Flat roof: To the highest point;
- B. Mansard roof: To the deck;
- C. Gable, hip and mansard roofs: To the mean height between eaves and ridge.

The ground level is measured at the wall line in the case of sloping terrain.

Building line: A line parallel to the front lot line at a minimum required front setback line.

Building, main: A building which is used for the principal purpose of the lot on which it is situated.

Cabin: Any building, tent or similar structure which is maintained, offered or used for dwelling or sleeping quarters for transients, or for temporary residence, but shall not include what are commonly designated as hotels, lodges, houses or tourist homes.

Certification of completion: A signed written statement by the zoning administrator or building inspector that specific construction has been inspected and found to comply with all grading plans and specifications.

Club: A nonprofit organization of persons for special purposes or for the conducting of social, athletic, scientific, artistic, political or other similar endeavors.

Commercial: A term relating to the use of property in connection with, but not limited to the purchase, sale or trading of goods or personal services or maintenance of services, offices or recreation or amusement enterprise or garage/basement/porch sales lasting more than 14 days during any 12-month period.

Convalescent or nursing home: A home, qualified for license under applicable Michigan law, for the care of children, aged, or infirm and providing facilities for four or more patients.

Critical area: Land significantly or seriously affected by development.

Density: The intensity of development in any given area, measured in this ordinance by the number of dwelling units per acre.

District: A portion of the village [in] which certain buildings and activities are permitted and in which certain regulations, in accordance with the ordinance, are applicable.

Dwelling: Apartment: A building divided into separate living quarters, each having at a minimum its own sleeping and living facilities. All apartments must conform to regulations applicable to dwelling units in this ordinance.

Dwelling: Atrium house: A single-family dwelling attached to other similar single-family units, all having a common courtyard.

Dwelling: Condominium: An apartment building or multiple-unit single-family dwelling in which each tenant holds full title to his unit and joint ownership in the common grounds.

Dwelling: Duplex: A building consisting of two separate single-family dwelling units.

Dwelling: Garden apartment: A building divided into separate living quarters, each having, at a minimum, living and sleeping facilities, and all units with common yard areas for outdoor recreation.

Dwelling: Multiplex: A building consisting of three or more separate single-family dwelling units.

Dwelling: Patio house: A single-family detached or semidetached unit, enclosed by walls for privacy.

Dwelling: Single-family: A detached building, occupied and designed for one family and containing sleeping, living, cooking and sanitary facilities for that family.

Dwelling: Townhouse: A single-family attached dwelling with units sharing common side walls and usually situated in a straight line with each other.

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

Earth change: A manmade change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state.

Erected: As used in this ordinance, "erected" signifies the construction, alteration, reconstruction, placement upon or any physical alteration to a piece of land, including the excavating, moving and filling of earth.

Erosion: The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

Essential services: The erection, construction, alteration or maintenance by public utilities or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems; collection, communication, supply or disposal systems, including mains, drains, sewer pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles and other similar equipment and applicable accessories reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health, safety, and welfare, but not including buildings other than those which are primarily enclosures or shelters for essential services equipment.

Excavation: The removal of rock, sand, soil or fill material below the average grade of the surrounding land and/or road grade, whichever is highest. This does not include alterations for farming or gardening purposes.

Family: A person or persons living in one dwelling unit and related by blood, marriage, legal adoption, or foster children together with no more than five not so-related persons and comprising a single housekeeping unit.

Farm: All of the contiguous neighboring or associated lands operated as a single entity under which bona fide farming takes place directly by an owner/operator, manager, or tenant farmer, by his or her own labor, or with the assistance of household members or hired employees. Farms may be considered as including establishments that operate bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms and apiaries as well as the growing, harvesting or cultivating of cash crops. Establishments keeping or raising fur-bearing animals, private stables, commercial dog kennels, game fish hatcheries, piggeries, or stockyards may be considered farms only if attached to bona fide farming operations on the same continuous tract of land.

Farm buildings: Any building or structure, other than a dwelling unit, built or placed upon land within a bona fide farm and considered essential and standard to the carrying on of farm operations.

Feedlot: Any tract of land or structure wherein any type of fowl, or the byproducts thereof, are raised for retail or wholesale trade, or wherein cattle, horses, sheep, goats or swine are kept for the purposes of fattening such livestock for final shipment to market, or where swine are kept under any conditions.

Fence: A permanent or temporary partition or structure erected as a divider, barrier, or enclosure and not part of a structure requiring a building permit.

Filling: The depositing or dumping of any matter onto, or into, the ground (except for common household gardening and ground care) which alters the topography of the land.

Filling station: A building used or designed for the retail sale and underground storage of automobile fuel, lubricants, and other automotive commodities, or for aircraft or watercraft operations, including the customary space and facilities allocated for installation of such commodities.

Floodplain: The relatively flat area or low lands adjoining the channel of [a] watercourse or a body of standing water, which has been or may be covered by floodwater. Determination of a floodplain is:

- A. Contiguous areas paralleling a river, stream or other body of water that constitute at their maximum edge the highest flood levels experienced in a period of 100 years.
- B. Principal estuary courses of wetland areas that are part of the river flow system.
- C. Contiguous area paralleling a river, stream or other body of water that exhibits unstable soil conditions for development.

Floor area: Useable: That area of a building used for or intended to be used for the sale of merchandise or services. Such floor area which is used for or intended to be used primarily for the storage or processing of merchandise, which may include hallways, breezeways, stairways, and elevator shafts, or for utilities and sanitary facilities, shall be excluded from the computation of useable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the floors in the building measured from the interior faces of the exterior walls.

Foster care home: A community-based residential facility for the physically handicapped, mentally retarded, and previously mentally ill adults which meets the requirements of and is licensed by the State of Michigan.

Garage: Commercial: Any structure (except private, community or storage garages) available to the public and primarily used for the storage of motor vehicles, for remuneration, hire or sale, where any such vehicle or engine may also be repaired, rebuilt, or equipped to operate, and where vehicles may be greased, washed and waxed.

Garage: Private: A space or structure suitable for the storage of motor vehicles having no public or commercial shop or service in connection therewith, for the use solely of the owner or occupant of the principal building on a lot, or of his family or domestic employees, and with a capacity of not more than three motor vehicles. Not more than one commercial vehicle, not exceeding a rated capacity of three-fourths of one ton, shall be stored on any one lot on which such a private facility is located.

Grade: For purposes of this ordinance, the level of the ground adjacent to the walls. In the case of lots with sloping terrain, the grade shall be the average elevation of the ground adjacent to the walls.

Grading: Any stripping, excavating, filling, stockpiling or any combination thereof, and also included shall be the land in its excavated or filled condition.

Grading permit: The written authority issued by the zoning administrator or his agent permitting the grading, excavation or filling of land including drainage and soil erosion control in conformity with the erosion control section of this ordinance and Act No. 347 of the Public Acts of Michigan of 1972 (MCL 282.101 et seq., MSA 13.1820(1) et seq.), as amended.

Guesthouse: Separate structure or dwelling, on a residential parcel, used for sleeping and/or eating purposes by nonpaying friends, relatives or acquaintances of the resident or owner of the main structure.

Highway: A public thoroughfare or street, excluding alleys, but including federal, state and county roads and those appearing upon plats recorded in the office of the register of deeds and accepted for public maintenance.

Home occupations: Any use customarily conducted entirely within the residential dwelling and carried on by the inhabitants thereof not involving employees other than members of the immediate family which reside on the premises, does not utilize more than 25 percent of the floor area of the dwelling unit, does not change the residential character of the property or the immediate neighborhood and does not endanger the health, safety, and welfare of any person living in the general or immediate area by reasons of noise, glare, noxious odors, electrical interference, unsanitary conditions, excessive traffic, fire hazards and other such negative impacts involved in or resulting from the pursuit of such an occupation. Only those articles produced on the premises by such occupation may be sold or offered for sale. No occupation shall require outdoor storage of equipment, machinery or signs not customary in a residential location. One nonilluminated nameplate, attached to the building, and not larger than two square feet in area, containing the name and occupation of the resident, will be allowed. Medical clinics, hospitals, barbershops, nurseries, day care centers, beauty parlors, tearooms, veterinary clinics, and offices, tourist homes, animal hospitals, kennels, insurance and real estate offices, millinery shops and other similar enterprises shall not be considered home occupations.

Hospitals: An institution providing health services primarily for inpatients and medical or surgical care of the sick and injured, including laboratories, outpatient departments, training facilities, central service facilities, and staff offices. Those institutions whose primary function is the care of the infirm or mentally ill are not considered hospitals.

Hotel: A building occupied or used predominately as a temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five sleeping rooms, none which have cooking facilities.

Junk: For the purpose of this ordinance, this term shall refer to any motor vehicles, machinery, appliances, products, or merchandise with parts missing, or scrap metals or materials that are damaged or deteriorated.

Junkyard: A place, structure, or lot where junk, waste, discarded, salvaged, or similar materials including metals, wood, slush, timber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc., are bought, sold, disassembled, baled, exchanged or handled. Junkyards include auto wrecking yards, used lumber yards, house wrecking yards, and places or yards for use of salvaged house wrecking and structural steel materials and equipment. Pawnshops and establishments which sell, purchase or store used cars, salvaged machinery, used furniture, radios, appliances, or similar household goods and the processing of used, discarded, or salvaged materials as part of manufacturing operations are not considered junkyards.

Kennel: Any lot or premises on which four or more dogs, cats or other household pets more than four months of age are housed, groomed, bred, boarded, trained or sold.

Land use: A use of land which may result in an earth change, including, but not limited to, subdivision, residential, commercial, industrial, recreational, or other development, private and public highway, road and street construction, drainage construction, logging operations, agricultural practices, and mining.

Lot depth: The mean horizon [horizontal] distance from the front street line to the rear lot line.

Lot width: The mean horizontal distance between the side lines, measured at right angles to the side lot line. Where side lot lines are not parallel, the lot size shall be considered as the average of the width between such side lot lines.

Mobile home: A single-family dwelling designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupants, except for minor and incidental unpacking for assembly operations, location on jacks or permanent foundations, connection to utilities and the like.

Nonconforming building: A structure, or portion thereof, existing at the time of the adoption of the ordinance, which is not in conformance with the standards of this ordinance.

Nonconforming use: An activity existing at the time of the enactment of this ordinance, on a lot or lots of record and which is not in conformance with the use regulations for the zoning district in which it is located according to the ordinance.

Nuisance: An offensive, annoying, unpleasant, or obnoxious thing, act or practice; a cause or source of annoyance, especially a continual or repeated invasion of a use or activity which invades the property line of another so as to cause harm or discomfort to the owner or resident of that property. Excessive or noisy vehicular traffic, dust, glare, and smoke are examples of nuisances.

Nursery: Plant materials: Any lot or structure used for the growing, harvesting, processing, storing, and/or selling of plants, shrubs, trees, and flowers, including products used for gardening and landscaping, but not including fruit and vegetable sales.

Parking space: An area not less than 8½ feet wide and not less than 20 feet long for standard-sized automobiles or not less than seven feet wide and not less than 16 feet long for compact-sized automobiles.

Permanent soil erosion control measures: Those control measures which are installed or constructed to control soil erosion and which are maintained after completion of the project.

Principal use: The designation given to a legally defined parcel of land based upon the primary activity occurring on such parcel.

Public utility: A person, firm or corporation, municipal department, board or commission duly authorized to provide and providing, under federal, state or municipal regulations, to the general public any of the following: water, gas, steam, electricity, telephone, telegraph, waste disposal, communication or transportation.

Recreation vehicle: Any self-propelled motorized vehicle or travel or camping trailer, normally used only for vacation or recreational purposes.

Resort: A parcel of land which may contain cabins and/or rooms with or without kitchen facilities, used primarily for vacation and/or recreational activity, and which may or may not contain a small commercial grocery, sporting goods, gasoline service outlet, and/or food service facility.

Restaurant: A business located in a building where, in consideration of the payment of money, meals are habitually prepared, sold and served to persons for consumption on or off the premises, having suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals, and deriving the major portion of its receipts from the sale of food.

Roominghouse: A building, or part of a building, other than a hotel, motel, or motor court, where sleeping facilities are provided and meals may be served regularly for remuneration.

Seasonal residence: A dwelling unit not normally the permanent residence of the occupant(s) and not normally used as a dwelling unit for more than six months during any calendar year.

Setback: The minimum required horizontal distance measured from the front side, or rear lot line, whichever is applicable, of a lot of record for purposes of determining the minimum amount of open space surrounding the main structure on that lot.

