

VILLAGE OF PORT AUSTIN

ZONING ORDINANCE No. 106-04

(As amended and adopted November 30, 2004. Effective January 4, 2005)

**AS AMENDED AND ADOPTED JULY 27, 2009.
EFFECTIVE DATE: SEPTEMBER 2, 2009.**

**AS AMENDED AND ADOPTED June 11, 2012
EFFECTIVE DATE: June 19, 2012**

AS AMENDED AND ADOPTED January 12, 2015

AS AMENDED AND ADOPTED October 10, 2016

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**VILLAGE OF PORT AUSTIN
HURON COUNTY, MICHIGAN**

VILLAGE COUNCIL ANNUAL FEE RESOLUTION

Amended 7/09/12

| <u>ZONING ORDINANCE</u> | <u>FEE</u> |
|---|--|
| Zoning Compliance Permit <i>Decks, Fences, Signs, Car Ports, Accessory Buildings, or Additions (400 sq. feet or less)</i> | \$75.00 |
| New Structures or Additions (over 400 sq. feet) | \$300.00 |
| Excavating/Grading Permit | \$100.00 |
| Supplemental Review of Homes or Additions (over 400 sq. feet) | \$150.00 |
| Site Plan Review of Condominium Construction | \$700.00 |
| Supplemental Site Plan Review of Condominium Construction | \$350.00 |
| Application for Zoning Change | \$300.00 |
| Special Use Application | \$300.00 |
| Variance Application | \$300.00 |
| Special Planning Commission Meeting | \$250.00 |
| Stop Work Order Fine | \$300.00 |
| Professional Fees: Applicants shall be responsible for professional fees (planning, engineering, etc.) incurred by the Village for professional review and or counsel. The Village may require the applicant to escrow funds for professional review and counsel. | |
| | |
| <u>WATER FEE SCHEDULE</u> | |
| Direct Connection Fee | \$1,500.00 |
| Indirect Connection Fee | \$1,000.00 |
| Tap in Fee | Time and Materials |
| Water Commodity Rate | \$3.96/1,000 gallons |
| Water Ready to Serve | \$36.60/REU (residential equivalent unit) per billing |
| | |
| <u>SEWER FEE SCHEDULE</u> | |
| Direct Connection Fee | \$2,400.00 |
| Indirect Connection Fee | \$1,200.00 |
| Tap in Fee | Time and Materials |
| Sewer Commodity Rate | \$7.96/1,000 gallons |
| Sewer Minimum Charge | \$73.96 per billing period 2,000 gallons included |
| Equivalent User Charge | Based on Table 1 of Sewer Ordinance |

CIVIL INFRACTIONS

The following fines shall be imposed for civil infractions.

| Offense Grade | 1 st Offense | 2 nd Offense | 3 rd Offense | 4 th Offense |
|---------------|-------------------------|-------------------------|-------------------------|-------------------------|
| A | \$25.00 | \$50.00 | \$100.00 | \$250.00 |
| B | \$50.00 | \$100.00 | \$250.00 | \$500.00 |
| C | \$100.00 | \$250.00 | \$500.00 | \$750.00 |
| D | \$250.00 | \$500.00 | \$750.00 | \$1000.00 |

This schedule of fees shall be effective immediately.

All other fees not inconsistent with the Civil Infraction Ordinance shall remain in full force and effect.

Motion by: Scott Kasper
Yeas: 5
Absent: Preston, Radlinski

Seconded by: Bill Hogan
Nays: 0
Abstain: 0

Resolution Passed

Dated: May 9, 2005

Marilyn Bruce, President

Dated: May 9, 2005

Judy Binkley, Clerk

ARTICLE I
PREAMBLE, TITLE, PURPOSE, VESTED RIGHTS AND ENACTING CLAUSE

Section 100. Preamble. The Village of Port Austin in Huron County, Michigan, (the “Village”), desires to provide for its orderly development which is essential to the well-being and improvement of the community and which will place no undue burden upon residents, commerce, industry, land owners, developers and natural resources or energy conservation.

Section 101. Title. This amended Ordinance, entitled “2009 Zoning Ordinance, No. 106-04, as amended”, is adopted by the Village pursuant to the provisions of the Michigan Zoning Enabling Act, as amended, being Act 110 of 2006.

Section 102. Purpose. This amended Ordinance is adopted for the purpose of establishing zoning districts in the Village within which districts the use of land and structures for residences, commerce, industry, trade, recreation, public and quasi-public, and special uses, are encouraged, regulated or prohibited; and to empower and authorize the Planning Commission the discretion to approve certain uses in the various zoning districts; to review and approve site plans within its jurisdiction; where and when applicable, to direct the Village Zoning Inspector to issue a Village Zoning Compliance Permit; to provide for the enforcement of the provisions of this amended Ordinance, and to provide for penalties and other relief for a violation of this amended Ordinance; and to provide for further amendment of this amended Ordinance, the Master Plan, and the Future Land Use and Zoning Maps; and to define the terms used in this amended Ordinance. In adopting this amended Ordinance, the Village further desires to assure for:

- The protection of property values and for the compatible development of property within the Village;
- Adequate sites for residences, commerce, industry and recreation;
- The free movement of vehicles upon the streets and highways of the Village;
- The protection of residences, commerce, industry, natural resources and energy consumption against incongruous and incompatible uses of;
- The most appropriate use of land and natural resources for the economic well-being and improvement of the Village as a whole in accordance with a master plan, a future land use map and a zoning map;
- Adequate space for the parking of vehicles of customers and employees using commercial, retail and industrial areas, users of recreational areas, and including reasonable and safe access thereto;
- The uses of land and structures within the Village are related in a manner as to provide for economy in government and mutual support; and,
- The protection of the public health, safety, comfort, convenience and general welfare of all residents, persons and property owners within the Village, in accordance with this amended Ordinance, the master plan, the future land use map and the zoning map.

Section 103. Vested Rights. Nothing in this amended Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, such rights and uses are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the preservation of the public health, safety and welfare.

Section 104. Enacting Clause. Pursuant to the authority of the Michigan Zoning Enabling Act, as amended, being Public Act 110 of 2006; and the adopted master plan, future land use map and zoning map of the Village of Port Austin, County of Huron, State of Michigan; the Village of Port Austin hereby ordains and adopts this “2009 Zoning Ordinance, No. 106-04, as amended”.

ARTICLE II
SHORT TITLE AND EFFECTIVE DATE

Section 200. Short Title. This amended Ordinance shall be known and may be cited as the “2009 Zoning Ordinance, No. 106-04, as amended”.

Section 201. Effective Date. This amended Ordinance shall take effect 30 days after publication of any adopted amendment, as provided by law.

Section 202. Historical Background. Initially made and passed by the Village Council of the Village of Port Austin, Huron County, Michigan on the 26th day of August, 1986.

| | |
|---------------------------------------|-------------------|
| Date of Public Hearing | July 30, 1986 |
| Date of Adoption | August 26, 1986 |
| Date of Publication | September 9, 1986 |
| Date 1986 Ordinance shall take effect | October 9, 1986 |

First amended and passed by the Village Council of the Village of Port Austin, Huron County, Michigan on the 30th day of November 2004.

| | |
|---|-------------------|
| Date of Public Hearing | November 18, 2004 |
| Date of Adoption | November 30, 2004 |
| Date of Publication | December 15, 2004 |
| Date 2004 amended Ordinance shall take effect | January 4, 2005 |

Section 203. As Amended and Adopted in 2009. Further amended and passed by the Village Council of the Village of Port Austin, Huron County, Michigan on the 27th day of July, 2009.

| | |
|---|-------------------|
| Date of Public Hearing | July 16, 2009 |
| Date of Adoption | July 27, 2009 |
| Date of Publication | August 3, 2009 |
| Date 2009 amended Ordinance shall take effect | September 2, 2009 |

ARTICLE III
PERMITS REQUIRED, PERMIT PROCESS, ADMINISTRATION AND ENFORCEMENT

Section 300. Permits Required. No use or development; or excavation in excess of 30 cubic yards in a calendar year; or the construction; or the erection, alteration, moving, or repair; (Note: the terms “alteration” and “repair” shall include any changes in exterior structural parts, light, ventilation, or means of egress and ingress, or other changes affecting or regulated by the applicable Building Code, Housing Law of Michigan, or this amended Ordinance, except for minor repairs or changes not involving any of the aforesaid features); of any building or structure, or part thereof; on any lot or parcel of land in the Village, shall not commence unless and until there has been compliance with this amended Ordinance and the timely issuance of all required permits, including:

1. An approved Village Zoning Compliance Permit, obtained by the land owner, or his authorized designated representative, (the “applicant”), signed by the Village Zoning Inspector, (or in his/her absence or inability to act, an authorized representative of the Village), on behalf of the Village of Port Austin, is needed prior to obtaining any other required permits or commencing any work or activity, as described above, upon any lot or parcel of land in the Village. (Note: A Village Zoning Compliance Permit is not required for re-roofing or re-siding of an existing structure).
2. Upon obtaining an approved Village Zoning Compliance Permit, the applicant is thereby authorized to apply for and obtain any other required (Federal, State, County or Village) permits including a Huron County Building Permit from the Huron County Building and Zoning Office in Bad Axe, Michigan. No County Building Permit shall be issued unless and until a Village Zoning Compliance Permit has been approved and issued by the Village Zoning Inspector as required by this amended Ordinance. (Note: The County has been instructed by the Village to not issue any building permits within the Village unless and until the applicant has first obtained an approved Village Zoning Compliance Permit signed by the Village Zoning Inspector or an authorized designee).
3. No land, building, structure, or part thereof, shall be occupied or put to any use for which a County Building Permit is required by this amended Ordinance, or by any applicable Building Code or Housing Law, unless and until an Occupancy Permit or a County Certificate of Occupancy (“CO”) has been issued.

Section 301. Permit Process.

1. Applicant must complete a Village Zoning Compliance Permit application form which may be obtained at the Village Hall. Applicant must submit the completed application and appropriate fee to the Village Clerk. After recording the completed application and payment of the fee, the Village Clerk will submit the application to the Village Zoning Inspector for review and action.
2. After receiving the application from the Village Clerk, the Village Zoning Inspector will determine, based on this amended Ordinance, if a site plan review is required by the Planning Commission. If not required, the Village Zoning Inspector will make a determination of the compliance with this amended Ordinance within 10 days and return the paperwork to the Village Clerk for recording. The Village Clerk will record receipt of the completed paperwork from the Village Zoning Inspector and then immediately mail, or otherwise make available to the applicant, the approved Village Zoning Compliance Permit. If such application is refused for cause, the Village Clerk shall notify the applicant of such refusal and the cause thereof by mail as soon as received from the Village Zoning Inspector. Any refusal or other determination by the Village Zoning Inspector regarding the

application may be appealed by the applicant to the Village Zoning Board of Appeals as allowed for and described in Section 306 of this amended Ordinance.

3. A record of all approved Village Zoning Compliance Permits issued shall be kept on file in the office of the Village Clerk and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved, or as required by law.
4. The Village Staff does not have authority to provide answers to any questions related to this amended Ordinance. Permit applicants, citizens, residents or other interested parties can submit written questions about this amended Ordinance to the Village Clerk, who in turn can send the written question(s) on to the Village Zoning Inspector.
5. Accessory buildings may not require separate Village Zoning Compliance Permits when included in the permit for the main building, provided they are shown on the site plan and completed at the same time as such main building.
6. In the event the Village Zoning Inspector is physically, or otherwise, unable to make a determination within the 10 day period, the Village Clerk will forward the application, at no additional fee, to the Planning Commission for their consideration, determination and action.
7. An approved Village Zoning Compliance Permit shall expire 12 months from the date of issuance, except as otherwise specified in this amended Ordinance.

Section 302. Duties of Village Zoning Inspector. The Village Zoning Inspector, appointed by the Village President with approval by the Village Council, shall issue a Village Zoning Compliance Permit, and or cause a stop work order, and make the inspections of buildings, structures or premises necessary to carry out his/her duties in the administration and enforcement of this amended Ordinance, and:

1. The Village Zoning Inspector will determine, based on this amended Ordinance, which site plans require a review and approval by the Planning Commission.
2. The Village Zoning Inspector is not permitted to make changes to this amended Ordinance or vary the terms of this amended Ordinance.
3. The Village Zoning Inspector shall not refuse to approve and issue a Village Zoning Compliance Permit when conditions imposed by this amended Ordinance are complied with by the applicant, or after review by, and as directed by the Planning Commission to issue such Zoning Compliance Permit.
4. The Village President, with the approval of the Village Council, may appoint a representative to perform the duties of the Village Zoning Inspector as described herein in the absence of, or the disability of, or the inability of, the Village Zoning Inspector.

Section 303. Zoning Inspector Site Plan.

1. The Village Zoning Inspector, alone and without the need for prior approval of the Planning Commission, may issue an approved Village Zoning Compliance Permit for construction, modification, or enlargement of a one-family, detached dwelling on a lot or parcel that is zoned R-1 or R-2, as well as the construction, modification, or enlargement of accessory buildings, decks, dish-type satellite signal receiving stations (greater than 24 inches across), fences, signs, and

swimming pools on such parcel, so long as the provisions of this amended Ordinance are complied with and a site plan, as described in this section, has been provided to the Village Zoning Inspector.

2. A Site Plan for a Village Zoning Compliance Permit issued by the Village Zoning Inspector alone shall contain the following:
 - A. The name, address and telephone number of the owner of the lot or parcel of land.
 - B. The name, address and telephone number of the developer of the lot or parcel of land.
 - C. Date of Site Plan preparation and subsequent revisions and showing a north arrow.
 - D. The legal description of the lot or parcel of land. A surveyed description shall be required unless the applicant can show that the parcel is a lot of record.
 - E. A scaled drawing which shows the actual shape, location, dimensions, and, at the discretion of the Village Zoning Inspector, the existing and proposed final grade elevations of the lot. Also the shape, size and location with measurements to the lot lines of all buildings, structures and roads or drives presently on the property and to be built, erected, altered or moved.
 - F. A statement indicating the existing and intended use of the lot or parcel of land and of such structures upon it.
 - G. Such other information concerning the lot, parcel of land or adjacent lots as may be reasonably necessary, in the discretion of the Village Zoning Inspector, to determine compliance with this amended Ordinance.
3. For all other uses, development of, or construction upon any lot or parcel of land within the Village of Port Austin, a site plan review and approval by the Planning Commission is required.

Section 304. Planning Commission Site Plan Review and Approval Procedure.

1. **Reviewable Site Plan.** The Planning Commission may approve any Use Permitted by Right or any Use Permitted by Right Subject to Conditions, if the following information has been provided and a determination has been made that the Site Plan conforms to the requirements of this amended Ordinance. Any use designated as a "Special Use" must be reviewed and approved in accordance with the requirements of this amended Ordinance. A Reviewable Site Plan shall contain the following:
 - A. The name, address and telephone number of the owner of the lot or parcel of land.
 - B. The name, address and telephone number of the developer of the lot or parcel of land.
 - C. Date of Site Plan and subsequent revisions and showing a north arrow.
 - D. Scale of not less than 1 inch equals 50 feet, if the subject site is less than 3 acres in size, or 1 inch equals 100 feet, if the subject site is 3 acres or more in size.

- E. Name, address and telephone number of the person responsible for preparation of the Site Plan. All Reviewable Site Plans shall be prepared by a registered architect, registered civil engineer, or registered land surveyor, licensed in the State of Michigan.
- F. The legal description of the lot or parcel of land. A surveyed description shall be required unless the applicant can show that the parcel is a lot of record.
- G. Vicinity map showing the site in relationship to streets, drainage courses and bodies of water.
- H. Dimensions of all property lines.
- I. The area of the lot stated in acres or, if less than an acre, in square feet.
- J. Existing zoning and land use within the boundaries of the site and of properties abutting the site.
- K. Relationship of the subject site to abutting properties and buildings within 100 feet. If the proposed site is part of a larger site, indicate the boundaries of the total site and the intended use of the remaining portions of the site.
- L. Existing and finished grade elevations using spot elevations or 1-foot contours if the existing or finished grade or elevations over the site exceed 4 feet, or 2-foot contours if such elevations over the site exceed 8 feet.
- M. Front, rear, and side elevations of proposed building(s).
- N. Height of proposed structures to be constructed on the site.
- O. Any changes anticipated in terms of dust, odor, smoke, fumes, noise, lights or other effects.
- P. Percentage of land covered by buildings and that reserved for open space.
- Q. Location and dimensions of all existing and proposed principal and accessory buildings on the subject site.
- R. Front, rear, and side yard requirements for the zoning district(s) in which the site is located.
- S. Actual front, rear, and side yard setbacks to all existing and proposed structures to be retained or constructed on the site.
- T. Dwelling unit density expressed as dwelling units per acre.
- U. Location and widths of public and private right-of-ways, alleys and easements contiguous to and within the proposed development which are planned to be continued, created, relocated, or abandoned, including grades and types of construction of those upon the lot, including curb-cuts, driving lanes, parking and loading areas.
- V. A schedule of parking needs. Separate drawings or additional information may be needed for computation of required parking needs.

- W. Location of all existing and proposed parking areas.
 - X. Location and typical dimensions of regular and handicapped parking spaces.
 - Y. Location and width of existing and proposed sidewalks on or bordering the subject site.
 - Z. Location of all existing and proposed utilities and utility easements.
 - AA. Location, height, and type of all existing and proposed walls, berms or fences.
 - BB. Cross-section drawings of proposed walls, berms, or fences.
 - CC. Location and dimensions of outdoor storage areas.
 - DD. Location and dimensions of off-street loading spaces.
 - EE. Detailed planting plan and schedule of plant materials.
 - FF. Inventory of existing and proposed vegetation on the site.
 - GG. Indication of basic existing and proposed drainage patterns including any structures, detention or retention basins and soil erosion fencing.
 - HH. Location and nature of any streams, drains, wetlands or unstable soils.
 - II. General description of method and location of storm water retention or detention.
 - JJ. Note indicating that all signage will be in compliance with the requirements of Section 414 of this amended Ordinance.
 - KK. Location and type of existing and proposed exterior lighting.
 - LL. A statement indicating the existing and intended use of the lot or parcel of land and of such structures upon it, including, but not limited to, in the R-2 Multiple-Family Residential District, the number of dwelling units the building is intended to accommodate.
 - MM. Any ancillary improvements that the applicant proposes to remedy or prevent problems created by the development. Such other information concerning the lot, parcel of land or adjacent lots as may be reasonably necessary, in the discretion of the Planning Commission, to determine whether the provisions of this amended Ordinance are complied with.
2. **Procedure.** A land owner or his designated representative, the “applicant”, who desires Site Plan review and approval or an approval of a Special Use from the Planning Commission must submit the necessary plans, documents and appropriate fee to the Village Clerk and follow the procedure described below. However, a conceptual artist’s rendering or conceptual Site Plan, requiring no review fee, may be considered by the Planning Commission as an agenda item for discussion of a request for Site Plan approval or for approval of a Special Use with the understanding that the Planning Commission shall not be bound by any tentative approval of conceptual plans:
- A. To initiate the procedure for Site Plan and or Special Use approval, a person shall file with the Village Clerk a completed Village Zoning Compliance Permit application, a copy of the Site Plan

and a copy of any other data upon which he intends to rely on for approval of his request and the applicable fee. The applicant shall provide nine (9) additional copies of the Site Plan or other documents exceeding 8 1/2" by 11" in size for distribution by the Planning Commission.

- B. Upon receipt of the fee and the completed Village Zoning Compliance Permit application, Site Plan, and other data, Village Clerk shall record the application and fee, and notify the Chair of the Planning Commission of receipt of all information.
 - C. A hearing shall be scheduled by the Chair of the Planning Commission for a Site Plan and or a Special Use approval and 1 copy of the Site Plan and all documents shall be sent to each member of the Planning Commission prior to the hearing.
 - D. The Chair of the Planning Commission shall schedule a hearing within 45 days following the receipt of the documents from the Village Clerk.
 - E. After the hearing and within 60 days of the receipt of the request by the Chair of the Planning Commission, the Planning Commission shall submit 1 copy to the Village Clerk and 1 copy to the applicant of its written decision approving, disapproving, or approving with limitations, conditions, modifications, or alterations of the Site Plan and or Special Use approval. The written decision of the Planning Commission shall indicate the facts and reasons upon which it is based. A decision approving the Site Plan and or a Special Use with limitations, conditions, modifications or alterations may require a further review after inclusion in the revised Site Plan and or a Special Use.
 - F. Two copies of the approved final Site Plan and or Special Use approval with limitations, conditions, modifications, or alterations thereon shall be maintained as part of the Village records for future enforcement. One copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the Chair of the Planning Commission. If any variances or amendments of this amended Ordinance have been obtained, the minutes concerning the same, duly signed, shall also be filed with the Village records as part of the approved Site Plan and or Special Use approval and delivered to the applicant for his information and direction.
 - G. A proposed amendment, alteration, or modification of the Site Plan and or Special Use as approved by the Planning Commission shall be submitted to the Planning Commission and shall be reviewed by it in the same manner as the original request.
3. **Limitations, Conditions, Modifications, and Alterations.** Prior to its approval of any Special Use, the Planning Commission shall determine that any applicable limitations or conditions imposed thereon have been complied with. In addition, prior to its final approval of any Site Plan and or a Special Use, the Planning Commission may impose any other limitation, condition, modification, or alteration thereon, which in its opinion, is consistent with the provisions of this amended Ordinance.
- A. The Planning Commission shall have the power to limit the duration of a Special Use where the same is of a temporary nature, and may approve a Site Plan and or a Special Use with limitations, conditions, modifications, or alterations. It may also reserve the right of annual review of compliance with the limitations and conditions imposed upon the same. Any use failing to comply with such limitations and conditions may be terminated by action of the Planning Commission after a hearing upon request of any aggrieved party or receipt of a written complaint stating a failure to comply.

B. To insure compliance with this amended Ordinance and any limitations, conditions, modifications, or alterations for improvements imposed by the Planning Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Village and future users or inhabitants of the lot or parcel of land, the Planning Commission may require a cash deposit, certified check or irrevocable bank letter of credit covering the estimated cost of furnishing such limitations, conditions, modifications, or alterations for improvements conditioned upon the faithful completion of the required improvements. Such security shall be deposited with the Village Clerk before the issuance of an approved Village Zoning Compliance Permit and a County Building Permit authorizing the commencement of such construction or activity. Where the improvement required will take more than 6 months to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

4. **Site Plan and Special Use Review Standards.** The approval, denial, or approval with limitations, conditions, modifications or alterations of a Site Plan and or a Special Use by the Planning Commission shall be based upon the following standards:

A. That the use will be harmonious with and in accordance with the general objectives of the Master Plan.

B. That such approval, denial, or approval with limitations, conditions, modifications, or alterations is consistent with the intent and purpose of zoning to promote public health, safety, morals and general welfare; to avoid overcrowding of populations; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to conserve the expenditure of funds for public improvements and services; to conform with the most advantageous uses of land, resources and properties; to conserve property values, natural resources and energy; and to give reasonable consideration to the character of a particular area, its peculiar suitability for particular uses and the general and appropriate trend and character of land, building and population development.

C. That there is a proper relationship between the existing streets, highways and walkways within the vicinity to provide for vehicular traffic access and circulation, including intersections, road widths, traffic controls, deceleration lanes, service drives, entrance and exit driveways, and parking areas and to assure the safety and convenience of pedestrian and vehicular traffic.

D. That the use(s) and or structure(s) are consistent with the intent and purpose of the zoning district in which located; are designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity; and will not change the essential character of the zoning district in which they are located.

E. That the use(s) and or structure(s) are not hazardous or disturbing to existing or intended uses in the same general area and will be an improvement to the property in the immediate vicinity and to the community as a whole.

F. That the use(s) and or structure(s) will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive smoke, fumes, glare, noise, vibration or odors.

G. That the use(s) and or structure(s) are served adequately and without excessive expenditure of public funds by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, and water and sewage facilities.

- H. That all provisions of this amended Ordinance are complied with unless an appropriate variance has been granted by the Zoning Board of Appeals.
- I. That all buildings and structures are accessible by emergency vehicles.
- J. The burden is on the applicant to demonstrate compliance with the above standards and this amended Ordinance.

Section 305. Violations, Penalties, and Remedies.

1. **Civil Infraction.** Any person violating any of the provisions of this amended Ordinance shall be responsible for a Grade C (Level 3) civil infraction. (Refer to Civil Infractions on page iv following the Table of Contents).
2. **Owner's and Developer's Liability.** The owner and or developer of any building, structure or premises, or part thereof, where any condition in violation of this amended Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be responsible for a Grade C (Level 3) civil infraction. (Refer to Civil Infractions on page iv following the Table of Contents).
3. **Continuing Offense.** A separate offense shall be deemed committed upon each day during which a violation occurs or continues.
4. **Remedies Cumulative.** The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law. The imposition of any penalty shall not exempt an offender from compliance with the provisions of this amended Ordinance, and the Village shall not be prohibited, on account of such imposition, from seeking injunctive relief or such other relief as may be provided by law.
5. **Nuisance Per Se.** Any building or structure that is erected, altered or converted, or any use of premises or land in violation of any of the provisions hereof is hereby declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction.

Section 306. Right to Appeal. The filing for a *Demand for Appeal* of a decision or for a variance shall be in writing on a form provided by the Village Clerk, and upon payment of a fee as may be established from time to time by the Port Austin Village Council. Such *Demand for Appeal* shall be filed with the Village Clerk not more than 30 days from the date of the decision being appealed. Such appeal may be taken by any aggrieved person, firm or corporation, or by any officer, commission, department, board or bureau of the Village. The applicant shall file with the Chair of the Zoning Board of Appeals and the body or official from which or whom the appeal is taken on forms to be furnished by said body or official, a notice of appeal specifying the grounds thereof. The Village body or official from which or whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all the evidence constituting the record upon which the action appealed from was taken. The final decision of such appeal shall be in the form of a resolution, either reversing, modifying or affirming, wholly or partly, the decision or determination appealed from.