Sign: Any device designed to inform the general public or attract the attention of persons. The following shall not be considered commercial signs for purposes of this ordinance:

- A. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, [or] names of occupants of premises.
- B. Flags and insignia of any government, except when displayed in connection with commercial promotions.
- C. Legal notices, identifications, informational or directional signs erected or required by governmental bodies.
- D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
- E. Signs directing and guiding traffic on private property, but bearing no advertising matter.

Sign: Off-site: A sign relating to matter which is off the premises in question.

Sign: Onsite: A commercial sign relating in its subject matter to the premises on which it is located, or to activities, products, services, or accommodations of the immediate site.

Soil conservation district standards: Soil Conservation Service handbook.

Stable: A building for housing domestic animals, other than dogs, cats, or similar small animals, when not conducted as a business and solely for the personal use of the residents of the premises or owner of the property.

Stable: Public: Building in which any horses are kept for hire or sale.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor immediately above, except that the top story shall be that portion of a building included between the upper surface of the uppermost floor and the ceiling or roof immediately above. A basement shall be considered a full story only if 50 percent or more of the vertical distance between the basement floor and the basement ceiling is above the ground level from which the height of the building is measured.

Story: Half: An uppermost story lying between the top part of a full story and a sloping roof, provided said floor area does not exceed one-half of the full story, contains at least 160 square feet and has a minimum floor-to-ceiling clearance of seven feet six inches.

Street: A publicly dedicated right-of-way which affords general traffic circulation and access to abutting property, but does not include alleys.

Stripping: Any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

Structure: Anything constructed or erected on the ground [or] which is attached to something located on the ground. Structures include buildings, radio and TV towers, mobile homes, sheds and permanent signs, and exclude vehicles, sidewalks, and paving.

Temporary building and use: A structure or use permitted by the zoning administrator to exist during periods of construction of the main building or for special events, but not to exceed six months' duration.

Temporary soil erosion control measures: Interim control measures which are installed or constructed for the control of soil erosion until permanent soil erosion control is effected.

Tourist home: Any dwelling used or designed in such a manner that certain rooms in excess of those used by the family, and which can be occupied as part of a dwelling unit, are rented for compensation to the traveling public.

Travel trailer: A vehicular, portable unit built on a chassis designed to be used as a temporary dwelling for travel and recreational purposes. Such vehicle is not to exceed eight feet in width or 32 feet high [sic] in length, not including the tongue. Truck-mounted campers are considered travel trailers for purposes of this ordinance.

Use: The lawful purpose for which land and premises, including the structures thereon, is designed, arranged, or intended or for which it is rented, leased, occupied, or maintained.

Variance: Action taken by the board of appeals granting a property owner relief from certain provisions of the ordinance which because of the particular physical surroundings, shape, or topographical conditions of the property compliance would result in and [an] undue hardship upon the owner, as distinguished from a mere inconvenience or desire for an increased economic return.

Yard: An open space on the same lot with a building or building group lying between the front, rear or side wall of a building and the nearest lot line, unoccupied except for projections, such as porches and steps, and the specific minor uses or structures allowed in such open space under the provisions of this ordinance.

Yard: Corner side: A side yard which faces a public street.

Yard: Front: A yard extending the full width of the lot on which a building is located and situated between the front lot line and a line parallel thereto and passing through the nearest point of the building.

Yard: Interior side: A side yard located immediately adjacent to another zoning lot or to an alley or easement separating such side yard from another zoning lot.

Yard: Rear: A yard extending the full width of the lot on which a building is situated and located between the rear lot line and a line parallel thereto and passing through the nearest point of the building.

Yard: Side: A yard on the same lot as a building situated between the side lot line and a line parallel thereto and passing through the nearest point of the building, and extending from the front yard to the rear yard.

Yard: Transitional: A yard that must be provided on a lot where a more intensive land use is located adjacent to either an existing or planned use of a less intensive nature, in accordance with the provisions of this ordinance. Such transitional yard shall be in line [lieu] of the requirements for front, side, and rear yards as stipulated in the ordinance.

ARTICLE 3. - ZONING DISTRICTS

Sec. 3.1. - Classification of districts.

The Village of Pigeon shall be and is hereby divided into districts as enumerated in articles 7 to 9, Schedule of Regulations.

Sec. 3.2. - Required conformity to district regulations.

Except as otherwise provided in this ordinance, no structure or land shall hereafter be used or occupied and no structure or part thereof shall be erected, altered or moved onto the existing lot or onto a different lot unless in conformity with the regulations herein specified for the district in which the structure or land is located.

Sec. 3.3. - District boundaries shown on zoning map.

The boundaries of said districts are hereby established as shown on the zoning map, which accompanies this ordinance and which zoning map with all notations, references and other information shown thereon shall be as much a part of this ordinance as if fully described herein. The zoning map shall be certified as the official copy by the village clerk and shall be kept on display in the village clerk's office. Maps and descriptions [which] accompany enacted amendments shall be displayed adjacent to the official copy until such time as the official copy is corrected. The official copy shall be reviewed annually, and, if so ordered by resolution of the village, the official copy shall be corrected to show all amendments and the accuracy and completeness of such corrections shall be certified thereon by the village clerk.

When the properties are annexed to the Village of Pigeon, the village council shall assign the properties appropriate zoning district classifications. This ordinance and the zoning map shall be amended as outlined in section 13.3 of this ordinance to include those annexed properties.

Sec. 3.4. - Interpretation of zoning map.

Where, due to the scale, lack of detail or illegibility of the zoning map accompanying this ordinance, there is an uncertainty, contradiction or conflict as to the intended location of any district boundary as shown hereon, interpretation concerning the exact location of the district boundary line shall be determined by the board of zoning appeals. The board, in arriving at a decision in these matters, shall apply the following standards:

- A. District boundary lines are intended to follow centerlines of: alleys or streets, rights-of-way, watercourses or lot lines; or be parallel or perpendicular thereto, unless such district boundary lines are otherwise obviously indicated as shown on the zoning map.
- B. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.
- C. In unsubdivided property, or where a district boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.
- D. If, after the application of the foregoing rules, uncertainty exists as to the exact location of a district boundary, the board of zoning appeals shall determine and fix the location of said line in a reasonable manner.

ARTICLE 4. - USE REGULATIONS

Sec. 4.1. - General.

Except as otherwise provided herein, regulations governing land and building use are hereby established as shown in articles 7 to 9, Schedule of Regulations. Any use not expressly permitted is prohibited. Uses requiring board of zoning appeals special exceptions permit are permissible only if in the opinion of the board of zoning appeals adequate conditions exist or can be imposed that will make such uses compatible with the purposes of this ordinance and intent and principal uses of the district. Otherwise such uses are prohibited uses. (See section 13.4;hk;.)\hk;

Sec. 4.2. - Use of accessory building prior to use of principal building prohibited.

No accessory building may be used prior to its principal building or principal use except as facility of construction of said principal building or principal use. This exception is a temporary one which shall lapse one year after issuance of the zoning compliance permit.

Sec. 4.3. - Reserved.

Editor's note— Former § 4.3, which pertained to mixing of nonresidential and residential uses, was repealed by Ordinance No. 108, adopted January 9, 1989.

ARTICLE 5. - AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS

Sec. 5.1. - General.

Except as otherwise provided herein, regulations governing area, height, bulk and placement are set forth in article 7, Schedule of Regulations.

Sec. 5.2. - Encumbering land required to satisfy regulations.

No portion of a lot necessary for compliance with the provisions of this ordinance in regard to area, height, bulk and placement regulations in connection with an existing or proposed building, structure or use shall, through sale or otherwise, again be used as part of the lot required in connection with any other building, structure or use.

Sec. 5.3. - Exception to height limits.

The height limits of this ordinance may be modified by appeal to the board of zoning appeals in its application to church spires, belfries, cupolas, penthouses, domes, water towers, observation towers, radio towers, TV towers, masts and aerials, flagpoles, chimneys, smokestacks, ventilators, skylights, derricks, conveyors, cooling towers and other similar and necessary mechanical appurtenances pertaining to and necessary to the permitted uses of the districts in which they are located.

Sec. 5.4. - Averaging existing front open space.

In residential districts where the average front open space for existing buildings adjacent to a lot on either side, within 100 feet, exceeds the minimum specified in the ordinance, a front open space shall be provided on the lot equal to this greater average depth, but need not exceed 40 feet. Where such average front open space is less than minimum specified, the required front open space may be reduced to this lesser depth, but in no case to less than 25 feet from the street lot line. For the purpose of computing such average front open space, an adjacent vacant lot shall be considered as having the minimum front open space required in the district.

Sec. 5.5. - Exceptions to required open space.

The following projections into required open space are permitted: sills, belt courses, cornices, eaves, gutters, chimneys or pilasters projecting not more than 24 inches into any required open space.

Sec. 5.6. - Corner lot setback on side street.

Every corner lot in a residential district having on its side street an abutting interior lot shall have a minimum setback from the side street equal to the minimum required front setback of the district in which it is located; provided, however, that this does not reduce the buildable width of any lot of record to less than 30 feet. On corner lots where a rear open space abuts a side open space on the adjoining lot, accessory buildings on the corner lot shall have a minimum setback from the rear lot line a distance equal to the smaller of the side setbacks required for the lot abutting the corner lot.

Sec. 5.7. - Accessory buildings, including satellite antennas.

Accessory buildings in residential districts shall conform to the following regulations except as may be otherwise provided in this ordinance:

- A. Shall not exceed 15 feet in building height.
- B. In residential districts, may be erected in the rear open space except when built as a part of the principal building but [shall] not be erected in any required front or side open space.
- C. In a residential R-1 district, only two accessory buildings are permissible and no accessory building shall exceed 720 square feet, and an additional accessory building shall not exceed 200 square feet. In no case shall the area of such accessory use buildings occupy more than 35 percent of the rear open space and be closer than three feet from any adjacent rear lot line and three feet from any adjacent side lot line.
- D. On any corner lot in a residential district, no part of any accessory building shall be nearer the exterior side lot line than the required setback as regulated in article 7.
- E. Detached garages not physically connected to the dwelling or principal use by common wall or roof shall be deemed as accessory buildings for the purpose of this ordinance. Attached garages shall be considered part of the principal use or dwelling.

In any R-1 district, private garages may provide storage for not more than one commercial vehicle of not over three-quarters of one ton capacity.
- F. Satellite antennas may be placed in rear yards with no restriction as to height. Side yard placement will only be allowed if rear yard placement is not possible and normal side lot line setbacks can be met. Side yard installation must be screened with appropriate fence, wall or hedge. Front yard installation will not be allowed. All satellite antenna installations must comply with appropriate building and safety codes.

Sec. 5.8. - Application of [requirements to] lots of record.

Where the owner of a lot of record does not own and cannot reasonably acquire sufficient land to enable him to conform to the open space and other requirements herein prescribed, such lot may be used by said owner as a building site provided the open space and other provisions conform as closely as possible in the opinion of the board of zoning appeals to the requirements for the district in which it is located and subject to section 13.4.

Where two or more abutting lots of record are held in one ownership, either in fee simple and/or under a vendee's land contract interest, or subsequently come to be held in one ownership, they shall be considered the same as a single lot of record for the purpose of this ordinance, and the provisions [of] this ordinance shall not thereafter be circumvented or avoided by the willful sale or conveyance of a part or portion of any parcel or parcels.

Sec. 5.9. - Double-frontage lots.

Where the rear of a lot abuts upon a street, the depth of a rear yard shall be increased if necessary to conform to the requirements for front yard on such rear streets.

ARTICLE 6. - GENERAL REQUIREMENTS

Sec. 6.1. - Issuance of building permit per approved site plan.