Section 307. Fees.

1. An application or request shall be accompanied by a fee, as stated in the most recent Annual Fee Resolution of the Village Council (Refer to Village Council Fee Resolution on page iii following

Table of Contents), to defray the actual costs thereof to the Village. These fees include, but are not limited to:

- Village Zoning Compliance Permit and or copies thereof
- Site Plan and or Special Use Approval and or copies thereof
- Planned Unit Development Approval and or copies thereof
- An appeal to the Zoning Board of Appeals
- A request for a Special Meeting of the Planning Commission
- Copies of an amendment, supplement, or change of this amended Ordinance
- Copies of the Zoning Map

2. All fees shall be payable to the Village Treasurer to the credit of the Village General Fund.
3. To request a Village Zoning Compliance Permit from the Village which requires an action by either the Village Zoning Inspector or the Planning Commission, the fee, in accordance with Village Zoning Compliance Permit schedule of fees, shall be not less than \$300 in the absence of any Village Council resolution that establishes such fee. Any amount of said fee not actually expended by the Village shall be returned to the payor upon final action by the applicable Village body or official.
4. For any action required by the Planning Commission, at one or more meetings of the Planning Commission, only one payment of the required fee by the applicant is necessary provided that such requested action by the Planning Commission is completed and finalized within one year from date of original application. Any new or amended application for the same project, by either the original applicant or another applicant requires the payment of another fee.
5. Any applicant who has received a denial of an application by either the Village Zoning Inspector or the Planning Commission may, upon payment of the required fee, request an Appeal hearing before the Zoning Board of Appeals.
6. Upon due deliberation and consideration of the particular circumstances of an application that has been denied by the Planning Commission, the Planning Commission, by an affirmative vote of 3 or more members, may authorize a waiver of the required fee for an applicant requesting a hearing before the Zoning Board of Appeals, except for the actual cost of advertising the date, time and place of the requested hearing.

Section 308. Public Notice. All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, Act 110 of 2006, as amended, and the other provisions of this Section with regard to public notification.

When the provisions of this amended Ordinance or the above referenced Michigan Zoning Enabling Act require that notice be published, the Village Clerk shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the Village of Port Austin and mailed or delivered as provided in this Section.

1. All mail, personal and newspaper notices for public hearings shall:
 - A. Describe the nature of the request and identify whether the request is for a rezoning text amendment, special land use, planned unit development, condominium development, variance, appeal, ordinance interpretation or other purpose.

- B. Describe the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are not street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses need to be listed when 11 or more adjacent properties are proposed for a zoning amendment, or rezoning, or when the request is for an ordinance interpretation not involving a specific property.
 - C. Show the date, time and place of the public hearing(s).
 - D. Provide for written comments. Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
 - E. Provide for handicap access. Include information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.
2. Delivered or mailed notice shall be provided to:
- A. The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
 - B. Except for zoning amendments, requests involving 11 or more adjacent properties or ordinance interpretation requests that do not involve a specific property, notice shall be mailed or delivered to all persons to whom real property is assessed within 300 feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the Village of Port Austin. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, 1 occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 4 dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
 - C. All neighborhood organizations, public utility companies, railroads and other persons that have requested notice pursuant to Section 308.4 below.
 - D. Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Village Clerk shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.
3. Timing of Notice: Unless otherwise provided in the Michigan Zoning Enabling Act, Act 110 of 2006, as amended, or this amended Ordinance, notice of a public hearing shall be provided not less than 15 days before the date the matter will be considered.
4. Any neighborhood organization, public utility company, railroad or other person may register with the Village Clerk to receive written notice of applications for development approval within the Village

of Port Austin. The Village Clerk shall be responsible for providing this notification. All such persons must re-register annually to continue to receive notification pursuant to this Section.

ARTICLE IV CONSTRUCTION OF LANGUAGE AND GENERAL PROVISIONS

Section 400. Construction of Language. The following rules of construction apply to this amended Ordinance:

1. The particular shall control the general.
2. In the case of any difference of meaning or implication between the text of this amended Ordinance and any caption or illustration, the text shall control.
3. The word “shall” is always mandatory. The word “may” is permissive, directory and discretionary.
4. The word “building” or “structure” includes any part thereof.
5. The phrase “used for” includes “arranged for”, “designed for”, “maintained for”, or “occupied for”.
6. The word “person” includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.
7. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction, “and”, “or”, “either...or”, the conjunction shall be interpreted as follows:
 - A. “And” indicates that all connected items, conditions, provisions or events shall apply.
 - B. “Or” indicates that all the connected items, conditions, provisions or events shall apply singularly, but not in combination.
 - C. “Either...or” indicates that the connected items, conditions, provisions or events shall apply singularly, but not in combination.
8. Terms not herein specifically defined shall have the meaning customarily assigned to them.
9. The title of this amended Ordinance incorporates and includes the Master Plan, as amended, Future Land Use Map, as amended, and the Zoning Map, as amended, of the Village of Port Austin.

Section 401. General Provisions. Except to the extent as may be otherwise specifically provided and in addition to any other applicable provision of this amended Ordinance, all buildings, structures and or uses in the Village shall be governed by these General Provisions and as stated in Sections 402 through 420, below.

In interpretation and application, the provisions of this amended Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience and or general welfare of the Village.

Section 402. Access to Major Thoroughfare or Collector Street. Vehicular access shall be provided to an existing or planned major thoroughfare or collector street. However, access driveways may be permitted where such access is provided to a street where the property directly accesses the street from such driveway and all property abutting such street between the driveway and the major

thoroughfare or collector street is zoned for multiple-family or any nonresidential use, and is developed with permanent uses other than single-family residences or is an area which will be used for other than single-family purposes in the future. This exception shall apply only if there are special circumstances that indicate there will be a substantial improvement of traffic safety by reducing the number of driveways to a major thoroughfare or collector street.

Section 403. Accessibility to Lot. No dwelling shall be built on a lot unless the lot has access to vehicular traffic as provided in Section 402. Such access shall have a minimum width of 30 feet, except where an access of record of less width existed prior to the effective date of this amended Ordinance. All regulation contained in this amended Ordinance shall apply to such accesses of record in the same manner as if the same were dedicated streets.

Section 404. Accessory Buildings.

1. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this amended Ordinance applicable to main buildings.
2. Accessory buildings shall not be erected in any required yard, except a rear yard. The rear yard of a lakefront lot is that side of the dwelling the access road approaches.
3. An accessory building shall not occupy more than 25% of the required rear yard. In a residential district, the accessory building shall not exceed the ground floor area of the main building.
4. No detached accessory building shall be located less than 3 feet to any side or rear lot line.
5. In those instances where the rear lot line is adjacent to an alley right-of-way, the accessory building shall be no closer than 1 foot to such rear lot line. In no instance shall an accessory building be located within a dedicated easement or right-of-way.
6. An accessory building may not exceed 1 story or 15 feet in height unless approved by the Planning Commission.
7. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot in the rear of such corner lot. (Refer to Appendix of Illustrations).
8. Any building erected as a garage or in which the main portion is a garage shall in no case be occupied for dwelling purposes unless it is auxiliary to a residence already being occupied upon the lot and unless it also complies with all the provisions of this amended Ordinance relating to buildings for residential purposes.
9. No accessory building or use shall exist prior to the establishment of the principal building or use upon the lot except under a variance permit from the Zoning Board of Appeals for a limited period of one year to permit the completion of the principal building or buildings upon the lot but not later than 1 year from the date of the Village Zoning Compliance Permit issued for construction of the principal building or buildings upon the lot, unless such temporary building use time limit of 1 year is extended by the Planning Commission.

Section 405. Basement. No building or structure, the major portion consisting of a basement, shall be occupied for living and or sleeping purposes, except and until an approved variance permit from the Village Zoning Board of Appeals has been obtained by the owner (applicant) for such purposes. Such

variance permit is limited to a period of 2-years from date of issuance to allow for the completion of the above grade dwelling, as shown on plans submitted by the applicant. The issuance of said permit is further conditioned upon the Zoning Board of Appeals being satisfied with the owner's ability and intent to complete such above grade construction and obtain a Certificate of Occupancy ("CO") for the completed building or structure within the 2-year period of time.

Section 406. Conflicting Regulations. Wherever provisions of this amended Ordinance impose more restrictive requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this amended Ordinance shall govern. Wherever the provisions of any other law or ordinance impose more restrictive requirements than imposed or required by this amended Ordinance, then the provisions of such other law or ordinance shall govern.

Section 407. Dish Type Satellite Signal Receiving Stations. Dish type satellite signal receiving stations, greater than 24 inches across, hereafter referred to as stations, may be located in the Village subject to the following provisions:

1. No installation or erection of a station shall commence before an approved Village Zoning Compliance Permit is obtained from the Village Zoning Inspector.
2. Stations shall not be linked to receivers that are not located on the same lot or parcel of land as the station, unless such lot or parcel of land upon which the station is located on is of the same ownership of the property it is linked to.
3. Stations shall be located in the rear yard, as defined in this amended Ordinance, and behind the principal dwelling or structure located on the lot or parcel of land.
4. Regardless of however turned or otherwise used, all parts of the station will be set back not less than 5 feet from the side lot lines and shall be set back from the rear lot line not less than 5 feet.
5. The height of the station, should the dish antenna be turned perpendicular to the ground, shall not extend above 15 feet, and the maximum diameter of any dish antenna shall not exceed 3 feet.

Section 408. Essential Services. Nothing in this amended Ordinance shall prohibit the provision of essential services, provided the installation of such service does not violate any other applicable provisions of this amended Ordinance or any other Ordinance of The Village of Port Austin.

Section 408A. Excavating/Grading.

1. All uses in every zoned district shall be graded, provided with necessary drainage facilities and maintained so as to prevent standing water except as otherwise specified in this section 408A. Existing grades shall not be altered in any manner that increases runoff or flow of water onto adjacent properties.
2. For any new construction or development, finish grades shall be so designed as to contain all accumulated storm water on the subject lot or parcel, or direct said storm water to an outlet approved by the Village Zoning Inspector. All site plans or plot plans shall show both existing and proposed drainage patterns on the subject site, including all existing drainage courses, whether public or private, and any and all proposed alterations to such drainage courses. The first floor elevation of the proposed construction, other proposed and existing buildings on the subject parcel, and structures on adjacent lots or parcels shall be shown.

3. When a building is constructed on a vacant parcel between two (2) existing developed properties, the finish grades of the new development shall be set to conform to the average of the finish grades of the existing developed properties of both sides.
4. It shall be the responsibility of the property owner to utilize whatever means are necessary to contain all storm water on the premises, or direct such storm water to an outlet approved by the Village Zoning Inspector. Such containment and/or disposal mechanisms may include, but are not limited to the following: earth berms, containment and redirection of roof conductors through perimeter drains, retention ponds, swales, open drains, enclosed drains or mechanical lifts and discharge means. All costs associated with providing these required improvements are the responsibility of the landowner implementing the grade alteration. The proposed method of drainage is subject to the review and approval of the Village Zoning Inspector, following the review and written recommendation of the County Building Inspector. The method of drainage selected shall not be less than that which is required to direct runoff away from adjacent properties, and which is necessary to protect the public health, safety, and welfare of the Village.
5. A grading plan showing existing and proposed grades and method of drainage, prepared by a registered engineer, shall be submitted for all uses, except single R-1 dwellings.
6. Fees for the inspection of the new grade shall be paid at the time of application for a Zoning Compliance Permit. Except for R-1, the amount of such fees shall be \$100 in R-2, B-1, B-2, and Industrial zones.
7. Grading and drainage plans should address the following considerations:
 - A. Grading should result in drainage being directed away from the building on all sides.
 - B. Drainage swales should be designed so they are inconspicuous.
 - C. Storm water should drain to the property line at street.
 - D. A seep swale should run parallel with the street on the street right-of-way between the property line and the pavement. Elevation of this seep swale must be lower than the street so street drainage will occur in those areas of the Village that do not have storm drains. Most of the soil in the Village is deep sand. The objective of the parallel street seep swale is to create a retention basin to allow water to seep away over time after a rainfall. The Village Zoning Inspector will determine if a driveway culvert tube is necessary.
 - E. The elevation of the soil surface at the property line should be the same as the edge of the pavement or curb of the public street.
 - F. Drainage from private property shall not be directed onto public land, except where it is directed to approved public storm water facilities.