- A. *Submission of site plan.* Site plan review shall be required of all uses in the business and industrial district and of multiple-family dwellings (except for single- and two-family dwellings) and of uses permitted by all special land use permits.
- B. *[Review of site plan.]* Review of all site plans shall be performed by the village planning commission. The planning commission may delegate responsibility for review to the zoning administrator for certain classes of site plans by size or function.
- C. *[Issuance of building permit or certificate of occupancy.]* A building permit or certificate of occupancy shall not be issued prior to final approval of the site plan as required by article 6 and pursuant to article 12 of this zoning ordinance.
- D. *Site plan contents.* Site plans for the proposed use shall be submitted, including the following information:
 1. A property [properly] scaled site plan with a preferred scale of one inch equals 20 feet or greater.
 2. Location, arrangement and dimensions of existing and proposed driveways, streets, sidewalks, hard-surfaced parking areas and arrangement of structure(s).
 3. General layout of existing vegetation and of proposed landscaping.
 4. Approximate size, locations, height, floor area and juxtaposition of all structures.
 5. General relationship to all utilities, including sanitary sewerage, disposal, water supply, storm drainage, gas, rubbish, disposal, electricity and telephone.
 6. A schedule of usable floor areas, land areas, building height and setback, net land coverage and number of parking spaces provided.
- E. *Site plan standards.* The planning commission shall review the site plans in terms of the following standards:
 1. Safe and convenient vehicular access to and egress from the proposed use without interference with surrounding transportation patterns.
 2. Provision of bicycle and/or pedestrian access, if appropriate.
 3. Impact of structures, fencing, lighting and landscaping on adjacent land uses and properties.
 4. Appropriate consideration of environmental concerns including natural resources, air quality, noise levels, rubbish disposal and storm runoff.
 5. Continuance of established area patterns of landscaping, setbacks, structural materials and street furniture.
 6. Groundwater protection standards.
 - A. Groundwater protection standards.
 1. The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater and steep slopes.

For facilities which use, store or generate hazardous substances in quantities greater than 100 kilograms per month (equal to about 25 gallons or 220 pounds), the following additional site plan review information is required:

- Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
- Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated stormwater or wash water, and all similar uses.
- Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
- Delineation of areas on the site which are known as suspected to be contaminated, together with a report on the status of site cleanup.

Site plan review standards for facilities which use, store, or generate hazardous substances:

1. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
2. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
3. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.
4. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges, shall be allowed without required permits and approvals.

(Ord. of 3-20-95)

Sec. 6.2. - Nonconforming uses.

It is the intent of this ordinance to permit the continuance of a lawful use of any building or land existing at the effective date of this ordinance. However, except as herein provided, no building, structure, or use or part thereof shall be used, altered, constructed or reconstructed except in conformity with the provisions of this ordinance, and further, it is hereby declared that the existence of nonconforming uses is contrary to the best interests of the general public. Further, it is hereby declared to be the policy of this community, as expressed in this ordinance, to discontinue nonconforming uses in the course of time as circumstances permit, having full regard for the rights of all parties concerned.

- A. *Elimination of nonconforming uses.* In accordance with the applicable state and local laws and ordinances, the village, through its agents, may acquire properties on which nonconforming buildings or uses are located, by condemnation or other means, and may remove such uses or structures. The resultant property may be

leased or sold for a conforming use or may be used by the village for a public use. The net cost of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.

1. Whenever a nonconforming use has been discontinued for 12 consecutive months, or for 18 months during any three-year period, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the nonconforming use. At the end of this period of abandonment, the nonconforming use shall not be reestablished, and any future use shall be in conformity with the provisions of this ordinance.
- B. *Nonconforming uses of land.* The nonconforming uses of land existing at the effective date of this ordinance, where no building is located, may be continued, provided dimensional requirements are complied with, and further provided that no buildings are to be constructed after the effective date of this ordinance, except that will conform to district requirements within which the use is located, and further provided all other pertinent requirements of section 6.2 are complied with.
- C. *Nonconforming signs.* Signs existing at the time of the enactment of this ordinance and not conforming to its provisions, but which were constructed in compliance with previous regulations, shall be regarded as nonconforming signs which may be continued if properly repaired and maintained as provided in this code and [if they] continue to be in conformance with other ordinances of this municipality. Nonconforming signs which are structurally altered, relocated or replaced shall comply immediately with all provisions of this code.
- D. *Illegal nonconforming uses.* Nonconforming uses of buildings or land existing at the effective date of this ordinance established without a building permit or not shown on the tax records as a nonconforming use prior to the last official assessment roll, or those nonconforming uses which cannot be proved, conclusively, as existing prior to effective date of this ordinance, shall be declared illegal nonconforming uses and shall be discontinued within a period of three years following the effective date of this ordinance.
- E. *Reconstruction and restoration.* Any lawful nonconforming uses damaged by fire, explosion, or act of God, or by other causes, may be restored, rebuilt or repaired, provided that such restoration does not exceed 1½ times the assessed value of the parcel as determined by the assessing officer, exclusive of foundation, and provided that said use by [is] the same or more nearly conforming with the provisions of the district in which it is located.
- F. *Repair of nonconforming buildings.* Nothing in this ordinance shall prohibit the repair, improvement or modernizing of a lawful nonconforming building to correct deterioration, obsolescence, depreciation and wear, provided that such repair does not exceed an aggregate cost thereby increasing the assessed value by more than 30 percent as determined by the assessing officer unless the subject building is changed by such repair to a conforming use.
- G. *Changing uses.* If no structural alterations are made, the board of appeals may authorize a change from one nonconforming use to another nonconforming use, provided the proposed use would be more suitable to the zoning district in which it is located than [than] the nonconforming use which is being replaced. Whenever a nonconforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to a nonconforming or less conforming use.
- H. *Prior construction approval.* Nothing in this ordinance shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of this ordinance, provided that construction is commenced within 30 days after the date of issuance of the permit [and] that the entire building shall have been completed according to plans filed with the permit application within one year after the issuance of the building permit.

- I. *District changes.* Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this section shall also apply to any existing uses that become nonconforming as a result of the boundary changes.
- J. *Nonconforming use with additional conditions.* Notwithstanding the provisions of paragraph A. of section 6.2, article 6, of this ordinance, the lot and premises housing the McIntyre Insurance Agency is hereby designated a nonconforming use with additional conditions. Said premises shall be exempt from the provisions of said paragraph A. of article 6 of this ordinance so long as said premises shall be used as an office for conducting the business of selling insurance or uses of a similar character which shall be understood to permit the professional office of a doctor, dentist, architect, engineer, or practitioner of a similar character.

ARTICLE 7. - R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT, SCHEDULE OF REGULATIONS

Sec. 7.1. - Intent.

The regulations of this district are intended to encourage a suitable environment for families typically with children. Uses are limited to one- and two-family dwellings, along with certain other uses such as schools, parks and playgrounds, which provide a desirable neighborhood environment. In keeping with the intent, development is regulated to a moderately low density. Commercial and other uses which tend to be incompatible with the intent are prohibited.

Sec. 7.2. - Uses permitted by right.

- A. One- and two-family dwellings.
- B. State-licensed residential facilities.

Sec. 7.3. - Permitted accessory uses.

- A. Private garage.
- B. Garden house, tool house, playhouse or greenhouse, not being used for commercial purposes.
- C. Signs in accordance with article 10.
- D. Fences.
- E. Automobile parking, not in excess of automobiles owned by the occupants, plus two additional spaces.
- F. Swimming pools.
- G. Satellite antennas, not to exceed ten feet in diameter.
- H. Any use customarily incidental to the permitted principal use.

Sec. 7.4. - Uses permitted by special land use permit.

The following uses may be permitted by issuance of a special land use permit following the procedures outlined in article 12, providing all of the applicable conditions for required setback dimensions, area, height, bulk and placement regulations and off-street parking are met:

- A. Public parks, playgrounds and playfields.
- B. Institutional uses for medical, health, religious and educational.

- C. Public utility service buildings or regulator station.
- D. Townhouses, apartments and condominiums not exceeding eight units per acre, providing the following standards are met:
 - 1. That such land use has direct access onto a street identified as a collector or arterial within the Village of Pigeon.
 - 2. That structures do not exceed two stories or 30 feet in height.
 - 3. That there shall be a minimum yard of 50 feet from any structure to any adjacent R-1 or B-1 zoning district.
 - 4. That the project site or lot includes at least one acre.
 - 5. That no more than 35 percent of the lot or project site may be covered by all buildings.

AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS

Sec. 7.5. - Minimum building area.

Area in square feet: 720.

Sec. 7.6. - Minimum building bulk.

Bulk in cubic feet: 5,760.

Sec. 7.7. - Maximum building area.

Coverage of a lot including accessory building in percent of lot area: 25 percent.

Sec. 7.8. - Front yard.

Twenty-five feet. (See [article 5, section 5.4](#);hk;.);\\hk;

Sec. 7.9. - Side yard[, least].

Least one: Six feet.

Sec. 7.10. - Side yards[, total].

Total of two: 15 feet.

Sec. 7.11. - Rear yard.

Thirty-five feet.

Sec. 7.12. - Maximum building height [in feet].

Thirty feet.

Sec. 7.13. - Maximum building height [in stories].

Two and one-half stories.

Sec. 7.14. - Minimum lot size[, area].

Area in square feet: 7,200.

Sec. 7.15. - Minimum lot size[, width].

Width in feet: 66.

Sec. 7.16. - Minimum lot size for multiple-family dwellings.

Area in square feet shall be as required in section 7.14 (7,200 square feet) plus the following area for each additional dwelling unit: one bedroom, 2,000 square feet; two bedrooms, 2,900 square feet; three bedrooms, 3,400 square feet.

ARTICLE 8. - B-1 BUSINESS DISTRICT

Sec. 8.1. - Intent.

The intent of this district is to provide for, to encourage and to facilitate the development of sound and efficient retailing, parking, personal and business services. To achieve this and [end] the regulations are so designed to exclude certain uses and activities which typically disrupt the functions of a concentrated business district.

Sec. 8.2. - Uses permitted by right.

- A. Retail stores: General merchandise stores, dry goods stores, variety stores, food stores, apparel and apparel accessory stores, furniture stores, home furnishing stores, household appliance stores, eating and drinking places, drugstores, proprietary stores, liquor stores, antique stores, book and stationary stores, sporting goods stores, bicycle shops, jewelry stores, florists, cigar stores, news dealers, camera and photographic supply stores, hardware stores, paint and wallpaper stores, gift and souvenir shops, optical goods stores, luggage and leather goods stores, hobby and toy shops, religious goods stores, pet shops, radio and television stores, music stores, mail order houses and office equipment stores, lumber and building material sales facilities, plumbing and heating equipment sales.
- B. Selected services: Hotels, motels, banks, laundry and dry cleaning retail establishments, self-service laundry and dry cleaning establishments, beauty and barber shops, photographic studio, shoe repair and shoeshine shops, hat cleaning shops, pressing and altering and garment repair shops, motion picture theaters, repair shops and services for watch, clock, jewelry, musical instruments, typewriter and printing shops.
- C. Showroom uses: Passenger cars, trucks, farm equipment.
- D. Municipal, state or federal uses: Public utility building, telephone exchange building and churches.
- E. Conditions.
 - 1. Any use which serves a customer while in the automobile is prohibited as a principal use.
 - 2. All permitted principal uses must be completely enclosed in a building.
 - 3. Outdoor storage is prohibited.

Sec. 8.3. - Permitted accessory use.

- A. Any use customarily incidental to the permitted principal use.
- B. Drive-in facilities for banking and package pickup are permitted only when accessory to a permitted principal use not being a drive-in type of facility.

Sec. 8.4. - Uses permitted by special land use permit.

The following uses may be permitted by issuance of a special land use permit following the procedures outlined in article 12, providing all of the applicable conditions required for setback dimensions, area, height, bulk and placement regulations and off-street parking requirements are met:

- A. Gasoline filling stations, automobile repair garages and carwashes.
- B. Temporary outdoor uses such as displays, Christmas tree sales or other quasi-civic activities may be permitted on a temporary basis without a public hearing by the board of zoning appeals, providing:
 - 1. That such permit shall not be issued for more than six months.
 - 2. Said use can be adequately shown not to be injurious or detrimental to properties in the immediate vicinity.
- C. Other principal uses having the same general character as the permitted principal uses providing:
 - 1. The purposes [proposed] use is located on a road designated as an arterial or collector in the Village of Pigeon comprehensive development plan.
 - 2. The proposed use is designed, constructed, operated and maintained in harmony with adjacent land uses and zoning districts.
- D. Arcades and other places of amusement housing pinball machines, video games and other amusement devices providing that the following standards are met:
 - 1. Possess a valid license for operation.
 - a. No person shall conduct, maintain, display for use, operate or engage in business as owner, operator, agent, employee or in any other capacity in any establishment or place of business within the village where more than five coin-operated games and/or amusement devices are located therein without having secured a license to do so.
 - b. Before any license under this section shall be granted, application therefor shall be made to the village council in writing on a form available from the village clerk's office. The application shall state the name, age and address of the person or persons or firm, company or corporation. It shall state where the business is to be operated, the zoning of the property on which it is to be operated, the name and address and age of the person in charge or to operate the business, and the number and description of devices the applicant intends to operate. Upon filing of the application herein described, the same shall be referred to the village zoning administrator and the county building inspector (including plumbing and electrical inspectors). These departments are to report to same said council with their recommendations. If, after investigation, the village council shall determine that the applicant has complied with all of the requirements of this article, then the village council shall authorize the village clerk to issue the applicant a license.
 - c. The annual license fee for a place of amusement shall be \$100.00 and shall expire at midnight on June 30 of each year, whereupon a new application must be made.