Section 409. Home Occupations. An approved Village Zoning Compliance Permit must be obtained from the Village Zoning Inspector prior to the establishment of any home occupation. Applicant must complete a Village Zoning Compliance Permit application form which may be obtained at the Village Hall. Applicant must submit the completed application and appropriate fee to the Village Clerk. After recording the completed application and payment fee, the Village Clerk will submit the application to the Village Zoning Inspector for review and action. Planning Commission approval shall not be required for the establishment of a home occupation; however, applicants reserve the right to Planning Commission review as a means of appeal in the event of a denial from the Village Zoning Inspector.

A home occupation shall be permitted in any single-family attached or detached residence (including single-family detached homes, townhouses, stacked ranches, fourplexes, triplexes, semi-detached units, and two-family units, but not multiple-family units) subject to the following conditions:

1. No person other than those residing on the premises shall be engaged in such occupation on the premises. This regulation shall permit the engagement of up to 3 persons not residing on the premises in the home occupation, provided that they are dispatched to off-premises locations to conduct work.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and be conducted entirely within the dwelling unit, except that the outside yard may be used for instruction or day-care activities. Not more than 25% of the area, or 500 square feet, whichever is less, of the dwelling unit shall be used for purposes of the home occupation.
3. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of the conduct of such home occupation, other than 1 non-illuminated sign no more than 1.5 square feet in area. This sign will be mounted to the dwelling unit in which the home occupation is located.
4. The outdoor storage of goods and materials shall be prohibited. No interior display shall be visible from the exterior of a dwelling unit used for purposes of a home occupation.
5. No more than 1 home occupation per dwelling unit shall be permitted.
6. No traffic shall be generated by such home occupation in greater volumes or type than would normally be expected in a residential neighborhood. In addition, a home occupation shall provide additional off-street parking area adequate to accommodate all needs generated by the home occupation, without changing the residential character of the premises. This required parking must be in addition to the required parking for the principal residential use.
7. No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premises, or causes fluctuations in the line voltage off the premises.
8. Wholesale or retail sale of products from shelves or similar display on the premises shall be prohibited. This provision shall not prohibit the sale of retail products to consumers off the premises for Internet or mail order sales businesses, nor shall it prohibit the limited sale of products that are incidental to and are intended to support the primary home occupation.
9. Delivery of freight to and from the home occupation shall not result in more than 1 regular freight truck delivery per week. This provision shall not prohibit delivery to and from the home occupation of freight delivered via the United States Postal Service, United Parcel Service, Federal Express or any courier that traditionally services the regular needs of residential dwelling units.
10. The home occupation shall not accommodate the assembly of more than 3 workers for dispatch to off-site locations.

11. Accessory buildings or accessory structures shall not be used for any purposes connected to the home occupation other than the storage of a home occupation related vehicle or materials.
12. No more than 1 home occupation related vehicle is permitted per home occupation. The vehicle must be no larger than a 2-axle, 6 wheel truck, not to exceed 24,000 pounds Gross Vehicle Weight Rating (GVWR). One trailer no longer than 20 feet in length may also be permitted. Vehicles and trailers related to a home occupation must be stored within an enclosed building when on the premises and not in use. No other commercial vehicle will be parked overnight on the premises.
13. Hours of operation for home occupations shall be limited to 7:00 a.m. to 8:00 p.m.
14. Home occupations shall not require an increase in the use of any public utility beyond the normal limits of a residential unit.
15. No refuse shall be generated or stored on the premises in connection with a home occupation that exceeds the normal quantity for a residential dwelling unit. No commercial refuse receptacles or dumpsters shall be used on the premises in connection with a home occupation.
16. No interior structural alteration in connection with a home occupation shall be permitted that would negatively impact the ability of the space to be reused as residential dwelling area should the home occupation be discontinued.
17. Any home occupation is subject to annual inspection by the Village Zoning Inspector and may be terminated by order of such inspector whenever it fails to comply with this amended Ordinance.

Section 410. Lighting.

1. Outdoor in all districts used to light the general area of a lot shall be directed downward, shielded to reduce glare and shall be placed so as to not interfere with the vision of persons on adjacent lots or streets.
2. Lighting used for the external illumination of buildings, so as to feature said buildings, shall be shielded to reduce glare and placed so as to not interfere with the vision of persons on adjacent lots or streets.
3. Illumination of signs shall be directed downward, shielded to reduce glare, and placed so as to not interfere with the vision of persons on adjacent lots or streets.
4. Illumination of signs and any other outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.

Section 411. Non-conforming Uses, Buildings, and Lots.

1. **Intent.** It is the intent of this Section to provide for the regulation of legally non-conforming structures, lots of record, and uses, and to specify those circumstances and conditions under which such non-conformities shall be permitted to continue. It is necessary and consistent with the regulations prescribed by this amended Ordinance that those non-conformities which adversely affect orderly development and the value of nearby property not be permitted to continue without restriction.

The zoning regulations established by this amended Ordinance are designed to guide the future use of land by encouraging appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety, and general welfare. The continued existence of non-conformities is frequently inconsistent with the purposes of which such regulations are established, and thus the gradual elimination of such non-conformities is generally desirable. The regulations of this Section permit such non-conformities to continue without specific limitation of time but are intended to restrict further investments that would make them more permanent.

2. **Authority to Continue.** Except as otherwise provided in this Section, any non-conforming lot, use, or structure lawfully existing on the effective date of this amended Ordinance or subsequent amendment thereto may be continued so long as it remains otherwise lawful. There may be a change of tenancy, ownership, or management of any existing non-conforming use of land, structure or any combination thereof.

The approval by the Planning Commission of any site plan for any use and or structure made prior to the effective date of this Ordinance, as amended, may be continued in accordance with the plan(s) and application(s) on which site plan approval was granted, for a period of not longer than 1 year after the effective date of this amended Ordinance, provided actual construction has commenced and is proceeding in accordance with the issuance of a valid building permit as issued by Huron County.

3. **Non-conforming Uses or Structures.** A non-conforming use or structure is considered to be any non-residential use or structure located in a residential district, industrial use or structure in a business district, or any residential use or structure in a non-residential district.
 - A. In the event that any non-conforming structure or use is destroyed by any means to the extent of more than 51% of the cost of replacement of such structure or use, as determined by the Village Zoning Inspector, said structure or use shall not be rebuilt, restored, or re-occupied for any purpose unless it shall thereafter conform to all regulations of this amended Ordinance. When such a non-conforming structure or use is damaged or destroyed to the extent of 51% percent or less of the replacement cost, repairs or rebuilding shall be permitted.
 - B. When a non-conforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for 6 consecutive months, or for 18 months during any 3-year period, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
 - C. Any structure, or structure and land in combination, in or on which a non-conforming use is later replaced by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
 - D. Nothing in this Section shall be deemed to prevent an extension for the exclusive purpose of providing required off-street parking or loading spaces in conformance with other applicable provisions and involving no structural alteration or enlargement of such structure.
 - E. Nothing in this Section shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition, provided that such restoration is not otherwise in violation of the

various provisions of this section prohibiting the repair or restoration of partially damaged or destroyed structures or signs.

- F. No non-conforming use or structure shall be moved, in whole or in part, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.
 - G. Notwithstanding any other provision of this Section to the contrary, no use, structure or sign which is accessory to a principal non-conforming use or structure shall continue after such principal use or structure shall have ceased or terminated unless it shall thereafter conform to all regulations of this amended Ordinance.
 - H. No structure or use shall be changed unless the new structure or use conforms to the regulations for the district in which such use or structure is located.
 - I. No non-conforming use or structure shall be enlarged upon, expanded, or extended, including extension of hours of operation. Normal maintenance and incidental repair of a non-conforming use shall be permitted, provided that this does not violate any other section of this amended Ordinance.
 - J. An owner of a non-conforming structure may construct an accessory building in accordance with Section 404, Accessory Buildings.
4. **Non-conforming Lots.** In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this amended Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this amended Ordinance. This provision shall apply even though such lot fails to meet the requirements for area, or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements of the lot shall conform to the regulations for the district in which such lot is located.

Any non-residentially zoned lot, which was legally established in accordance with the regulations of the Village of Port Austin at the time this amended Ordinance became effective may be used for any principal permitted use in the district in which such lot is located whether or not such lot complies with the lot area requirements of this amended Ordinance; provided that all yard dimensions and other requirements not involving area, or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

5. **Non-conforming Site Requirements.** Where a lawful structure exists at the effective date of adoption or amendment of this amended Ordinance that could not be built under the terms of this amended Ordinance by reason of restrictions on lot area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- A. **Expansion.** No such structure may be enlarged or altered in a way that increases its nonconformity. Such structures may be enlarged or altered in a way that does not increase its non-conformity.
 - B. **Termination.** Should such structure be destroyed by any means to an extent of more than 51% of its replacement costs, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this amended Ordinance and with the requirements of the prevailing structural building codes.

- C. **Relocation.** Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- 6. **Special Land Use Interpretation.** Any approved special land use, as provided for in this amended Ordinance, shall not be deemed a non-conforming use but shall, without further action, be deemed a conforming use in such district.
- 7. **Change of Use.** A change of land use from one type of occupancy to another or from a non-conforming use to a conforming use is subject to the provisions of Sections 303 and or 304.

Section 412. Parking, Storage and Loading Spaces.

- 1. It shall be unlawful to use the off-street parking or loading areas established to meet the requirements of this amended Ordinance for any purpose other than the parking of licensed vehicles or the loading or unloading of necessary and licensed service vehicles.
- 2. There shall be provided, in all districts at the time of erection or enlargement of any main building or structure, motor vehicle off-street parking space with adjacent access to all spaces in accordance with the following provisions:
 - A. Off-street parking shall be permitted in a side or rear yard.
 - B. Off-street parking for other than residential use shall be permitted to occupy a portion of a required front yard provided that there shall be maintained a minimum unobstructed and landscaped setback of 10 feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line.
 - C. Off-street parking for other than residential use shall be located 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. Ownership by the applicant shall be shown of all lots or parcels intended for use as parking by the applicant.
 - D. Residential off-street parking shall consist of a parking strip, parking bay, driveway, garage or combination thereof and shall be located on the lot intended to be served.
 - E. Minimum required off-street parking shall not be replaced by any other use unless and until equal facilities are provided elsewhere.
 - F. Off-street parking existing on the effective date of this amended Ordinance, in connection with the operation of an existing building or use, shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
 - G. Commercial vehicles and trailers shall not be parked in a residential district except for one vehicle no larger than a 2-axle, 6 wheel truck not exceeding 24,000 pounds Gross Vehicle Weight Rating (GVWR) and not more than one trailer no longer than 20 feet in length may be permitted on any residentially zoned lot or parcel of land in the Village. Where such vehicle or trailer is on a site where an approved Home Occupation is allowed, such vehicle and or trailer must be stored within an enclosed building when on the premises and not in use. This restriction does not apply to school property in a residentially zoned district.

- H. No parking space shall be less than 5 feet from a lot line.
- I. Two or more buildings or uses may collectively provide required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
- J. In the case of mixed uses in the same building, the total requirements of off-street parking shall be the sum of the requirements for the separate individual uses computed separately.
- K. For those uses not specifically mentioned in the following schedule, the requirements for off-street parking shall be in accord with a use that the Planning Commission considers to be similar in terms of parking demand.
- L. When units or measurements determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require 1 parking space.
- M. For the purpose of computing the number of parking spaces required, the definition of floor area shall govern.
- N. Non-residential uses in the B-1 zoning district (refer to description of B-1 zoning district in Sec. 509 of this amended Ordinance), and having frontage on Lake Street between State Street and West Spring Street; or on West Spring Street between Arch Street and Lake Street shall not be required to provide off-street parking. Residential units in a mixed use building shall provide 1 space per unit.
- O. The minimum number of off-street parking spaces, by type of use shall be determined in accordance with the following schedule:

Residential Uses

- | | |
|---|---|
| a. Boarding Houses, Bed and Breakfast Operations | One space per each rooming unit |
| b. Detached or Attached One- or Two-Family Structures | Two spaces per each dwelling unit |
| c. Housing for the Elderly | One space per each unit |
| d. Manufactured Home Parks | Two spaces per site; 1 for each 4 sites for visitor parking; plus rental, management, or sales office space pursuant to office space requirements |
| e. Migratory Workers Housing | One space per bed or each 100 square feet of gross floor area, whichever will require the larger number of parking spaces |
| f. Multiple-Family Structures | Two spaces per each unit; plus 0.5 per unit for visitor parking |

- g. Motor Home Parks One space per site
- h. Dwelling unit within a commercial building above street level One space per unit

Institutional, Recreational and Public Assembly Uses

- a. Assembly Halls, Auditoriums or Theaters One space per 3 seats or per 21 square feet of assembly space, whichever will require the largest number of parking spaces plus 5 spaces
- b. Group Day Care Homes, Nursery Schools, Child Care Centers One space for each employee
- c. Churches One space per 3 seats or 6 feet of pew space in the main unit of worship
- d. Colleges with Dormitory Facilities 4.5 spaces per classroom, or 1 space per every 3 permanent seats or 21 square feet of assembly space, whichever will require the largest number of parking spaces
- e. Colleges without Dormitory Ten spaces per classroom; plus 1 space per every 3 permanent seats or 21 square feet of assembly space, whichever will require the largest number of parking spaces
- f. Convalescent Homes, Congregate Care Facilities, Nursing Homes, Homes for the Aged One space per four beds
- g. Elementary and Junior High Schools One space per classroom; plus 1 space per administrative office; plus the requirements of any assembly hall
- h. Fraternities/Sororities One space for each 5 members or 1 for each 2 beds, whichever is greater
- i. Golf Courses, Except "Par 3" or Miniature Courses Six spaces per hole; plus one per employee; plus spaces as required for incidental uses (i.e. pro shop, restaurant, bar, banquet room, etc.)
- j. High Schools One space per classroom; plus 1 space per administrative office; plus 1 space per each 10 students; plus the requirements of any assembly hall
- k. Hospitals 2.25 spaces per bed
- l. Libraries One space per 250 square feet of usable area

- | | |
|---|--|
| m. Outdoor Recreation Areas or Fairgrounds | One space per 200 square feet of gross floor area within enclosed buildings; plus 1 space for each 3 persons that the outdoor facilities are designed to accommodate when used to the maximum capacity |
| n. Private Clubs or Lodge Halls | One space for each 3 persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes |
| o. Private or Semi-Private Recreation Clubs | One space for each 2 member families or individuals; plus space as required for incidental uses (i.e. restaurant, bar, etc.) |
| p. Stadiums, Sports Arenas, or Similar Places of Outdoor Assembly | One space per 3 seats or 6 feet of bench space |
| q. Swimming Pools | One space per 40 square feet of pool surface area |

Commercial Uses

- | | |
|---|---|
| a. Auto Washes (Automatic) | One space for each employee; plus 5 stacking spaces (each stacking space being 20 feet in length) for each automatic wash lane |
| b. Auto Washes (Self-Service or Coin Operated) | Five spaces for each washing stall, not including the stall itself or vehicle work area or vacuum area |
| c. Banks | One space per 100 square feet of gross floor area |
| d. Beauty Parlors or Barber Shops | Two spaces for each chair |
| e. Bowling Alleys | Five spaces for each 1 bowling lane; plus the requirements for each accessory use, such as a restaurant or bar |
| f. Business or Professional Offices except Medical, Dental, or Related Type Offices | One space per 100 square feet of gross floor area |
| g. Dance Halls, Pool or Billiard Parlors, Roller or Skating Rinks, Exhibition Halls, and Assembly Halls without Fixed Seats | One space for each 2 persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes |

- | | |
|---|---|
| h. Establishments for Sale and Consumption on Premises of Beverages, Food or Refreshments | One space for each 2 persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes |
| i. Furniture and Appliance Sales, Household Equipment Sales, Repair Shops, Showroom of Plumbers, Decorators, Electricians, or Similar Trades and Other Similar Uses | One space per 800 square feet of gross floor area; plus 1 space for each 2 employees |
| j. Gasoline Service Stations | Two spaces for each lubrication stall, rack, or pit; plus 1 space for each fueling station; plus stacking space for vehicles awaiting fuel based on 1 space for each fueling station; plus 1 parking space for each 50 square feet of usable floor area in the cashier and office area; plus 1 for each 150 square feet of usable floor area devoted to retail sales area. In no instance shall a required parking space or its maneuvering area conflict with vehicles being fueled or awaiting fuel |
| k. Grocery Stores | One space for each 250 square feet of gross floor area |
| l. Laundromats and Coin Operated Dry Cleaners | One space for each 2 washing and dry-cleaning machines |
| m. Miniature or "Par-3" Golf Courses | Three spaces; plus 1 space for each employee |
| n. Medical, Dental, or Related Type Offices | One space for each 50 square feet of gross floor area in waiting room; plus 1 space for each examining room, dental chair, or similar use area |
| o. Mortuary Establishments | One space for each 50 square feet of usable floor area; plus 1 space for each vehicle maintained on the premises; plus 1 space for each employee |
| p. Motels/Hotels | One space per rooming unit; plus 1 for each employee |

- | | |
|--|--|
| q. Motor Vehicle Sales and Service | One space per 200 square feet of sales room; plus 1 space for each auto service stall in the service room |
| r. Planned Commercial or Shopping Center with Supermarket or Department Store as Prime Tenant | One space for each 100 square feet of gross floor area. When a restaurant, lounge, or other establishment, whose primary business offers prepared food for sale or consumption on the premises or as carry out, is part of a planned commercial or shopping center, the parking for such use shall be computed separately based on the need for a freestanding use of this nature, and the resulting increase shall be added to the other uses in the center |
| s. Planned Commercial or Shopping Center without Supermarket or Department Store as Prime Tenant | One space for each 200 square feet of gross floor area. When a restaurant, lounge, or other establishment, whose primary business offers prepared food for sale or consumption on the premises or as carry out, is part of a planned commercial or shopping center, the parking for such use shall be computed separately based on the need for a freestanding use of this nature, and the resulting increase shall be added to the other uses in the center |
| t. Retail Stores, except as otherwise specified herein | One space per 500 square feet of usable floor area |

Industrial Uses

Parking space requirements for all industrial uses shall equal the maximum employee load factor (as proposed in the application for site plan review) at a rate of 3 spaces; plus 1 space for each employee for single-shift operations or 3 spaces; plus 0.75 spaces per each employee of the combined maximum employment of the 2 largest successive shifts for multiple-shift operations.

3. Wherever the off-street parking requirement of the preceding schedule includes the building of an off-street parking lot or facility, it shall be laid out, constructed and maintained in accordance with the following:
 - A. No parking lot or facility shall be constructed unless and until a Village Zoning Compliance Permit is issued by the Village Zoning Inspector. Applications for permit shall be submitted to the Village Clerk and shall be accompanied by 2 sets of site plans for the development and

construction of the parking lot or facility showing that the provisions of this section will be fully complied with.

- B. Plans for the layout of an off-street parking lot or facility shall include a total dimension across 2 tiers of spaces and 1 maneuvering lane in accord with the following minimum requirements or as approved by the Planning Commission:

| Parking Pattern (Degrees) | Maneuvering Lane Width | Parking Space Width | Parking Space Length | Total Width Of One Tier of Spaces Plus Maneuvering Lane | Total Width of Two Tiers of Spaces Plus Maneuvering Lane |
|--------------------------------|------------------------|---------------------|----------------------|---|--|
| 0 degrees Parallel 12' Parking | 12' | 9' | 23' | 21' | 30' |
| 30 to 53 | 12' | 9' | 20' | 32' | 52' |
| 54 to 74 | 15' | 9' | 20' | 37' | 58' |
| 75 to 90 | 22' | 9' | 20' | 42' | 62' |

- C. All spaces shall provide adequate access by means of maneuvering lanes. Backing directly into a street is prohibited.
- D. Adequate ingress and egress to a parking lot or facility by means of clearly limited and defined drives not less than 22 feet in width, shall be provided for all vehicles. Ingress and egress to a parking lot or facility lying in an area zoned R-1, (refer to description of R-1 zoning district in Sec. 507 of this amended Ordinance), shall not be across land zoned residential.
- E. All maneuvering lane widths shall permit one-way traffic movement, except that the 90 degree pattern may permit two-way movement.
- F. Each entrance and exit to and from a parking lot or facility located in an area zoned other than R-1 shall be not less than 25 feet away from any adjacent residentially zoned district.
- G. The entire parking lot or facility for all uses except one and two-family dwelling units shall be surfaced with a material that shall provide a durable, smooth and dustless surface; shall be graded and provided with adequate drainage to dispose of all collected surface water; shall be lighted; and shall provide bumper guards or curbs to prevent yard encroachment.
- H. In all cases where a wall extends to an alley that is a means of ingress and or egress to a parking lot facility, it shall be permissible to end the wall not more than 10 feet from such alley line in order to permit a wider means of access to the parking lot or facility.
4. On the same lot with every building, structure or part thereof, 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 in order to avoid undue interference with public use of dedicated right-of-way, streets and alleys. Such space shall be provided as follows:

- A. Any storage shall be in the rear yard.
- B. In all use districts except for an industrial district, loading space shall be provided in the rear yard in the ratio of at least 10 square feet for each 6,000 square feet of floor area of the structure being served which shall be computed separately from the off-street parking requirements.
- C. Within an industrial district, all spaces shall be laid out in the dimension of at least 10 x 50 feet, or 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be provided with a permanent, durable and dustless surface. All spaces in an industrial district shall be provided in the following ratio of spaces to floor area of the structure being served which shall be computed separately from the off-street parking requirements:

| FLOOR AREA OF STRUCTURE (In Square Feet) | LOADING AND UNLOADING SPACE REQUIRED |
|---|---|
| 0 - 1,400 | None |
| 1,401 – 20,000 | One Space |
| 20,001 – 100,000 | One space; plus 1 space for each 20,000 square feet in excess of 20,000 square feet |
| 100,001 and over | Five spaces |

Section 413. Performance Standards. No use shall be permitted within any district that does not conform to the following standards of use, occupancy, and operation which standards are hereby established as the minimum requirements to be maintained within said district:

- 1. No person shall operate or cause to be operated any use, nor erect or use any structure that constitutes a nuisance.
- 2. Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line and as not to create a nuisance or hazard along property lines. Radioactive materials and wastes shall not be emitted to exceed qualities or quantities established as safe by the U.S. Bureau of Standards when measured at the property line.
- 3. The storage, utilization, or manufacture of materials, goods or products ranging from free or active burning to intense burning, as determined by the Fire Marshall is permitted; subject to compliance with all other yard requirements and performance standards and provided that the following conditions are met:
 - A. Said materials or products shall be stored, utilized or produced within completely enclosed buildings or structures having incombustible exterior walls which meet the requirements of the applicable building code.

- B. All such buildings or structures shall be setback at least 40 feet from lot lines, or in lieu thereof, all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Fire Association.
- C. The storage and handling of flammable liquids, liquefied petroleum, gases and explosives or any other combustible materials shall comply with state rules and regulations established by Public Act No. 207 of 1941, as amended.

Section 414. Signs. The intent of this amended Ordinance is to regulate all manner of signs with respect to size, location, or manner of display so as not to confuse or mislead traffic, which confusion may be caused by proliferation, or to obstruct vision necessary for traffic safety, or otherwise endanger the public morals, health, or safety; and further, to regulate such permitted signs in such a way as to prevent them from causing annoyance or disturbance to the citizens and residents of Port Austin.

Except as otherwise provided in this amended Ordinance, it shall be unlawful for any person to erect, alter, relocate, or maintain within Port Austin any temporary or permanent sign or other advertising structure as defined herein, without first obtaining a Village Zoning Compliance Permit from the Village Zoning Inspector and making payment of fee provided for in this amended Ordinance.

The Village Zoning Inspector may order the removal of any sign or billboard which is abandoned or erected or maintained in violation of this amended Ordinance. He shall give 30 days notice in writing to the owner of such sign or billboard or of the building, structure, or premises on which such sign or billboard is located, to remove the sign or billboard or to bring it into compliance. The Village Zoning Inspector may cause the removal of the sign or billboard which remains in violation after such notice. The Village Zoning Inspector may remove a sign or billboard immediately and without notice if, in his opinion, the condition of the sign or billboard is such as to present an immediate threat to the safety of the public. The cost of removal shall be paid by the owner of the sign or billboard or the building, structure, or premises on which it is located.

1. **Definitions.** As used in this subsection, the following words shall have the meanings as set forth in this section. Where such definitions are more restrictive than those for the same work in other ordinances, those ordinances shall be deemed to apply:
 - A. **Awning Sign:** A sign that projects from a façade in a sloped, roof-like manner, made of flexible or rigid materials. Awning signs shall extend no more than 36 inches from a façade and, for the purposes of this amended Ordinance, shall be considered wall signs.
 - B. **Bench Sign:** A sign attached to or painted on any bench that is located in any right-of-way or is in view from any right-of-way.
 - C. **Business Sign:** A sign that directs attention to a business or profession conducted, or to a commodity, service, or entertainment sold or offered, upon the premises where such sign is located.
 - D. **Business Center Sign:** A sign which gives direction and identification to a group of two or more contiguous stores, whether or not under single management, which development is no less than two acres in size.
 - E. **Changeable Copy Sign:** A sign consisting of or containing characters, letters or images that can be mechanically or electronically altered without alterations to the surface of the sign.