- d. Fees shall be paid by the applicant upon filing the application.
 - e. Any license issued under the provisions of this ordinance may be revoked by the village council at any time that the village council may deem or determine that the holder of the license has failed to comply with the requirements of the special land use permit or any other ordinances pertinent to the operation of business establishments. Revocation shall be accomplished by a hearing held before the village council upon a written complaint duly verified by one having knowledge of the facts upon which the complaint is based and issuance of an order to show cause from the village council directed to the licensee by certified mail and served upon the licensee along with a copy of said written complaint at least five days before the date of hearing of the order requiring the licensee to show cause before the village council in the village, at any hour therein designated, why the license should not be revoked. Any order revoking a license issued under this article shall be accompanied by written findings supporting such revocation.
2. Any person licensed by the village for operating or maintaining a "place of amusement" within the corporate limits of the village shall be restricted to the playing of any amusement therein or thereon between the hours of 3:00 p.m. and 9:00 p.m. each day except Friday and Saturday, when the hours shall be extended to 10:00 p.m. [On a] Saturday opening may be earlier in the day. Upon application or petition from the licensee, the village council may suspend these restrictions on hours of application for days that local schools are not in session. During all other hours, no persons other than the licensee or his agent shall be allowed in said place of amusement. The licensee or his agent shall be responsible for keeping the hours as set forth herein and may be penalized as provided for herein if he fails to do so.
 3. No operator shall install or permit the use of a mechanical or electronic amusement device which contains an automatic payoff device for the return of slugs, money, coins, checks, tokens, discs or plates.
 4. No person under the age of 17 years, unless accompanied by a parent or guardian, shall play or operate any mechanical or electronic amusement device. No person, agent or operator in charge of said premises upon which an amusement device may be situated shall permit any person under 17 years of age to play or operate any such amusement device unless accompanied by parent or guardian.
 5. Nothing in this section shall in any way be constructed [construed] to authorize, license or permit any gambling device whatsoever.
 6. The owner, his agent, operator or person in control of the premises shall by [have] reached the age of 21 years of age and shall be inside the premises at all times of operation. There shall be no loitering on said premises, nor around said premises, and the conduct of said business shall in no way or manner disturb, destroy or disrupt any surrounding establishment, business or dwelling.
 7. The site layout, setbacks, structures and overall appearance and function of the use shall be compatible with B-1 business district uses and meet the requirements called for in this district.
- E. Residential dwelling units subject to the following conditions:
1. Dwelling units shall not be located below the second floor.
 2. The planning commission may impose any required setback and/or performance standards so as to insure public health, safety and general welfare.

(Ord. No. 108, 1-9-89)

Sec. 8.5. - Maximum building height [in feet].

Forty feet.

Sec. 8.6. - Maximum building height [in stories].

Two stories.

Sec. 8.7. - Lot line.

All buildings in the business district may be built on the front property line.

- A. *Side yards.* In business districts no side yard shall be required, except, where a lot abuts upon the side of a lot zoned for a residence, there shall be a side yard of not less than five feet in width.
- B. *Rear yards.* If there is an existing alley, the building may be constructed up to the alley line. If no alley exists in this district, the building shall be set back from the rear lot line a sufficient distance to permit servicing and access to the building by motor vehicle.

ARTICLE 9. - I-1 INDUSTRIAL (LIMITED MANUFACTURING SCHEDULE OF REGULATIONS)

Sec. 9.1. - Preamble.

There are two classifications for manufacturing districts: M-1 light manufacturing and M-2 heavy manufacturing.

Lands in M-1 districts are those suited to industries characterized by low land coverage and the absence of objectionable external effects. Manufacturing plants and uses shall have performance characterized by low land coverage and the absence of objectionable external effects. Manufacturing plants and uses shall have performance characteristics similar to those uses listed in this district in that they emit a minimum of noise, vibration, smoke, dust, dirt, toxic or offensive odors or gases, glare, [or] electromagnetic or atomic radiation.

Lands in M-2 districts are those suited to more intense types of industrial and manufacturing uses which are usually within industrial areas of the village. The following regulations shall apply to the appropriate manufacturing land use classifications as set forth and shall be subject further to the provisions of article VI, General Exceptions [sic] and article XII, General Provisions [sic].

(Ord. No. 108A, 2-11-91)

Sec. 9.2. - Principal uses permitted—M-1 districts.

M-1 light manufacturing.

- A. Special trade contractors, building materials and wholesalers.
- B. Public utilities and communication, such as: electrical receiving or transforming station; radio, microwave, or television broadcasting station, transmitting or receiving towers.
- C. Warehousing, refrigerated and general storage, bulk storage of refined petroleum products as per state and federal regulations.

- D. Local and suburban transit and passenger transportation facilities; trucking, transportation terminals, maintenance service facilities.
- E. Laundries, laundry services, and cleaning and dyeing plants.
- F. Industrial plants manufacturing, processing or assembling the following:
 - 1. Agricultural products.
 - 2. Food and kindred products, excluding slaughterhouses and abattoirs.
 - 3. Furniture and fixtures.
 - 4. Converted paper and paperboard products.
 - 5. Printing, publishing and allied industries.
 - 6. Biological products, drugs, medicinal, chemical and pharmaceutical preparation.
 - 7. Glass products made of purchased glass.
 - 8. Electrical machinery, equipment and supplies, electronic components and accessories.
 - 9. Professional, scientific and controlling instruments, photographic and optical goods.
 - 10. Jewelry, silverware and plated ware, musical instruments and parts, toys, amusement, sporting and athletic goods, pens, pencils and other office and artists' materials, costume jewelry and advertising displays.
 - 11. Canvas products made of purchased canvas.
 - 12. Fabricated metal products, except heavy machinery and transportation equipment.
 - 13. Metalworking machinery and equipment; general industrial machinery and equipment.
 - 14. Office, computing and accounting machines.
 - 15. Jobbing and repair machine shops.
 - 16. Monuments, cut stone, and stone products.
- G. Any uses which are charged with the principal function [of] research such as the following:
 - 1. Industrial research, development and testing laboratories and offices.
 - 2. Scientific research, development and testing laboratories and offices.
 - 3. Business research, development and testing laboratories and offices.
- H. Any other manufacturing plants and uses having performance characteristics similar to those listed in this district.

(Ord. No. 108A, 2-11-91)

Sec. 9.3. - Principal uses permitted—M-2 districts.

M-2 heavy manufacturing.

- A. Any principal use permitted in the M-1 light manufacturing district subject to all the regulations of the M-2 districts.
- B. General construction contractors such as highway and street, heavy construction and general building; coal and coke deals [dealers].
- C. Bulk storage of refined petroleum products as per state and federal regulations.

- D. Railroad and railroad terminal facilities and services related thereto.
- E. Air transportation companies and fixed facilities and services related thereto.
- F. Transportation, communication, power and fuel rights-of-way.
- G. Industrial plants manufacturing, processing or assembling the following:
 - 1. Prefabricated buildings and structural members.
 - 2. Chemical products such as plastic materials, medicinal, chemicals, biological products and pharmaceutical preparations.
 - 3. Leather and leather products such as: industrial belting and packing; footwear; gloves and mittens; luggage and handbags.
 - 4. Stone, clay and glass products such as: flat glass, pressed or blown glass and glasscut stone and stone products, abrasive, asbestos and miscellaneous nonmetallic mineral products.
 - 5. Wooden containers such as: boxes, crates and cooperage.
 - 6. Aluminum, bronze, copper, copperbase alloy and other nonferrous castings.
 - 7. Machinery such as: engines and turbines; farm machinery and equipment; industrial machinery and equipment.
 - 8. Transportation equipment such as: motor vehicle equipment and parts, motorcycles, bicycles and parts.
- H. Any of the following uses, subject to the approval of the planning commission:
 - 1. Junkyards, scrap and waste wholesaling, where conducted entirely within a building enclosed on all sides or when entirely enclosed with a fence approved by the planning commission.
 - 2. Asphalt and concrete mixing plants.
 - 3. Sand and gravel pits.
 - 4. Slaughterhouse.

(Ord. No. 108A, 2-11-91)

Sec. 9.4. - Permitted accessory uses.

Accessory uses that are clearly subordinate to the main use of the lot or building shall be permitted. Such uses include:

- A. Restaurant or cafeteria facilities for employees.
- B. Caretaker's residence if situated upon a portion of the lot complying with all the requirements of the R-1 residential district.
- C. Office buildings associated with a manufacturing facility.
- D. Uses which can meet the requirements as herein specified or as defined in article 2, section 2.1.

(Ord. No. 108A, 2-11-91)

Sec. 9.5. - Uses permissible on special use approval—M-1 and M-2 districts.

The following uses of land and buildings may be permitted in the I-1 district by the application for issuance of a special land use permit when all the provisional requirements specified in article 12, together with all applicable standards cited in this chapter [article], are met:

- A. Restaurants, taverns and other eating establishments provided the following standards are met:
 1. The proposed use is designed, constructed, operated and maintained in harmony with land uses in zoning districts.
- B. Junkyards provided the following standards are met:
 1. The site shall be a minimum of five acres in size.
 2. An opaque fence or wall at least eight feet in height shall be provided around the entire site. Such a structure shall be of sound construction, aesthetically compatible to its surroundings and maintained on a regular basis.
 3. There shall be no stacking of material above the height of the fence or wall, except for movable equipment used on the site.
 4. No equipment, materials, signs or lighting shall be used or stored outside the fenced area.
 5. All fenced-in areas shall be at least 50 feet from any front street property line. Such front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of installation.
 6. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within an enclosed building.
 7. Whenever the installation abuts upon property within a residential or business district, a transportation strip at least 100 feet in width shall be provided between the fenced-in area and the adjacent district. Such a strip shall contain plant materials, grass and structural screen of a type approved by the board of zoning appeals to effectively minimize the appearance of the installation.
- C. Industrial uses, determined by the planning commission to be of more intensive nature, must comply with all conditions deemed necessary and as established pursuant to the provisions of article 12.

(Ord. No. 108A, 2-11-91)

Sec. 9.6. - General use requirements.

- A. Enclosed buildings. Activities in the I-1 district shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors provided that within 200 feet of any other district said storage shall be in completely enclosed buildings.

All outdoor storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates, which fence or wall shall be at least four feet in height, but in no case shall the fence be lower than the enclosed storage, up to a maximum of eight feet in height. Such storage shall be deemed to include the parking of licensed motor vehicles over 1½ tons rated capacity.

- B. Retail sales and residential dwellings are expressly prohibited.
- C. Uses in the I-1 district shall conform to the following standards:
 1. Emit no obnoxious, toxic or corrosive fumes or gases which are harmful to the public health, safety or general welfare, except those produced by internal combustion engines under design operating conditions.
 2. Emit no smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond any boundary of the parcel.
 3. Produce no heat or glare to such an extent to be detrimental to the health, safety and general welfare at or beyond the lot boundaries.

- 4. Produce no physical vibrations to such an extent to be determined detrimental to the health, safety and general welfare at or beyond the lot boundaries.
- 5. Does not include in the manufacturing process any production or storage of any material designed for use as an explosive, nor in [include] the use of any such material in production.
- 6. Shall conform to all local, state and applicable federal pollution control standards, including noise, air and water quality requirements.

(Ord. No. 108A, 2-11-91)

AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS

Sec. 9.7. - Maximum building area.

Coverage of lot including accessory buildings in percent of lot area: 35 percent.

(Ord. No. 108A, 2-11-91)

Sec. 9.8. - Front yard.

Twenty-five feet.

(Ord. No. 108A, 2-11-91)

Sec. 9.9. - Side yard.

Each side yard shall be ten feet.

(Ord. No. 108A, 2-11-91)

Sec. 9.10. - Maximum building height.

Sixty feet.

(Ord. No. 108A, 2-11-91)

Sec. 9.11. - Minimum lot size.

Twelve thousand square feet.

(Ord. No. 108A, 2-11-91)

Sec. 9.12. - Minimum frontage.

Each lot shall be a minimal frontage of 100 feet. Where a lot in this district abuts a lot in any residential district no building in the I-1 district shall be closer than 100 feet to the property line of such residential lot.

When the side or rear yard area abuts land within a residential district and when such yard areas are to be used for parking, loading, unloading, or servicing, the such side and rear yard areas shall be effectively screened by a solid, uniformly finished wall or fence. Such wall or fence shall be at least eight feet in height, but in no case shall the fence or wall be lower than [than] the enclosed parking, loading or servicing activity to be screened.

Except for landscape improvements and necessary drives and walks, the front yard shall remain clear and shall not be used for parking, loading, storage or accessory structures. Side and rear yards, except for a strip along the lot boundary ten feet in width, may be used for parking and loading but not for storage. The side or rear yard may be eliminated where a railroad service to the site is obtained at the edge of the lot.

(Ord. No. 108A, 2-11-91)

ARTICLE 10. - SUPPLEMENTARY REGULATIONS

Sec. 10.1. - Required access.

No dwelling shall be built on or moved to a lot unless the lot is fronting upon a street.

(Ord. No. 105, 7-11-88)

Sec. 10.2. - Essential services.

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

(Ord. No. 105, 7-11-88)

Sec. 10.3. - Fences (residential).

Fences are permitted, or required subject to the following:

A. [Materials; location; height.]

1. In residential areas all fences shall be constructed of posts sunk in soil at least two feet and be constructed of posts, boards or other materials without barbs or projections likely to cause injury. Posts shall be erected upon the property owner's side, with the finished side toward the adjoining property owner.
2. Fences on all lots of record in the R-1 residential districts which enclose property up to six feet in height, measured from the surface of the ground, shall not extend toward the front of the lot nearer than the front of the house or the required minimum front yard whichever is greater. Fences and hedges may not exceed six feet in height.
3. No wall or hedge planting shall exceed a height of three feet within any residential front yard. Clear vision fences are permitted in front yards but shall not exceed four feet in height. On a corner lot or parcel, no fence, wall or planting shall be allowed except as may be permitted by the zoning administrator who shall be reasonably assured that such fence, wall or planting will not interfere with traffic visibility across a corner.
4. On a corner lot or parcel, fences with enclosed property shall not exceed six feet in height, measured front [from] the surface of the ground, [and] shall not be placed nearer the side lot line than the required front yard setback. Only walls and hedges less than three feet in height or clear vision fences up to four feet in height shall not be subject to setback requirements.

B. Fences on lots of record shall not contain barbed wire, electric current or charge of electricity.

- C. To build or to cause to be built a partition fence or grow a hedge or cause to grow a partition hedge, in a resider any person shall obtain written permission from the owner, or owners, of the adjoining lots, granting him permi build a fence or grow a hedge and granting him access to their property for the purpose of maintaining such a fi hedge. A partition fence may be built by adjoining owners if all parties involved sign the permit, and provide for maintenance thereof; and any such permission shall run with the land and may be terminated only by mutual cc
- D. Fences which enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots, shall not exceed eight feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than 25 percent of their total area.
- E. Fences and hedges must be maintained so as not to endanger life or property. Any fence which, through lack of repair, type of construction, or otherwise, imperils life or property shall be deemed a nuisance. The zoning administrator of the Village of Pigeon shall notify the owner of the property upon which the fence is located of the existence of such a nuisance and said nuisance must be abated within 30 days after receipt of such notice. Notice may be written or printed and served personally or by certified mail upon the owner or occupant, or by posting the same in a conspicuous place upon the premises. Said notice shall specify the work to be done and state that the same may be done by the village and the expense thereof assessed against the premises and the village council is hereby granted power to perform such acts and levy such assessment.

(Ord. No. 105, 7-11-88)

Sec. 10.3[.1]. - Fences (industrial).

Protective measures fence: A fence erected for the expressed purpose of protection of the enclosed area and its contents in all areas of business, industrial and all areas other than residential areas. When such protective measures fence employs barbed wire along the uppermost edge, the minimum height for such fence, below the barbed wire extension, shall be six feet.

(Ord. No. 105, 7-11-88)

Sec. 10.4. - Signs, general.

No such sign shall project over a street or other public space more than ten feet from the face of the building or structure, nor in any case beyond a vertical plane two feet inside the curbline.

There shall be no flashing or intermittent or red or blue or green illumination on any sign located in the same line of vision as a traffic control system, nor interference with vision clearance along any highway, street or road, or at any intersection of two or more streets. All illuminated signs shall be so placed to prevent the rays and illumination therefrom being placed upon neighboring residences within a residential district and shall be located not less than 100 feet from such residential district.

A. *Signs in residential district.* In residential (R) districts, identification signs are permitted as follows:

1. For dwelling principal and accessory uses (see schedule of regulations), one sign displaying the street number and name of the occupant of a dwelling unit, not exceeding one square foot in area. Such sign may identify an accessory use.
2. For principal and accessory uses other than dwellings and for special exception uses, one bulletin or

announcement board not exceeding 32 square feet in area. No sign shall be located nearer to a front lot line than one-half the depth of the front open space.

3. "For Sale" or "For Rent" signs, not to exceed six square feet in area, advertising only the premises on which erected.
 4. In subdivision developments, one subdivision sign advertising the sale or rental of premises may be maintained, having an area of not more than 32 square feet and having an overall height of not more than 12 feet above the ground.
 5. One trespassing, safety or caution sign not over two square feet in area shall be permitted on a lot.
 6. No sign shall be illuminated by other than continuous indirect white light, nor shall contain any visible moving parts.
- B. *Signs in business districts.* In the business (B) district, identification and business signs are permitted as follows:
1. Any sign permitted in residential districts.
 2. One or more attached signs pertaining to the use of the premises on which they are placed, the total of all such signs not exceeding a total area of one square foot for each three square feet of wall surface area facing [the] front lot line.
 3. No sign facing directly across a street or across an adjoining lot line upon property in a residential district shall be illuminated by other than continuous indirect white light, nor shall contain any visible moving parts.
- C. *Signs in industrial districts.* In industrial (I) districts, identification, business and advertising signs are permitted as follows:
1. Any sign permitted in section 10.4.B. not exceeding a surface area of 160 square feet.
 2. Any sign not exceeding a surface area of 300 square feet, when conforming to the area, height, bulk and placement regulations of article 9 for buildings in the district located.

Sec. 10.5. - Performance standards for sound, vibration, odor, gases, glare and heat, light, electromagnetic radiation, smoke, dust, dirt and fly ash.

It shall be unlawful to carry on or permit to be carried on any activity or operation or use of any land, building or equipment that produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to be the maximum permissible hazard to humans or to human activity. Such measures may be supplemented by other measures which are duly determined to be maximum permissible hazards to human activity.

- A. *Sound.* The intensity level of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

In Decibels	Adjacent Use	Where Measured
55	Residential dwelling	Common lot line
65	Commercial	Common lot line

70	Industrial and other	Common lot line
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The sound levels shall be measured with a type of audio output meter approved by the Bureau of Standards. Objectionable noises due to intermittence, beat frequency or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

- B. *Vibration*. All machinery shall be so mounted and operated as to prevent transmission of ground vibration beyond any lot line of its source where common with residential district.
- C. *Odor*. The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines when diluted in the ratio of one volume of odorous air to four or more volumes of clean air or as to produce a public nuisance or hazard beyond lot lines is prohibited.
- D. *Gases*. The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.
- E. *Glare and heat*. Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.
- F. *Light*. Exterior lighting shall be so installed that the surface of the source of light shall not be visible from any bedroom window and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one footcandle power of light cross a lot line five feet above the ground in a residential district.
- G. *Electromagnetic radiation*. Applicable rules and regulations of the Federal Communications Commission in regard to propagation of electromagnetic radiation are hereby made a part of this ordinance and shall be on file in the office of the administrative officer.
- H. *Smoke, dust, dirt and fly ash*. It shall be unlawful to discharge in the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregating more than four minutes in any one-half hour, which is:
 1. As dark or darker in shade as that designated as no. 2 on the Ringelmann chart. The Ringelmann mines [chart], which is hereby made a part of this ordinance, shall be the standard. However, the umbrascopes readings of smoke densities may be used when correlated with the Ringelmann chart and shall be on file in the office of the administrative officer.
 2. Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described in 1. above, except when the emission consists only of water vapor.
The quantity of gas-borne or airborne solids shall not exceed 0.20 grain per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.
 3. In addition to the above standards (1. and 2;hk;); hk; all emissions must also be in compliance with all applicable state laws.
- I. *Drifted and blown materials*. The drifting or airborne transmission beyond the lot line of dust, particles or debris from any open stockpile shall be unlawful and may be summarily caused to be abated.

ARTICLE 11. - OFF-STREET PARKING AND LOADING

Sec. 11.1. - Required off-street parking.

General off-street parking in conjunction with all land and building uses shall be provided as herein prescribed.

- A. The minimum number of off-street parking spaces shall be determined in accordance with the following table in section 11.2. For uses not specifically mentioned therein, off-street parking requirements shall be interpreted by the board of zoning appeals from requirements for similar uses.
- B. Any area once designated as required off-street parking shall never be changed to any other use unless and until equally [equal] required facilities are provided elsewhere. Off-street parking existing at the effective date of this ordinance in connection with the operation of an existing building or use shall not be reduced to an amount less than would hereinafter be required for such building or use.
- C. The off-street parking may be provided either by individual action or by a parking program carried out through public action, whether by a special assessment district or otherwise.
- D. Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall be not less than the sum of the requirements for the several individual uses computed separately. However, in cases of dual functioning of off-street parking where peak operating hours do not overlap, the board of zoning appeals may grant a special exception based on the peak hour demand.
- E. Required off-street parking shall be for the use of occupants, employees, visitors and patrons and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale or the repair of vehicles is prohibited. All off-street parking, whether public or private, for nonresidential uses shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.
- F. Where off-street parking in permanent public ownership and operation exists in quantity and location greater than would be necessary to fulfill the requirements of this ordinance for the existing contiguous building, then such excess number of parking spaces may be prorated to the land area within 300 feet, as measured in paragraph E., above, to the extent that the parking requirements are thereby met. The board of zoning appeals shall determine such proration calculation. To the extent of such proration calculation, the board of zoning appeals may grant special exception to the minimum number of off-street parking spaces required to be provided prior to the issuance of a certificate of occupancy for any new building or new use.
- G. Off-street parking shall be provided as hereinafter required, prior to the issuance of a certificate of occupancy; provided, where a parking program for a specified area to be carried out by public action is established by an official plan that poses [proposes] parking spaces comparable to the quantitative requirements of this ordinance and includes a time schedule of land acquisition and construction, certificates of occupancy for all land or building uses within such officially planned area shall not be contingent upon prior provision of off-street parking.

Sec. 11.2. - Table of required off-street parking spaces.

(The use is followed by the number of required spaces per unit of measurement, rounded off to the nearest unit).

- A. Residential, including dwelling units in all types of buildings: One—Dwelling unit.
- B. Hospital, convents, homes for aged, convalescent homes: One—Each bed.
- C. Private clubs, fraternities, dormitories: One—Two beds or 100 square feet usable floor area, whichever is greater.
- D. Tourist homes, motels, hotels: One—Each rooming unit and each dwelling unit.
- E. All other uses must demonstrate to the commission adequate parking facilities to accommodate expected needs.

Sec. 11.3. - Off-street parking lot layout, construction and maintenance.

Wherever a parking lot is built as required off-street parking, such parking lot shall be laid out, constructed and maintained in accordance with the following requirements. In determining conformity with the requirements set forth in A. through J., below, the administrative officer may request the findings of a qualified engineer.