- F. **Commercial Vehicle Sign:** A commercial vehicle containing a sign or advertising which is parked in a manner and for longer than 24 hours intended to serve as a sign. This definition does not include any commercial vehicle parked in any parking space approved for parking by the Village Zoning Inspector.
- G. **Construction Sign:** A temporary sign erected on the premises on which Village approved construction is taking place. The sign may only be on the site during the period of construction and may indicate the names of the architects, engineers, landscape architects, contractors, owners, financial institutions and similar individuals or firms having a role or interest with respect to the structure or project.
- H. **Garage Sale and Estate Sale Signs:** Signs announcing the sale of household goods.
- I. **Ground-Pole Sign:** A sign supported by one or more uprights, poles, or braces placed in or upon the ground surface and not attached to any building.
- J. **Handheld Signs:** Any sign designed to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location and held by an individual.
- K. **Illuminated Sign:** A sign that provides artificial light directly (or through any translucent material) from a source of light connected with such sign, or a sign illuminated by a light so shielded that no direct rays from it are visible from any public right-of-way or from the abutting property.
- L. **Inflatable Sign:** A sign filled with air or gas and directly attached to, resting upon, or tethered to a vehicle, structure, plant or the ground.
- M. **Institutional Bulletin Board:** A structure containing a surface area upon which is displayed the name of a religious institution, school, library, community center or similar institution, and the announcement of its services or activities.
- N. **Identification Sign:** A sign that identifies the occupant, owner, or resident and or the street address and which sets forth no other advertisement.
- O. **Landmark Sign:** A sign containing the names of buildings, dates of erection and other similar landmark notation, when carved into stone, concrete or similar material or made of bronze, aluminum or other noncombustible material and made an integral part of the structure. Further, any sign indicating artistic or historic merit, uniqueness or significance to the Village and as identified by the Planning Commission.
- P. **Monument Sign:** A sign attached to a permanent foundation and not attached or dependent for support from any building, pole, post, or similar upright.
- Q. **Mural:** A two-dimensional work of art applied to the exterior of a building or structure not containing content displayed for commercial or informational purposes.
- R. **Non-Conforming Sign:** A sign lawfully existing at the time of the adoption of this amended Ordinance which does not conform to this section.

- S. **Off-Premises Advertising Sign:** A sign that contains a message unrelated to a business or profession or to a community, service, or entertainment, sold or offered upon the premises where such sign is located.
- T. **Political Election Sign:** A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.
- U. **Political Opinion Sign:** A temporary sign announcing or supporting a political opinion.
- V. **Private Informational Sign:** A sign offering instruction or direction related to regulations and operations within a site or building, such as, but not limited to, bathrooms, no parking, no hunting and or trespassing, hours of operations, no smoking, etc.
- W. **Projection Sign:** A sign that projects from and is supported by a wall of a building and does not extend beyond the minimum required setback line or into and over street right-of-way.
- X. **Portable Sign:** A free-standing sign not permanently anchored or secured to either a building or the ground such as, but not limited to, “A” frame, “T” shaped, or inverted “T” shaped sign structures.
- Y. **Realty Sign:** A temporary sign announcing the sale of and or contact information with regard to a real estate property.
- Z. **Roof Sign:** A sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure.
- AA. **Sandwich or Menu Board Sign:** A portable sign, which may be hinged at the top and supported by arranging the sign faces into an inverted “V” formation.
- BB. **Seasonal Display:** A temporary display of lights, figures, sign structures or other features in any zoning district exhibited for the purpose of celebrating a religious or institutional holiday or event. Signs or displays supporting candidates for elected office shall not be considered a seasonal display.
- CC. **Sign:** A name, identification, description, display or illustration which is affixed to, or painted or represented directly or indirectly upon a building, structure, or parcel of land, and which directs attention to an object, product, place, activity, person, institution, organization or business.
- DD. **Street Clock or Temperature Sign:** A sign which displays the current time or outdoor temperature or both, and which displays no other material except for an identification sign as defined above.
- EE. **Temporary Sign:** A commercial sign subject to a temporary sign permit issued by the Zoning Inspector intended for a limited period of display.
- FF. **Wall Sign:** A sign that is attached directly to or painted upon a building wall and which does not extend more than 18 inches, nor above the roof line with the exposed face of the sign in a plane parallel to the building wall.

2. Sign Location and Dimension.

- A. Residential Districts. For each dwelling unit, not more than 1 nameplate, not exceeding 2 square feet in area and indicating the name of the occupant, shall be permitted. For structures and uses other than dwelling units and for multiple-family housing project rental or management offices, not more than 1 sign not exceeding 12 square feet in area and 3 feet in height shall be permitted.
 - B. Business Districts. No more than 2 signs shall be permitted for each commercial enterprise. No sign shall exceed 150 square feet in area.
 - C. Industrial Districts. No sign shall exceed 300 square feet in area and shall be located no less than 1,000 feet to another sign on the same side of a right-of-way.
 - D. Ground-mounted or free-standing signs may be located in a front yard and; except for those established by the Village, County, State or Federal Government, shall be located no less than 10 feet from a public right-of-way or dedicated public easement.
 - E. The base of a ground-mounted or free-standing sign shall not be more than 4 feet above grade level and the top shall not be above the roofline or roofline of any existing adjacent building or structure.
 - F. A building-mounted sign that is flush with the building may be located anywhere on the building except on the roof, and shall not project above the roofline.
 - G. A building-mounted sign may project from the building, but must have a minimum clearance of 8 feet above the grade level of a sidewalk, right-of-way, or easement and 15 feet above the grade level of an alley, parking space, driveway, street or other area of vehicular traffic, and may not project above the roofline.
 - H. Signs, as defined in the "Highway Advertising Act of 1972" (1972 PA 106), as amended, bordering interstate highways, freeways, or primary highways as defined in said Act shall be regulated and controlled by the provision of such statute, notwithstanding the provision of this amended Ordinance.
3. **Number of On-Premises Signs Permitted.** In the case of double frontage lots (lots held under one ownership fronting on two streets or a street and public alley), the number of signs shall be determined as though the lots were held by separate owners. In the case of a corner lot situated on two or more streets, signs may be permitted on each street.

Each parcel of land (other than a corner lot or double frontage lot as defined above) shall not be permitted more than one sign of the type permitted by this subsection, except that when more than one ground floor business or usage occupies a single parcel of land, each ground floor business or usage may have the number of signs permitted. However, a business center shall be permitted a business center sign. Individual store or business enterprise pole signs are expressly prohibited within the business center.

4. **Sign Types Permitted in All Districts.** The following types of signs shall be permitted in all districts. Permits shall not be required under this amended Ordinance for signs enumerated in subsections (A) through (J) and (M) through (S); however, a permit is required under this amended Ordinance for signs enumerated in subsection (K). Permit applications for Garage Sales are available in the Clerk's office at the Village Hall.

- A. House numbers and name plates (fraternity, sorority, apartment, and professional) identifying the occupant or address of a parcel of land and not exceeding 2 square feet in area.
- B. Memorial signs or tablets, names of buildings and date of erection, when cut into any masonry surface or when constructed of bronze or other incombustible material.
- C. Signs painted on or attached to moving vehicles having a valid license.
- D. Flags bearing the official design of a nation, state, municipality, educational institution, or organization.
- E. Traffic or other municipal signs such as the following: legal notices, railroad crossing, danger and other emergency signs as may be approved by the Village Council.
- F. Community special event signs approved by the Village Council.
- G. Institutional bulletin boards subject to the area, height, and placement regulations for ground-pole or wall signs.
- H. Private traffic control signs which conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices published in accord with Section 608 of Public Act 300 of 1949, as amended.
- I. Construction signs. Construction signs not exceeding 40 square feet in area may be erected upon the commencement of construction on the premises and must be removed upon the sale of 75 percent of the overall development's units for residential projects, or upon the completion of construction for commercial developments.
- J. Seasonal displays for a period of no longer than 6 weeks per display.
- K. Landmark signs.
- L. Garage sale and estate sale signs, provided such signs are erected no more than 5 days before and removed within 1 day following the close of sale.
- M. Real estate signs not exceeding 9 square feet for properties actively on the market.
- N. Handheld Signs.
- O. Political opinion signs.
- P. Political election signs, provided such signs are displayed for no longer than 45 days, and shall otherwise be in compliance with applicable state election laws.
- Q. Private informational signs, provided they do not exceed 2 square feet in area.
- R. Sandwich or menu board signs, when associated with a commercial business displayed during regular business hours for the establishment with which it is associated.

- S. Business window signs, cumulatively not to exceed 50% of the window area of the business. Such business window signs may be a cloth, canvas, painted or rigid sign and may be displayed for no longer than 8 weeks, three times per year.
5. **Measurement of Area of Sign Defined.** The entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed but including any sign tower. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.
6. **Temporary Signs.** Temporary signs may be banners, pennants, spinners or streamers constructed of cloth, wood, metal or plastic configured as wall signs, ground signs or pole signs. Temporary signs shall be subject to the following:
- A. Temporary signs may be permitted for a period of up to 4 weeks, no more than three times per 12-month period.
 - B. A single permit for a temporary sign may be issued to permit the erection of a temporary sign up to three separate times per year, provided the sign goes unchanged for the duration of the 12-month period and is appropriately removed between the periods. Failure to remove the temporary sign within any of the 4-week periods constitutes a violation of this amended Ordinance.
 - C. Temporary signs may be permitted in all districts and shall be subject to the area, height and placement regulations for the sign type in the district in which they are located. Banners and pennants shall be held to the area requirements for wall signs. Spooled flags, banners, and streamers shall not be subject to these area requirements.
 - D. Pole-mounted flags not bearing the official design of a nation, state, municipality, educational institution, or organization shall be considered as temporary signs for the purposes of this amended Ordinance and shall not be subject to area requirements as set forth above. Flags mounted flush with the surface of a building or structure and not bearing the official design of a nation, state, municipality, educational institution, or organization shall be held to the area requirements for wall signs.
 - E. The presence of permitted permanent signs on a subject site does not preclude the permitting of a temporary sign for that site.
 - F. Illuminated temporary signs shall be so oriented as to prevent light encroachment onto adjacent residential districts, adjacent residences, and public right-of-ways.
7. **Signs Prohibited.** The following signs shall not be permitted, erected, or maintained in any district:
- A. Signs which incorporate in any manner, any flashing or moving lights.
 - B. Banners, pennants, spinners, and streamers except as specified in the temporary sign provisions, herein.

- C. String lights used in connection with commercial premises for commercial purposes, other than seasonal displays.
 - D. Any sign, excluding street clock or temperature signs, which has any visible moving part, visible revolving parts, or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic or mechanical means, including intermittent electrical pulsations, or by action of normal wind currents.
 - E. Any sign or sign structure which: (a) is structurally unsafe, or (b) constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment, or (c) is not kept in good repair, or (d) is capable of causing electrical shocks to persons likely to come in contact with it.
 - F. Any sign that, by reason of its size, location, content, coloring, or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of the drivers, or by obstructing or detracting from the visibility of any traffic sign or control device on public streets and roads.
 - G. Any sign that obstructs free ingress to or egress from a required door, window, fire escape, or other required exit.
 - H. Signs that make use of words such as "Stop", "Look", "Danger", or any other word, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.
 - I. Any sign or other advertising structure containing any obscene, indecent, or immoral matter.
 - J. Any sign unlawfully installed, erected, or maintained.
 - K. Any sign now or hereafter existing which no longer advertises a business conducted or a product sold.
 - L. Roof signs.
 - M. Commercial real estate signs in residential districts.
 - N. Inflatable signs.
 - O. Commercial vehicle signs.
 - P. Beach signs.
 - Q. Signs that emit sound designed to direct attention to themselves.
 - R. Signs placed on, over, or projecting into any public street or alley right-of-way with the exception of traffic regulatory signage erected by a governmental body or public event banners erected by a governmental body.
 - S. Murals, except those that comply with the definition in Article X.
8. **Exemptions.** The provisions and regulations of this ordinance shall not apply to servicing, painting, repainting, or cleaning of a sign, nor shall the changing of the advertising copy of the message

thereon be considered an erection or alteration which required a Village Zoning Compliance Permit unless a structural change is made.

9. **Removal of Signs on Vacated Property.** In the event a business or use ceases and a property becomes vacant for a period of 30 days or more, the property owner shall be responsible for the removal of all freestanding signs related to the use or business, or the installation of blank panels within the sign frames in place of the content panels.

Section 415. Swimming Pools. A private swimming pool shall be permitted as an accessory use to one-family or two-family dwelling units, but must be located only in a rear yard.

No installation or erection of any pool shall commence before an approved Village Zoning Compliance Permit is obtained from the Village Zoning Inspector.

1. All swimming pools, public, or private, are subject to the following:
 - A. The outside wall of a swimming pool shall not be within 10 feet of a side or rear yard lot line or the required setback of a rear or side yard, whichever distance is greater.
 - B. The outside wall of a swimming pool in a non-residential district shall not be within 35 feet of the front yard lot line.
 - C. The outside wall of a swimming pool shall not be within 4 feet of any building or structure on the same lot.
 - D. For the protection of the general public, a swimming pool shall be completely enclosed by a fence not less than 4 feet in height. Gates shall be of a self-closing and latching type, with the latch on the inside of the gate not readily available for children to open. Gates shall be capable of being securely locked when the swimming pool is not in use for extended periods.
 - E. All electrical installations or wiring in connection with swimming pools, shall conform to the provision of the National Electrical Code.
 - F. If service drops or other utility wires cross under or over a proposed swimming pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation thereof before a permit is issued for the construction of a swimming pool.
 - G. No portion of a swimming pool or associated structure shall be permitted to encroach upon any right-of-way which has been granted for public utility use or any other easement or right-of-way.