- A. Each parking space shall constitute a new land area of at least 180 square feet. The total parking lot space, including access lanes, shall constitute at least 300 square feet of land area per parking space.
- B. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for vehicles.
- C. Where the parking lot abuts a residential district, the required setbacks of parking spaces are:
 - 1. Side lot lines: Five feet from such side lot line.
 - 2. Contiguous common frontage in same block: Five feet from such lot line.
 - 3. Across the street and opposite, with residential lots fronting on such street: Five feet from street lot line.
 - 4. Rear lot line: None.
- D. The land between the setback line and the lot line in a parking lot is for the purposes of this ordinance called a buffer strip. There shall be bumper stops or wheel chocks provided as to prevent any vehicle from projecting over the buffer strip. The ground of the buffer strip shall be used only for the purpose of plant materials.
- E. Where buffer strips are not required, bumper stops or wheel chocks shall be provided, so located as to prevent any vehicle from projecting over the lot line.
- F. Where the parking lot boundary adjoins property zoned for residential use, a suitable chainlink wire or masonry fence shall be provided, but shall not extend into the required front open space of the abutting residential lot. Such fence shall be not less than four feet nor more than six feet in height. Where a chainlink wire fence is used, it shall be supplemented with a visual screen or evergreen plant material at least four feet [in] mature height and maintained in good condition.
- G. The parking lot shall be drained to eliminate surface water.
- H. The surface of the parking lot, including drives and aisles, excepting the buffer strips, shall be constructed of a dustless and durable all-weather surfacing. Lighting shall be arranged to reflect away from residential buildings, residential districts and streets.
- I. Parking structures may be built to satisfy off-street parking requirements when located in commercial or industrial zone districts, subject to the area, height, bulk and placement regulations of such district in which located.

- J. Automotive sales areas [and filling stations]. Every parcel of land hereafter used as an automobile or trailer sale an automobile filling station shall be subject to the above requirements of this section.

Sec. 11.4. - Off-street loading and unloading.

On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehousing, retailing, display, including a department store, a wholesale store, a market, a hotel, a motel, a hospital, or mortuary, a laundry, dry cleaning or other uses similarly involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services adjacent to the opening used for loading and unloading, designed to avoid interference with public use of streets and alleys. Such loading and unloading spaces shall be an area in minimum ten feet by 40 feet with a 14-foot height clearance and shall be provided according to the following table.

The following table lists the gross usable floor area in square feet and the loading and unloading spaces required in terms of square feet of usable floor area:

0 to 20,000	1 space
20,000 to 100,000	1 space plus 1 space for each 20,000 square feet of excess over 20,000 square feet
100,000 to 500,000	5 spaces plus 1 space for each 40,000 square feet of excess over 100,000 square feet
Over 500,000	15 spaces plus 1 space for each 80,000 square feet of excess over 500,000 square feet

ARTICLE 12. - SPECIAL LAND USE PERMIT REQUIREMENTS

Sec. 12.1. - Intent and purpose.

It is the intent of this section to provide a set of procedures and standards for special uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole.

It is the expressed purpose of the regulations and standards herein to allow, on one hand, practical latitude for the investor or developer, but at the same time maintain adequate provision for the protection of the health, safety, convenience and general welfare of the community.

For the purposes of this ordinance the following special land use categories are identified, which, together with cited special land uses within the various districts, are operational under the conditions and standards of this chapter [article]:

- A. Institutional uses.
- B. Clubs, lodges and meeting places for other organizations.
- C. Funeral homes and mortuaries.
- D. Gasoline filling stations.
- E. Miscellaneous special land uses.

The following, together with previous references in other chapters [articles] of this ordinance, designate the requirements, procedures and standards which must be met before a special use permit can be issued.

Sec. 12.2. - Permit procedures.

The application for a special land use permit shall be submitted and processed under the following procedures:

- A. *Submission of application.* An application shall be submitted through the zoning administrator on a special form for that purpose. Each application shall be accompanied by the payment of a fee as established by the village council.
In the event the allowance of a desired use requires both a rezoning and a special land use permit, both requests may be submitted jointly, subject to the following:
 1. The ordinance procedures for each shall be followed as specified in this article.
 2. All applicable standards and specifications required by this ordinance shall be observed.
- B. *Data required.*
 1. The special form shall be completed in full by the applicant including a statement by the applicant that section 12.3 can be complied with.
 2. Final approval of a site plan that conforms to the requirements of section 6.1.
 3. Preliminary plans and specification of the proposed development.
- C. *[Review by] the Village of Pigeon planning commission.* The application, together with all required data, shall be transmitted to the planning commission for review. After review and study of any application and related material, the planning commission shall hold a public hearing after at least one publication in a newspaper of general circulation in the community, not less than 15 days prior to the said hearing. All property owners and residents within 300 feet of the boundary of the property in question shall receive notice by mail or personal delivery, not less than five and not more than 15 days before the public hearing. The notice shall:
 1. Describe the nature of the special land use request.
 2. Indicate the property subject to the special land use request.
 3. State when and where the public hearing will be held.
 4. Indicate when and where comments will be received.
- D. *Permit expiration.* A special land use permit issued pursuant to this chapter [article] shall be valid for one year from the date of issuance of said permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this one-year period, the zoning administrator shall notify the applicant in writing of the expiration of said permit.
- E. *Revocation.* The planning commission shall have the authority to revoke any special land use permit after it has been proven that the holder of the permit has failed to comply with any of the applicable requirements in

article 12, or other applicable sections. Written notice of violation shall be given by the zoning administrator to the holder of the permit and correction must be made within 30 days. After this 30-day period, an additional notice shall be given by the zoning administrator, that the use for which the permit was granted must cease within 30 days from date of second notice.

- F. *Reapplication*. No application for a special land use permit which has been denied wholly or in part by the planning commission shall be resubmitted until the expiration of one year or more from the date of such denial, except on the grounds of newly discovered evidence or proof or change of conditions.

Sec. 12.3. - Permit standards.

Before formulating recommendations on a special land use permit application, the planning commission shall establish that the following general standards, as well as specific standards, shall be satisfied:

- A. *General standards*. The planning commission shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each proposed use will:
1. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
 2. Not be hazardous or disturbing to existing or intended uses in the same general area and will be an improvement to property in the immediate vicinity and to the community as a whole.
 3. Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.
 4. Not create excessive additional requirements at public cost for public facilities and services.
 5. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
 6. Be consistent with the intent and purpose of the zoning district in which it is proposed to locate such use.
- B. *Conditions and safeguards*. The planning commission may stipulate such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this ordinance will be observed. The breach of any condition, safeguard, or requirements shall automatically invalidate the permit granted.
- C. *Specific requirements*. The general standards and requirements of this section are basic to all uses authorized by special land use permit. The specific and detailed requirements set forth in the following sections relate to particular uses and are requirements which must be met by these uses where applicable.
- D. *Permitted uses*. Uses permitted by special land use permit shall be those listed by districts as noted in article 7, 8, [and] 9 and as herein regulated, controlled or defined.

Sec. 12.4. - Institutional uses.

- A. *Authorization*. In recognition of the many institutional types of nonresidential functions that have been found compatible and reasonably harmonious with residential uses, certain institutional uses specified in this section

may be authorized by the issuance of a special land use permit. Such permit shall not be issued unless all the procedures and applicable requirements stated herewith, together with the additional requirements of this section, can be complied with.

- B. *Uses.* The following uses may be authorized in those districts as noted under articles 7 and 8 and provided the applicable conditions are complied with:
1. *Institutions for human care.* Hospitals, sanitariums, nursing or convalescent homes, homes for the aged, foster care facilities, philanthropic and charitable institutions.
 2. *Religious institutions.* Churches or similar places of worship, convents, parsonages, and parish houses, and other housing for clergy.
 3. *Educational and social institutions.* Public and private elementary and secondary schools, and institutions for higher education, provided that none are operated for profit, auditoriums and other places of assembly, including charitable and philanthropic activities other than activities conducted as a gainful business of a commercial nature.
 4. *Public buildings and public service installations.* Publicly owned and operated buildings and structures, transformer stations and substations, and gas regulator stations.
- C. *Institutions specifically prohibited.* The following type of use shall not be permitted in any residential district:
1. Camps or correctional institutions.
- D. *Site location principles.* The following principles shall be utilized to evaluate the proposed location of an institutional use within a permitted district. These principles are alterable, depending upon the specific conditions of each situation, but they shall be applied by the planning commission as general guidelines to help assess the impact of an institutional use upon the district in which such use is proposed to be located.
1. Any institutional structure or use to be located within a residential district should preferably be located at the edge of a residential district, abutting either a business or industrial district, or adjacent to a public open space.
 2. Motor vehicle entrance should be made on a principal arterial as to avoid the impact of traffic generated by the institutional use upon a residential area.
 3. Site locations should be preferred that offer natural or manmade barriers that would lessen the effect of the intrusion of the institutional use in a residential area.
- E. *Development requirements.* A special land use permit shall not be issued for the occupancy of a structure or parcel of land or for the erection, reconstruction, or alteration of a structure unless complying with the following site development requirements. These requirements are not alterable except as noted:
1. Hospitals, schools, churches, temples and synagogues.
 - a. The proposed site shall have at least one property line abutting a principal or minor arterial or a collector as classified on the adopted major street plan. All ingress and egress to the off-street parking area (for guests, employees, staff) shall be directly from the major thoroughfares. The depth of the lot shall be three times the width of the lot.
 - b. All two-story structures shall be at least 60 feet from all boundary lines or street lines. Buildings less than two stories shall be no closer than 40 feet to any property or street lines. For buildings above two stories, the building shall be set back from the initial 60 feet setback an additional one foot for each foot or [of] additional height above two stories.

- c. No more than 35 percent of the gross site shall be covered by buildings.
 - d. Ambulance and delivery areas shall be obscured from all residential view by a solid masonry wall six feet in height. Access to and from the delivery and ambulance area shall be directly from a principal or minor arterial or collector street.
 - e. All signs shall be in accordance with the schedule outlined in section 10.4.
 - f. Off-street parking space shall be provided in accordance with the schedule outlined in article 11.
2. For all other uses that may be permitted, except public utility transformer stations and substations, gas regulator stations, and housing for religious personnel attached to a church or school function:
- a. The proposed site shall be at least one acre in area.
 - b. No building shall be closer than 40 feet to any property or street line. No building shall be erected to a height greater than that permitted in the district in which it is located, except as may be provided under height exceptions for the district in question.
 - c. No more than 25 percent of the gross site area shall be covered by buildings.
 - d. All buildings shall be of an appearance that shall be harmonious and unified as a group of buildings and shall blend appropriately with the surrounding area.
 - e. All signs shall be in accordance with the schedule outlined in section 10.4.
 - f. Off-street parking shall be provided in accordance with the schedule outlined in article 11. No parking space shall be provided in the front yard and the parking area shall be screened from surrounding residential areas by a wall or fence, in combination with suitable plant materials, not less than four feet in height.
3. For public utility transformer stations and substations, gas transformer stations and housing for religious personnel attached to a church or school function:
- a. Lot area and lot width shall be no less than that specified for the district in which the proposed use would be located.
 - b. Yard and setback requirements shall be no less than that specified for the district in which the proposed use would be located.
 - c. No building shall be erected to a height greater than that permitted in the district in which the proposed use would be located.
 - d. No more than 25 percent of the lot area may be covered by buildings.
 - e. All buildings shall be harmonious in appearance with the surrounding residential area and shall be similar in design and appearance to any other buildings on the same site development.
 - f. Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.
 - g. All signs shall be in accordance with the schedule outlined in section 10.4.
 - h. Off-street parking space shall be provided in accordance with the schedule outlined in article 11.

Sec. 12.5. - Clubs, lodges and meeting places for other organizations.

- A. *Authorization.* These uses may be permitted within office, as well as the residential-office districts by issuance of

a special land use permit pursuant to district allowance and all standards herein specified.

B. *Uses.* The following uses may be authorized in those districts as noted under article 8 and 9, and provided the applicable requirements are complied with:

1. Service clubs and lodges.
2. Meeting places for other organizations.
3. Athletic and sports clubs.

Accessory uses for a permitted use shall be constructed to include restaurant and other eating or drinking establishments and such retail sale directly connected with the conduct of the principal use.

C. *Site location principles.* The following principles shall be used in evaluating the proposed location of a permitted use under section 12.5:

1. Allowed use should be located to be immediately accessible from a principal or minor arterial or collector street as classified by the adopted major street plan.
2. Site location should be allowed which enhances the natural environment and amenities for community life.

D. *Development requirements.* The following standards shall be applicable as basic requirements for the use of land or for the erection, reconstruction, or alteration of permitted structures:

1. Lighting shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from all residential lands which adjoin the site.
2. Off-street parking shall be provided as required in article 11, which shall include additional spaces which may be required for such accessory uses as a restaurant or bar.
3. Signs shall be in accordance with the schedule outlined in section 10.4.
4. Minimum yard and height standards require that no building shall be closer than 50 feet to any property or street line. No building shall be erected to a height greater than that permitted in the district in which it is located, except as may be provided under height exceptions for the district in question.

Sec. 12.6. - Funeral homes, mortuaries and crematoriums.