Section 416. Temporary Uses and or Structures. Subject to the provisions of Section 304, Planning Commission Site Plan Review and Approval Procedure, the Planning Commission may, at its discretion, permit a temporary use and or structure in any district, whether permitted therein or not, for a period not to exceed 1 year; subject to the following additional conditions:

1. The use and or structure shall be in harmony with the general character of the district.
2. The granting of the temporary use and or structure shall in no way constitute a change in the uses permitted in the district nor on the property where located.

3. The granting of the temporary use and or structure shall be in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary use and or structure.
4. All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the Village shall be made at the discretion of the Planning Commission.
5. In any non-residential district, temporary outdoor use such as a display, Christmas tree sales lot, revival tent, or other quasi-civic activity not requiring the construction of a structure or building, may be permitted on a temporary basis without a public hearing by the Planning Commission provided that such permit shall not be issued for more than 30 days in any 12 month period and that said use can be adequately shown not to be injurious or detrimental to properties in the immediate vicinity.

Section 417. Tents, Travel Trailers, Motor Homes, and Recreational Vehicles. Tents, travel trailers, motor homes, or recreation vehicles may not be used as dwelling units except in duly licensed or government operated parks or camps. The owner of a lot, or condominium site however, may use a tent, travel trailer, motor home, or recreational vehicle for a temporary dwelling unit on a lot or condominium for no more than a total of 21 days in any calendar year, provided it is connected to a municipal potable water system and municipal sewage facilities and available to the occupants in the primary dwelling on the lot or condominium site.

Section 418. Trash Storage Area Screening. Any new or altered use which requires site plan review and has an outdoor trash storage area shall comply with the requirements of the Village of Port Austin Dumpster Ordinance and any subsequent amendments thereto.

Section 419. Voting Place. The provisions of this amended Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a public election.

Section 420. Wall, Fences, and Planting Areas.

1. In all residential districts, entrance way structures including, but not limited to walls, columns, and gates marking entrances to single-family subdivisions or multiple-family housing projects, shall be permitted.
2. No fence, wall, shrubbery or other obstruction to vision above a height of 2 feet from the established street grade shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of 25 feet from their point of intersection.
3. Land between a wall, fence, or shrubbery and front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped. The ground area and all landscaping shall be kept neat and orderly in appearance and all living materials shall be maintained in a healthy, growing condition. Refer to Village Police Ordinances governing Anti-Blight and or Weed Control.
4. Fences are permitted, or required, subject to the following:
 - A. Fences on all lots in residential districts which enclose property and or are within a required side or rear yard, shall not exceed 6 feet in height, measured from the surface of the ground, may be

placed on the property line, and 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.

- B. Fences on all lots in residential districts which enclose property and or are within a required front yard, shall not exceed 42 inches in height, measured from the surface of the ground and may be placed on the property line.
 - C. If the two sides of a proposed fence are unequal in terms of design, finish, or aesthetic quality, in the judgment of the Village Zoning Inspector, the finished side shall be situated so as to face away from the subject site on which it is erected. In all other cases, fences shall be of equal design, finish, or aesthetic quality on both sides.
 - D. Protective fences required in this amended Ordinance for child amusement and recreation areas and public and private pools need not be obscuring fences unless otherwise herein provided.
 - E. Except for agricultural uses, fences shall not contain barbed wire, electric current or charge of electricity.
 - F. Fences which enclose public or institutional parks, playgrounds, or public landscaped areas shall not exceed 6 feet in height, measured from the surface of the ground.
5. Any lot which is used for parking, storage or any commercial or industrial purpose shall be screened from any adjoining residentially zoned district by either of the following:
- A. A natural compact planting area of evergreen or shrubbery which maintain their density and screening effect throughout the calendar year and shall be maintained in a neat and attractive manner.
 - B. An artificial wall or fence of sufficient density or compactness to screen these structures and activities from the view of the adjoining residentially zoned district and shall be maintained in a neat and attractive manner.
6. The minimum height of any required obscuring wall, fence or planting area shall be as follows:
- A. Eight feet for any industrial use and for drag strips, race tracks and drive-in theaters.
 - B. The height of stored materials in any storage area, or 6 feet, whichever is higher.
 - C. Five feet for all other uses.
7. The height of any obscuring wall, fence or planting area shall be measured from the grade level upon which the same is situated.
8. No obscuring wall, fence or planting area shall be less than 10 feet from any adjoining street right-of-way line.
9. An obscuring wall, fence, or planting area shall be located not less than 2 feet inside the lot line except where underground utilities interfere. The wall, fence, or planting area may, upon approval of the Planning Commission, be located on the opposite side of the alley right-of-way when mutually agreeable to affected property owners.

10. An obscuring wall, fence or planting area between a parking lot or outdoor storage area and any adjoining residentially zoned district shall not be required when such areas are located more than 200 feet from such adjoining residentially zoned district.
11. An obscuring wall, fence or planting area shall have no openings for vehicular traffic or other purposes, except openings which do not in any rectangular section (height and width) exceed 20 percent of the surface. The openings shall be so spaced as to maintain the obscuring character required, and shall not reduce the minimum height requirements. The arrangement of the openings shall be reviewed and approved by the Village Zoning Inspector.

Section 421. Shipping Containers

Portable storage container or cargo container include, but are not limited to Sea-Land-Train Transportainers, Land-Sea containers, Connex Boxes, PODS, or any other portable storage containers designed and constructed as standardize, reusable vessel, intended to be loaded on a truck, rail car , or ship. Look-alike shipping container buildings or metal buildings marketed as “containers” or “portable storage units” are regulated as shipping containers to which this section shall apply.

A. R1 and R2 Districts (One-Family Residential/Multiple-Family Residential)

Shipping containers are not allowed in residential zones. Temporary permission for a shipping container may be attained for containers used to support a project at the time when applying for a Village Zoning Compliance Permit. Temporary permission will allow placement of a container at a residential building site for up to 90 days for temporary storage after the Village Zoning Compliance Permit is issued. Placement of the temporary container must meet the setbacks of the zoning districts.

In case of flood, fire, or other casualty event, a person may apply for temporary permission to allow the use of a portable storage container for a period up to 180 days. Temporary permission may be extended beyond a 180 day period upon approval of the village zoning inspector.

Portable storage containers are temporarily allowed at your home for a 14-day period during moving. The time period may be extended in hardship situation by the village zoning inspector.

B. B1 and B2 Districts- (Service Business/General Business)

Shipping containers are temporarily permitted for up to 30 days , where they are being used as a shipping container for active transport of goods, wares, and merchandise that all applicable Department of Transportation (DOT) licenses for the containers are active and valid. The village may require proof of active DOT license. Shipping containers may not be placed in any location that would interfere with vehicular or pedestrian circulation or cause reduced visibility at street intersections. Container placements shall adhere to all applicable building and fire codes for the purpose of insuring safe passage to and from dwellings, access to utility shutoff valves and for fire protection.

In addition portable storage containers may not be located in any required open space or landscape area.

Shipping containers are allowed for business defined as a "Farm" in B1 and B2 districts. Those shipping containers must be screened from roads and adjoining property by a minimum of 8' tall solid fence, minimum 8' tall evergreen landscaping or painted a solid color in an "earth-tone" so that the selected color matches the surrounding natural environment as closely as possible.

C. IN District-(Industrial)

Shipping containers are allowed in the industrial zone provided that the use is in conformance with current permitted zoning uses. Placement of a shipping container for permanent or semi-permanent use shall require a Village Zoning Compliance Permit and meet all other codes for placement on the property.

Shipping containers are not allowed on industrial zoned properties in which the primary use is a non-conforming residential use.

Placement of shipping container, shall not be allowed to occupy required parking spaces, shall not be located in front of primary building, shall be screened from view from a public street by either: minimum 8' tall solid fence, minimum 8' tall evergreen landscaping or by other means deemed appropriate by the village zoning inspector

For Shipping Containers that are permitted " permanently" in industrial districts, the following restrictions apply:

- 1.) Shipping Containers cannot be stacked
- 2.) No Shipping container shall be used as a residence or to support a residential use or home /office occupation.
- 3.) No shipping container shall be used to store solid waste
- 4.) No shipping container shall be placed on or otherwise block or restrict access to fire hydrants, fire lanes or required parking spaces.
- 5.) The shipping container shall not be used to store hazardous materials
- 6.) The containers that require any electrical, plumbing, heating or air conditioning systems shall not be connected to a power source unless the proper county building permits have been obtained.
- 7.) The containers shall not be located in front of the primary building.
- 8.) The container needs to meet the setbacks of the zoning districts.

Any person, firm, corporation who violates, disobeys, omits, neglects, refuses or fails to comply with, or who resists the enforcement of any provision of Section 421 shall be fined as a Civil Infraction, Offense Grade D. Each day that a violation is permitted to exist shall constitute a separate offense.

**ARTICLE V
ZONING DISTRICTS AND MAP**

Section 500. Districts Established. The Village is hereby divided into the following zoning districts:

- R-1 ONE-FAMILY RESIDENTIAL DISTRICT
- R-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT
- B-1 SERVICE BUSINESS DISTRICT
- B-2 GENERAL BUSINESS DISTRICT
- IN- INDUSTRIAL DISTRICT

Section 501. Zoning Map.

1. The location and boundaries of the zoning districts established in the Village shall be shown on the Zoning Map and said map, and any section, or portion thereof, together with all notations, dimensions and other data shown thereon, are hereby made a part of this amended Ordinance to the same extent as if the information set forth on said map were fully described and incorporated herein.
2. The Zoning Map may be amended from time to time to reflect changes in districts and the rezoning of a lot or lots shown thereon in the same manner as amendments may be made to the text of this amended Ordinance. Such changes shall be recorded to scale on duplicate copies of the Zoning Map and shall be accompanied by written legal descriptions in appropriate amendatory ordinances.

Section 502. District Boundaries Interpreted. Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys, shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as following railroad lines shall be construed to be the midline between the main tracks, or if no tracks exist, the boundary is the center line of the railroad right-of-way.
4. Boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
6. Where physical or natural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered by subsections 1 through 5 above, the Zoning Board of Appeals shall interpret the district boundaries.

7. Since some or all of the various districts may be indicated on the Zoning Map by patterns which, for the sake of map clarity, do not cover public right-of-ways, it is intended that such district boundaries do extend to the centerline of any public right-of-way.

Section 503. Zoning of Vacated Areas. If all or any portion of any public street, alley, right-of-way, easement or land shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, said land shall be subject to all of the regulations which apply within the district where located, or within the most restrictive on the immediately adjacent districts, if there be more than one.

Section 504. District Uses. Each district provides for uses permitted by right and uses permitted by special approval. No structure or land shall be used and no structure shall be erected except in compliance with the terms and conditions of this amended Ordinance. Uses permitted by special approval shall not be allowed until the specific applicable conditions and limitations have been complied with, and, in addition, until approval has been obtained from the Planning Commission in accordance with Article III, Section 304 Planning Commission Site Plan Review and Approval Procedure.

Section 505. District Requirements. In addition to any other requirement, all structures and or uses shall also be subject to the provision of Article VIII Area, Density, Bulk, Height and Yard Requirements and Section 401 General Provisions. More restrictive and or specific requirements applicable to a specific parcel of land, structure, and or use, however, shall supersede these general requirements.

Section 506. Subdivision Open Space Plan.

1. The intent of the Subdivision Open Space Plan is to promote the following objectives:
 - A. Provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills and similar natural assets.
 - B. Encourage developers to use a more creative approach in the development of residential areas.
 - C. Encourage a more efficient, aesthetic and desirable use of an open area while recognizing a reduction in development costs and allowing the developer to bypass natural obstacles on the site.
 - D. Encourage the provision of open space within reasonable distance to all lot development of a subdivision and to further encourage the development of recreational facilities.
2. Modification of the area, density, bulk, height and yard requirements as described in Section 800 of this amended Ordinance may be made in residential districts by the Planning Commission when the following conditions are met:
 - A. The lot area in a residential district, which is served by a public sanitary sewer system, may be reduced up to 20%. These lot area reductions shall be permitted, provided that the dwelling unit density shall be no greater than if the land area to be subdivided were developed in the minimum square foot lot areas as required for the district.
 - B. Rear yards may be reduced to 15 feet when lots border on land dedicated for park, recreation and or open space purposes; provided that the width of said dedicated land shall be not less than 100 feet measured at the point at which it abuts the rear yard of the adjacent lot.