A. *Authorization.* Because funeral homes and mortuaries perform special and necessary services to urban populations, and in recognition of the unique locational and site development characteristics of these functions, such uses of land may be authorized by special land use permit under article 7 when all of the procedures and applicable requirements stated and the additional requirements of this section can be complied with.

B. *Uses that may be permitted.* Funeral homes, mortuaries and crematoriums, provided that the conduct of all aspects of activities related to such uses shall take place within the principal building and not in an accessory building. A caretaker's residence may be provided within the principal building.

C. *Development requirements.* The following requirements for site development, together with any other applicable requirements of this ordinance, shall be complied with:

1. *Minimum site size.* One-acre site with a minimum width of 150 feet.
2. *Site location.* The proposed site shall front upon a major or minor arterial or principal collector as classified on the adopted street plan. All ingress and egress to the site shall be directly from said thoroughfare.
3. *Yards.* Front, side and rear yards shall be at least 40 feet, except on those sides adjacent to nonresidential districts, wherein it shall be 20 feet. All yards shall be appropriately landscaped in trees, shrubs, and grass.

No structures or parking areas shall be permitted in said yards, except that rear yards may be used for parking purposes under the requirements specified, and except for required entrance drives and those walls and/or fences used to obscure the use from abutting residential districts.

4. Signs as provided in section 10.4.
5. Off-street parking as provided in article 11.

Sec. 12.7. - Gasoline filling stations.

- A. *Authorization.* Facilities to serve motor vehicles are of considerable importance within urbanizing areas where the basic mode of transportation is by private automobile. The continued growth of motor vehicle registrations and of total miles traveled annually has stimulated additional needs for retailing gasoline and associated products. To meet the demands of location and space for this type of retail facility requires careful planning to properly integrate the service station function into the pattern of other commercial and retail activities serving the community. Because such integration requires special considerations relating to location, site layout, storage facilities, traffic, safety, and compatibility with surrounding uses of land, this ordinance requires conformance to the standards set forth in this section before a building permit may be issued for a gasoline service station under a special land use permit within a B or I zoning district.
- B. *Objectives.* It is the intent of this section to exercise a measure of control over service stations and permitted buildings, and their sites, and to establish a basic set of standards within which individual solutions may be developed to meet the retail service needs of motor vehicles. The objectives of the regulations set forth in this section are to:
 1. Promote the type of development which will be compatible with other land use activities located in areas where service stations will be constructed.
 2. Control those aspects of service station design, site layout, and operation which may, unless regulated, be damaging to surrounding uses of land.
 3. Minimize the traffic congestion and safety hazards which are inherent in service station activity.
- C. *Uses that may be permitted.* Gasoline filling stations as defined in article 2, section 2.8 [2.1], including the servicing of motor vehicles under 1½ tons rated capacity such as minor adjustments to motor vehicles, sales and installation of automotive accessories, and other servicing of motor vehicles, provided such accessory uses and services are conducted wholly within a completely enclosed building.
- D. *Site development requirements.* The following requirements for site development, together with any other applicable requirements of this ordinance, shall be complied with:
 1. *Minimum site size.* Fifteen thousand square feet with a minimum width of 150 feet.
 2. *Site location.* The proposed site shall have at least one property line on a principal or minor arterial.
 3. *Building setback.* The service station building, or permitted buildings, shall be set back 50 feet from all street right-of-way lines and shall not be located closer than 50 feet to any property line in a residential district unless separated therefrom by a street or alley.
 - a. No installations, except walls or fencing and permitted signs, lighting, and essential services, may be constructed closer than 20 feet to the line of any street right-of-way.
 - b. Hydraulic hoists, pits, and all lubrication, greasing, automobile washing, and repair equipment shall be entirely enclosed within a building.

4. *Access drives.* No more than two driveway approaches shall be permitted directly from any principal or minor and more than one driveway approach from any other street, each of which shall not exceed 35 feet in width at the line.
 - a. If the service station or permitted building site fronts on two or more streets, the driveways shall be located as far from the street intersection as practicable, but not less than 50 feet.
 - b. No driveway or curb for a driveway shall be located within ten feet of an adjoining property line and shall be no less than 25 feet from any adjacent lot within an R district as extended to the curb or pavement.
 - c. Any two driveways giving access to a single street should be separated by an island with a minimum dimension of 20 feet at both the right-of-way line and the curb or edge of the pavement.
5. *Curbing and paving.* A raised curb at least six inches in height shall be erected along all of the street property lines, except at driveway approaches. The entire service area shall be paved with a permanent surface of concrete or asphalt.
6. *Fencing.* A solid fence or wall four feet in height shall be erected along all property lines abutting any lot within a residential district or abutting an alley which abuts a residential district.
7. *Signs.* Signs shall be allowed as provided for in section 10.4. No signs, whether permanent or temporary, shall be permitted within the public right-of-way.
8. *Off-street parking.* Off-street parking shall be provided in conformance with the schedule outlined in article 11.
9. *Lighting.* Exterior lighting shall be so arranged so that it is deflected away from adjacent residential districts and adjacent streets. The height of lighting shall not exceed 12 feet when located within 200 feet of a residential district and further may not exceed a height of 16 feet otherwise.

Sec. 12.8. - Miscellaneous special uses.

A. *Special open space uses.*

1. The proposed site shall have at least one property line abutting a major thoroughfare or principal collector as classified on the adopted street plan. All ingress and egress to the site shall be directly from said thoroughfare or collector street.
2. All buildings and structures shall be set back at least 100 feet from any property or street line. Whenever the installation abuts upon property within a residential district, this 100-foot setback shall be landscaped with trees, grass, and structural screens of a type approved by the board of zoning appeals to effectively screen the installation from surrounding residential properties.
3. No more than 35 percent of the gross site shall be covered by buildings.
4. Accessory uses for a permitted use shall be constructed to include restaurants and other eating or drinking establishments and such retail sales directly connected with the principal open space use.

ARTICLE 13. - ADMINISTRATION

Sec. 13.1. - General requirements.

The provisions of this ordinance shall be administered by the planning commission, the board of zoning appeals, and the village council in conformance with applicable State of Michigan enabling legislation.

- A. *Responsibility.* The village council shall employ a zoning administrator to act as its officer to effect proper and administration of this ordinance. The term of employment, compensation, and any other conditions of employment be established by said council. For the purposes of this ordinance, the zoning administrator shall have the power of a police officer.
- B. *Duties of zoning administrator.*
1. All applications for permits or certificates shall be submitted to the zoning administrator, who may issue certificates of zoning compliance when all applicable provisions of this ordinance have been met. The zoning administrator shall be empowered to make inspections of buildings or premises to carry out his duties in the enforcement of this ordinance.
 2. The zoning administrator shall record all nonconforming uses existing at the effective date of this ordinance for the purpose of carrying out the provisions of section 6.2 of this ordinance.
 3. Under no circumstances is the zoning administrator permitted to make changes in this ordinance nor to vary the terms of this ordinance in carrying out his duties.
- C. *Permits.* No building or structure shall be erected, moved, enlarged, substantially altered, or razed nor shall any work be started on such structures or buildings after the effective date of the ordinance, until a site permit has been obtained from the zoning administrator. No such site permit shall be issued unless the request for the site permit is in conformance with the provisions of this ordinance or amendments adopted from time to time after the effective date of this ordinance. Site permits issued shall remain valid for one year from date of issue and, unless construction is started within that year, the permit expires. In the event a site permit expires, a new permit must be obtained prior to commencing construction.
- D. *Application requirements.* As a portion of the application for a site permit, the following information shall be included on a drawing of the property or site to scale showing:
1. Shape, area, dimensions, of the lot or parcel and location of street(s).
 2. Location, dimensions and height of existing and/or proposed structures to be erected, altered or moved on the lot.
 3. Use intended and intensity (such as: single-family dwelling, farm building or trailer).
 4. Yards, open space, setbacks, and parking dimensions (if off-street parking is required), including driveways.
 5. Flood area and wetlands. The zoning administrator shall seek to determine and may request needed information to make a finding if the permit being requested is within 500 feet of an existing river or creek. In those instances where a building or structure is proposed to be built within 500 feet of a river or creek, as defined by the State of Michigan, the zoning administrator shall not issue a site permit unless plans are approved by the Michigan department of natural resources.
 6. Other permits required prior to obtaining building permit:
 - a. Sewer or septic system permit: Huron County health department.
 - b. Soil erosion control measures and plan approved for sites where more than one acre of land is being disturbed, or if site is within 500 feet of a lake, stream or creek: Huron County building and zoning department.
 - c. Culvert permit: Huron County road commission.
 - d. Any other permits as may be required, e.g., building, electrical, plumbing, mechanical: Huron County

building and zoning department, Bad Axe, Michigan.

7. Any other information deemed necessary by the zoning administrator to assure that the site permit request is in compliance with the provisions of this ordinance.
8. The site permit shall be required to secure a building permit issued by the building inspector operating within the Village of Pigeon.
9. Fees for the issuance of site permits shall be made to the Pigeon village treasurer in advance of the issuance of the site permit. Such fees are necessary to cover the costs involved and shall be established from time to time by the Pigeon village council.

Sec. 13.2. - Enforcement.

The zoning administrator shall enforce the provisions of this ordinance.

- A. *Violation and penalties.* Violations of any provisions of this ordinance are declared to be a nuisance per se. Any and all building or land use activities considered possible violations of the provisions of this ordinance observed by or communicated to an official or employee shall be reported to the zoning administrator.
 1. *Inspection of violation.* The zoning administrator shall inspect each alleged violation or violations he observes or is aware of and shall order correction, in writing, of all conditions found to be in violation of this ordinance.
 2. *Correction period.* All violations shall be corrected within a period of 30 days after the order to correct is issued or in such longer period of time, not to exceed six months, as the zoning administrator shall determine necessary and appropriate. A violation not corrected within this period shall be reported to the village's legal council [counsel], who is hereby authorized to and shall initiate procedures to eliminate such violation.
 3. *Penalties.* Every person, whether as principal, agent, servant, employee or otherwise, including the owners of any building, structure or premises or part thereof where any violation of this ordinance shall exist or shall be created, who shall violate or refuse to comply with any of the provisions of this code, shall be guilty of maintaining a nuisance per se and upon conviction thereof shall be punished by a fine of not more than \$500.00 or by imprisonment for a term of not to exceed 90 days, or by both such fine and imprisonment, within the discretion of the court; for each and every day the violation continues beyond the permissible grace period, a separate offense shall be declared.
 4. *Cumulative rights and remedies.* The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

Sec. 13.3. - Amendment.

- A. *[Generally.]* The village council may amend the regulations and provisions stated in the text of this ordinance and the boundaries of zoning districts shown on the zoning map may be amended, supplemented, or changed by ordinance of the village council in accordance with the applicable zoning enabling legislation of the State of Michigan.
- B. *Initiation of amendments.* Proposals for amendments, supplements, or changes may be initiated by the village council of its own action, by the planning commission or by petition of one or more owners, or their agents, of property involved in by the proposed amendment.

C. *Amendment procedures.*

1. *Filing of applications.* All petitions for amendments to this ordinance shall be in writing, signed and filed in triplicate with the village clerk for presentation to the village council. A fee, as established by the village council, shall be paid at the time of application to cover costs of necessary advertising, for public hearings, and investigation of the amendment request. The village council shall transmit the application to the planning commission for recommended action.
2. *Referral of petition to planning commission.* The planning commission shall consider each petition for amendment in terms of its own judgment on particular factors related to the individual petition and in terms of the likely effect of such proposal upon the development of the lone case. The planning commission may recommend any additions or modifications to the original amendment petition.
3. *Public hearing and notice thereof.* After deliberation on any petition, the planning commission shall conduct at least one public hearing, notice of the time and place of which shall be given by at least one publication in a newspaper of general circulation in the community not less than 15 days prior to the date set for the public hearing. Not less than 15 days' notice of the time and place of such hearing shall also be given, by mail, to each public utility company servicing the community, and which has registered its name and mailing address for the purpose of receiving such notice, and to each railroad company servicing the community, and to each railroad within the zone affected. The notice shall include the places and times at which the tentative text and/or map amendment to the zoning ordinance may be examined. An affidavit of mailing shall be maintained. Additionally, it is required that, if an individual property or several adjacent properties are proposed for rezoning, the notice of the proposed rezoning and hearing shall be given to the property owners at least 15 days prior to the public hearing, stating the time, place, date and purpose of the hearing. Notice shall also be given to all property owners and residents within 300 feet of the boundary of the property in question by mail or personal delivery, not less than five and not more than 15 days before the public hearing.
4. *[Action by] village council.* Upon receipt of the planning commission's report and a summary of the public hearing comments, the village council shall review said report. If the village council shall deem that any amendments, changes, additions or departures are advisable to the proposed ordinance amendment recommended by the planning commission, it shall refer the same back to the planning commission for a report thereon within a time specified by the village council.

After receiving the proposed amendment recommendations heretofore specified, the village council may require a second public hearing on the proposed amendment within 30 days of receipt of the planning commission's report. Thereafter, the village council may deny, or adopt, the amendment with or without any changes.

5. *Resubmittal.* No application for a rezoning, which has been denied by the village council, shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the village council to be valid.
6. *Effect of protest to proposed amendment.* In case a protest against any proposed amendment to this ordinance is presented in writing to the village clerk prior to the public hearing hereon, duly signed by owners of 20 percent or more of the frontage, excluding public lands, to be altered, or by the owners, excluding public lands, of 20 percent or more of the frontage directly opposite to the frontage to be altered, such amendment shall not be passed except by a three-fourths vote of the village council.

7. *Notice of adoption.* Within 15 days following adoption of an ordinance or an amendment by the village council, adoption, containing the information specified in this new section, must be published in a newspaper of general circulation in the village. Said notice shall include the following information:
- a1. For newly adopted ordinances, the following statement: "A Zoning Ordinance regulating the development and use of land has been adopted by the Village Council of the Village of Pigeon."
 - a2. For amendment to an existing ordinance, a summary of the regulatory effect of the amendment or the text of the amendment.
 - b. The effective date of the ordinance.
 - c. The place and time where a copy of the ordinance may be purchased or inspected.

Sec. 13.4. - Board of zoning appeals.

A. *Creation and membership.*

1. The board of zoning appeals shall consist of six members who shall be appointed by the village council and have the duties, responsibilities and powers that are provided for them by Act [No.] 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended. Two appointed members of the planning commission may be appointed (to the board of appeals) by the village council.
2. Each member shall be appointed for a term of three years. Appointments for the first year shall be for a period of one year for two members, two years for two members and three years for the remaining two members. Appointment of the board of appeals shall be consistent with the existing membership at the time of enactment of this ordinance. Appointment of terms for subsequent years shall be made effective on March 1.

B. *Organization and procedures.*

1. *Rules of procedure.* The board of zoning appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The board shall choose its chairperson and in his/her absence an acting chairperson.
2. *Meetings.* Meetings shall be held at the call of the chairman and at such times as the board of zoning appeals may determine. All meetings by the board of zoning appeals shall be open to the public. The board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance.
3. *Records.* Minutes shall be recorded of all proceedings which shall contain evidence and dates relevant to every case considered together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the village clerk and shall be made available to the general public. The village clerk or a duly authorized assistant shall act as secretary for the board of zoning appeals.
4. *Counsel.* Legal council [counsel] for the village shall act as legal council [counsel] for board of zoning appeals and shall be present at all meetings upon request by the board of zoning appeals or at the direction of the village council.
5. *Hearings.* When a notice of appeal has been filed in proper form with the board of zoning appeals, through the village clerk, the board shall immediately place the said request for the appeal on the calendar for hearing, and shall cause notices stating the time, place and object of the hearing to be served, personally or by mail, addressed to the parties making the request for appeal, at least 12 days prior to the date of the scheduled hearing. All notices shall be sent to the addresses stated on the application form.

Any person may appear and testify at the hearings, either in person or by duly authorized agent or attorney. The board of zoning appeals may recess such hearings from time to time, and, if the time and place of the continued hearing be publicly announced at the time of adjournment of the board hearing, no further notice shall be required. The board shall give due notice to all property owners within 300 feet of the property affected, said notice being given at least 12 days before the hearing date.

6. *Decisions.* The board of zoning appeals shall return a decision upon each case within 30 days after a request or appeal has been filed unless a further time is agreed upon with the parties concerned. Any decision of the board of zoning appeals shall not become final until the expiration of five days from the date of entry of such order, unless the board of zoning appeals shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.
7. *Majority vote.* The concurring vote of two-thirds of the members of the board of zoning appeals shall be necessary to reverse any order, requirement, decision, or determination of the zoning administrator or to decide in favor on the applicant on any matter upon which they are required to pass under this ordinance or to effect any variation in the ordinance.

C. *Appeals.*

1. *Filing of appeals.* Appeals to the board of zoning appeals may be made by any person aggrieved, or by any officer, department, or board of the village government. Any appeal from the ruling of the zoning administrator concerning the enforcement of the provisions of this ordinance may be made to the board of zoning appeals, through the village clerk, within ten days after the date of the delivery of the zoning administrator's decision. Such appeal shall be filed with the zoning administrator and shall specify the grounds for the appeal. The village clerk shall immediately transmit to the secretary of the board of appeals the record upon which the action appealed from was taken. The village clerk shall forward a copy of the notice of appeal to the zoning administrator.
2. *Stay.* An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator, after notice of appeal has been filed with him, [certifies] that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stated [stayed] otherwise than by a restraining order, which may be granted by the board of zoning appeals or, on application, by a court of record.
3. *Fees.* A fee as established by the village council shall be paid to the village treasurer at the time of filing application with the board of zoning appeals. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, fees of the board members, and other expenses incurred by the board of zoning appeals in connection with an appeal. The village council shall determine the fee to be paid for the board of appeals members.

D. *Duties and powers.* The board of zoning appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this ordinance, but does have power to act on those matters where this ordinance provides for an administrative review, interpretation, variance exception, temporary or conditional approval permit as defined in this section.

1. *Review.* The board of zoning 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 in administering or enforcing any provisions of this ordinance.
2. *Interpretation.* The board of zoning appeals shall have the power to:

- a. Interpret, upon request, the provisions of this ordinance in such a way as to carry out the intent and purpose of this ordinance.
 - b. Determine the precise location of the boundary lines between zoning districts.
 - c. Classify a use or an accessory use customarily incidental to the principal use, which is not specifically mentioned as part of the use regulations of any zoning district, so that it conforms to a comparable permitted or prohibited use in accordance with the purpose and intent of each district.
 - d. Determine the off-street parking and loading space requirements of any use not specifically mentioned in article 11.
 - e. Determine if a change in a nonconforming use is more detrimental than the existing use, in accordance with article 6, section 6.2.
 - f. Hear appeals with regard to decisions on the issuance of special land use permits as governed by this ordinance.
3. *Variances*. The board of zoning appeals shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, provided all of the basic conditions listed herein and any one of the special conditions listed thereafter can be satisfied:
- a. *Basic conditions*. That any variance granted from this ordinance:
 - (1) Will not be contrary to the public interest or to the intent and purpose of this ordinance.
 - (2) Shall not permit the establishment within a district of any use within that zone district, or any use or dimensional variance for which a conditional use permit is required.
 - (3) Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
 - (4) Is not one where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.
 - (5) Will relate only to property that is under control of the applicant.
 - b. *Special conditions*. When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one of the following special conditions can be clearly demonstrated:
 - (1) Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
 - (2) Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this ordinance.
 - (3) Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
 - c. *Rules*. The following rules shall be applied in the granting of variances:
 - (1) The board of zoning appeals may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this ordinance. The

breach of any such condition shall automatically invalidate the permit granted.

- (2) Each variance granted under the provisions of this ordinance shall become null and void unless:
 - (a) The construction authorized by such variance or permit has been commenced within six months after the granting of the variance.
 - (b) The occupancy of land, premises or buildings authorized by the variance has taken place within one year after the granting of the variance.
- (3) No application for a variance which has been denied wholly or in part by the board of zoning appeals shall be resubmitted for a period of one year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the board to be valid.
4. *Special exceptions.* When, in its judgment, the public welfare will be served and the use of neighboring property will not be injured thereby, the board of zoning appeals may, in a specific case, after due notice and public hearing and subject to appropriate conditions and safeguards, determine and vary the application of the regulations of this ordinance in harmony with the general character of the district and the intent and purpose of this ordinance. The granting of a special exception shall in no way constitute a change in the basic uses permitted in the district affected nor on the property wherein the exception is permitted. The board of zoning appeals may issue a conditional permit as special exception for the following land and structure uses:
 - a. *Temporary permits.* For temporary structures, such as a garage or partial structure to be used for operation and construction purposes, including mobile homes or house travel trailers not located in a licensed mobile home park, subject to the following procedures and limitations:
 - (1) An application requesting a permit for the erection or movement of a temporary structure to be used in operating or construction activities, including trailer coaches, shall be made to the board of zoning appeals on a special form used exclusively for that purpose.
 - (2) The board of zoning appeals shall give due notice to the applicant and to all property owners within 300 feet of the property affected at least five days before the hearing will be held on such application.
 - (3) A temporary permit shall not be granted unless the board of zoning appeals finds adequate evidence that the proposed location of the use will not be detrimental to property in the immediate vicinity, and that village utilities for water and sanitary sewer are connected by the applicant.
 - (4) The board of zoning appeals may impose any reasonable conditions in addition to the district requirements in which the use is proposed, including setbacks, land coverage, off-street parking, landscaping and other requirements deemed necessary to protect adjoining properties and the public welfare. The violation of any such condition shall automatically invalidate the permit.
 - (5) Unique and temporary conditions shall exist which justify the need for a trailer coach on a given lot or parcel such as a dwelling for seasonal farm labor, aged family members, domestic employees or similar dwelling needs of a temporary nature that relate to the use of the principal dwelling on the property in question.
 - (6) The permit issued shall clearly set forth the conditions under which the permit is granted and shall state that the proposed temporary dwelling structure is to be vacated upon expiration of a specific time limit not to exceed 12 months. No permit shall be transferable to any other owner or occupant. The permit may be renewed in the case of trailer coaches if the conditions of (1) and (5) above can be met again.

5. *Conditional permits.* When conditions exist that are unique to a particular situation, a conditional permit may be with specific limitations imposed by the board of zoning appeals. The land or structure uses may be permitted to be established and to continue in use as long as the unique conditions to the use exist. The permit may be cancelled if the conditions upon which the permit was issued cease to exist. The permit issued shall contain all the specified conditions under which continued use may be allowed. Conditional permits may be issued for the following uses:
- a. The board of zoning appeals may authorize a reduction, modification, or waiver of any of the off-street parking or off-street loading regulations in article 11, when it can be demonstrated that circumstances of extreme practical difficulty exist that would unquestionably result in hardship to the applicant when a literal interpretation of the regulations is required. Hardship shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land. A hardship that is a result of any action of the applicant shall not be considered by the board of zoning appeals. Under all these circumstances, in no case shall the off-street parking or off-street loading standards be reduced by more than 25 percent.
 - b. Joint use of off-street parking areas may be authorized when the capacities outlined in article 11, section 11.1, are complied with and when a copy of an agreement between joint users shall be filed with the application for a building permit, and is recorded with the register of deeds of Huron County, guaranteeing continued use of the parking facilities for each party.
 - c. Other conditional uses based upon a finding of fact by the board of zoning appeals that indicate conditions exist that are unique to a particular situation, however, not contrary or in contradiction to the intent of the district within which the proposed use is located. Conditions imposed shall do the following:
 - (1) Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the land use or activity [under] consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - (2) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - (3) Be necessary to meet the intent and purpose of the zoning regulations, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Conditional uses shall be based upon a finding of fact by the board of zoning appeals that indicates conditions exist that are unique to a particular situation, however, not contrary or in contradiction to the intent of the district within which the proposed use is located.
6. *Bond for compliance.* In authorizing any variance, or in granting any conditional or special approval permits, the board of zoning appeals may require that a bond of ample sum, but not to exceed the cost of the project, be furnished to insure compliance with requirements, specifications and conditions imposed with the grant of variance. A certified check or surety bond shall be deposited with the village clerk and returned upon certification of completion by the zoning administrator.

ARTICLE 14. - REPEALS

Sec. 14.1. - Other ordinances.

All ordinances inconsistent with the provisions and regulations of this ordinance are hereby amended to conform to the provisions and regulations of this ordinance to the extent of such inconsistency or conflict.

Sec. 14.2. - Licenses.

Nothing herein contained shall be deemed to repeal or amend any ordinance requiring a permit or license or both or [to] cover any business.

ARTICLE 15. - SEVERABILITY AND EFFECTIVE DATE

Sec. 15.1. - Severance clause.

Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Sec. 15.2. - Effective date.

This ordinance shall become effective on December 1, 1985. Approved by the village council on November 11, 1985.

ADD FIGURE - ZONING MAP