- C. For each square foot of land gained within a residential subdivision through the reduction of lot size, not less than equal amounts of land shall be dedicated to the common use of the lot owners of the subdivision in a manner approved by the Planning Commission.
- D. The area to be dedicated for subdivision open space purposes shall in no instance be less than 3 acres and shall be in a location and shape approved by the Planning Commission.
- E. The land area necessary to meet the minimum requirements of this section shall not include bodies of water, swamps, or land with excessive grades making it unsuitable for recreation. All land dedicated shall be so graded and developed as to have natural drainage. The entire area may, however, be located in a flood plain.
- F. This plan, for reduced lot sizes, shall be permitted only if it is mutually agreeable to the Planning Commission and the owner or developer.
- G. This plan, for reduced lot sizes, shall be started within 6 months after approval of the final plat, and must be completed in accordance to a timeline and schedule mutually agreeable to the Planning Commission and the owner or developer. Failure to start within the 6 month period shall void all previous approval.
- H. Under this subdivision open space plan, the developer or owner shall dedicate the open space area at the time of filing of the final plat on all or any portion of the plat.

Section 507. R-1 One-Family Residential District. This district classification is designed to be the most restrictive of the residential districts to encourage an environment of predominantly low-density single-family dwelling units together with a minimum of other residentially related facilities and activities primarily of service to the residents in the area.

1. **Uses Permitted By Right. (R-1 One-Family Residential District).** The following structures and or uses shall be permitted by right:
 - A. One-family detached dwelling unit.
 - B. Publicly owned and operated library, park or playground.
 - C. Public, parochial, or private elementary school offering courses in general education, and not operated for profit.
 - D. State licensed residential facility providing service for 6 or less people within the meaning of and in accordance with the provisions of 1979 PA 218 other than an adult foster care facility licensed by a state agency for care and treatment of persons released from or assigned to an adult correctional institution.
 - E. Accessory building or use as long as it is not involving the conduct of business.
 - F. Family Day Care Home or Day Care Center.
 - G. Adult Foster Care Family Home.

2. **Uses Permitted By Right Subject to Conditions. (R-1 One-Family Residential District).**

A. Church, temple or synagogue, together with accessory housing for religious personnel, subject to the following:

- 1) The lot shall be at least 1/2 acre in size.
- 2) The lot shall be so located as to have at least 1 property line on a major thoroughfare or collector street. All motor vehicle ingress and egress to the lot shall be directly onto said thoroughfare, street or a marginal access service drive thereof.
- 3) No building shall be closer than 40 feet to any property or street line.
- 4) No more than 25% of the lot area shall be covered by buildings.

B. Cemetery, public or private, subject to the following:

- 1) The lot shall be at least 20 acres and shall be so designed as to provide motor vehicle ingress and egress directly onto or from a major thoroughfare.
- 2) No building shall be closer than 50 feet to any property or street line.
- 3) A maximum of 1 sign is permitted at the point of entrance that shall bear only the name of the cemetery and shall have a maximum area of 16 square feet.

C. College, university, or other institution of higher learning, public or private, offering courses in general, technical, or religious education and not operated for profit, subject to the following:

- 1) The lot shall be at least 15 acres in area.
- 2) No building shall be closer than 40 feet to any property or street line.

D. One model dwelling unit for each project or subdivision, subject to the following:

- 1) The model unit will be converted to a salable unit within 3 months of the final remaining unit being sold.
- 2) The model unit at no time acts or serves as a dwelling unit, until such time as it is converted for sale.

E. Use of a single-family residence by an occupant of that residence for a home occupation or to give instruction in craft or fine art within the residence, subject to the provisions and conditions of Section 409 of this amended Ordinance.

3. **Special Uses Permitted. (R-1 One-Family Residential District).** All Special Use approval applications shall include a Reviewable Site Plan to be reviewed by the Planning Commission as required in Article III Section 304 of this amended Ordinance.

The following structures and or special uses shall be permitted, but only by approval granted by the Planning Commission:

A. Boarding or lodging house containing not more than 6 separate units, where said boarding or lodging house shall have direct access to and from a public hard-surfaced road.

B. Bed and Breakfast Operations, provided:

- 1) A bed and breakfast operation shall not be allowed to be located in a residentially zoned subdivision or within a residential condominium or site condominium development.
- 2) A bed and breakfast operation shall have direct access to and from a public hard surfaced-road and in no case shall such an operation have access to or from a private road.
- 3) Bed and breakfast operations, including rooms for guest sleeping, shall be part of the principal place of residence of the owner. Rooms for guest sleeping shall not have been specifically constructed for rental purposes.
- 4) There shall be no separate kitchen facilities for use by bed and breakfast guests.
- 5) Bed and breakfast operations may have up to 6 sleeping rooms.
- 6) The maximum period of continuous occupancy for any bed and breakfast guest shall be 3 weeks in any calendar month.
- 7) A bed and breakfast operation shall provide off-street parking spaces in accordance with the requirements for a single-family dwelling plus 1 space for each guest sleeping room. Off-street parking shall be located in a side or rear yard and shall be prohibited from being located in a front yard. Parking spaces shall be located a minimum of 15 feet from any property line. The Planning Commission may require landscaping to screen required parking areas if such areas are deemed to impact adjacent properties.

C. Adult Foster Care Small Group Homes and Adult Foster Care Large Group Homes, provided:

- 1) All ingress and egress to the site shall be directly from a public hard-surfaced road.
- 2) One on-site parking space shall be provided for each employee in addition to the parking required for the dwelling unit or other accessory uses.
- 3) A designated passenger loading/unloading area of adequate dimensions shall be provided near a barrier-free entrance to the facility.
- 4) A loading/unloading area of adequate dimensions shall be provided for delivery vehicles servicing the facility.
- 5) A landscaped buffer shall be provided along all property lines that abut a less intense land use and around the visible perimeters of all parking and loading/unloading areas.

D. Housing for the Elderly having:

- 1) Cottage type and or apartment type dwelling units.

- 2) Common services containing, but not limited to: central dining rooms, recreational rooms, central lounge and workshops.
- E. Convalescent Homes, Nursing Homes, Homes for the Aged, or Congregate Care Facilities provided:
- 1) All ingress and egress to the facility shall be directly from a public hard-surfaced road.
 - 2) There shall be not less than 1500 square feet of open space for each guest bed in the home. This required open space shall be landscaped and a passive recreation area shall be available to the guests of the facility.
- F. Group Day Care Homes, provided:
- 1) It has appropriate fencing for the safety of the children in the group day care home. All safety fencing must comply with local and state law and not violate this amended Ordinance.
 - 2) It maintains the property consistent with the visible characteristics of the neighborhood.
 - 3) It does not exceed 16 hours of operation during a 24-hour period.
 - 4) One sign, in addition to the sign indicating the address and or name of the occupant, may be permitted provided it is not illuminated, mounted flush to the exterior of the structure, and not exceeding 4 square feet in area.
 - 5) The group day care home operator shall provide off-street parking for his or her employees in the ratio of 1 parking space for each employee. Such additional off-street parking spaces together with the existing parking spaces serving the existing home site shall not exceed the number of parking spaces allowed per residential living unit as determined in this amended Ordinance, or unless the owner of the residential unit has first obtained a variance of the parking requirements from the Zoning Board of Appeals.
 - 6) Adequate vehicular maneuvering area shall be provided off-street for the arrival and departure of children.
- G. Golf course, not including a miniature golf course or par-3 course, which may or may not be operated for profit, subject to the following:
- 1) The site shall be at least 50 acres in area.
 - 2) Motor vehicle ingress and egress shall be onto a major thoroughfare.
 - 3) The site plan shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways and parking areas that will encourage pedestrian and vehicular traffic safety. No structure shall be closer than 50 feet to any property or street line.
 - 4) Development features including structures shall be so located and related as to minimize the possibility of any adverse affects upon adjacent lots. This shall mean that all principal or accessory buildings shall be not less than 100 feet from any property line abutting a residential lot; provided that where topographic conditions are such that buildings would be

screened from view, the Planning Commission may modify this requirement. The lighting of a golf course so as to permit golfing after daylight is expressly prohibited.

H. Hospital, public or private, providing general health care, subject to the following:

- 1) The lot shall be at least 5 acres in area.
- 2) The lot shall have at least 1 property line abutting a major thoroughfare or collector street. All motor vehicle ingress and egress to the off-street parking area for guests, employees and staff shall be directly from the thoroughfare or street.
- 3) All two-story structures shall be at least 60 feet from any property or street line. Buildings less than 2 stories shall be not less than 40 feet to any property or street line. For buildings above 2 stories, the building shall be set back from the initial 60 feet setback an additional 1 foot for each foot of additional height above 2 stories.
- 4) No more than 25% of the lot may be covered by buildings.
- 5) Ambulance and delivery area shall be obscured from all residential view by an obscuring wall, fence or planting area. Motor vehicle access to and from the delivery and ambulance area shall be directly from a major thoroughfare or collector street.

I. Manufactured home not located in a manufactured home park, subject to the following:

- 1) A manufactured home shall have minimum exterior width of any side elevation of 26 feet and shall have a minimum floor area of 960 square feet in any zoning district notwithstanding the minimum floor area requirements in Article VIII, Section 800 of this amended Ordinance.
- 2) A storage area shall be provided either within a basement, closet area, in an attic or in a separate fully enclosed structure constructed of equal or better quality than the principal dwelling not less in area than 15% of the interior living area of the dwelling and exclusive of storage space for automobiles.
- 3) No room or addition to a manufactured home shall be allowed unless constructed of similar material and quality of workmanship as the principal dwelling, including an appropriate foundation and permanent attachment thereto.
- 4) A manufactured home shall be permanently secured to a frost free foundation.
- 5) A manufactured home shall not be permitted unless, in the opinion of the Planning Commission: it is aesthetically compatible in design and appearance to conventionally built, on-site constructed single-family dwelling units within 2,000 feet; including where appropriate, a roof overhang, a front and rear or front and side exterior door; permanently attached steps or porch areas where an elevation differential requires the same; and, roof-drainage systems concentrating roof drainage and avoiding storm water runoff along the sides of the dwelling.

- J. Nursery School/Child Care Center, subject to the following:
 - 1) In addition to the lot area requirement there shall be provided on the lot a usable outdoor play area at the rate of 50 additional square feet for each child not a member of the owner's family, exclusive of required front yard, required side yard along a street, and of driveways and parking areas. The play area shall be fenced for safety and shall be screened from any adjoining residential lot by an obscuring wall, fence or planting area.

- K. Public or private non-commercial recreational area and or facility; institutional or community recreation center; or nonprofit swimming pool club; all subject to the following:
 - 1) The lot for any of such uses that would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least 1 property line abutting a major thoroughfare.
 - 2) Front, side and rear yards shall be at least 80 feet.

- L. Any structure or use that, in the opinion of the Planning Commission, is similar to a structure or use permitted by right or by approval of the Planning Commission in this zoning district.

- M. Essential Services, subject to the following:
 - 1) No building shall be closer than 40 feet to any property or street line.
 - 2) No more than 25% of the lot area may be covered by buildings.
 - 3) All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.
 - 4) Where mechanical equipment is located in the open air, it shall be screened from the surrounding area by an obscuring wall, fence, or planting area and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.

- N. Retail sale of any products, produce or flowers grown on the premises, subject to the following:
 - 1) Sale shall be made only from the premises where the products, produce or flowers were grown and produced, and all such sales shall be subject to the same guidelines and regulations for Village of Port Austin Garage Sales (refer to Village Ordinance No. 109-05 relating to Regulation of Garage Sales).
 - 2) No permanent structure shall be erected in connection with such sale and all temporary structures shall be removed when such products, produce or flowers have been disposed of.

Section 508. R-2 Multiple-Family Residential District. This district classification is designed to permit the greatest density of residential uses allowed within the Village, which will generally serve as a zone of transition between non-residential districts and any R-1 District, together with other residentially related facilities designed to service the inhabitants of the area.

1. **Uses Permitted By Right, and By Right Subject to Special Conditions. (R-2 Multiple-Family Residential District).** The following structures and or uses shall be permitted by right, in addition to all of those permitted by right, and permitted by right subject to conditions, in the R-1 One-Family Residential District:
 - A. Multiple-family dwellings.
 - B. Semi-detached dwellings.
 - C. Two-family Duplex dwellings.
 - D. Attached one-family dwellings, including Triplexes, Fourplexes, Stacked Ranches, and or Townhouses.
 - E. Public, parochial, or private intermediate (middle) and or secondary (high) school offering courses in general education, not operated for profit.
2. **Special Uses Permitted. (R-2 Multiple-Family Residential District).** All Special Use applications, including those allowed in the R-2 Multiple-Family Residential District, shall include a Reviewable Site Plan to be reviewed by the Planning Commission as required in Article III Section 304 of this amended Ordinance.

The following structures and or uses shall be permitted, but only by approval granted by the Planning Commission:

- A. Private clubs or fraternal organizations, subject to the following:
 - 1) The primary activity may not be a service customarily carried on as a for profit business.
 - 2) Such uses shall have access to and shall front upon a public hard-surfaced road.
 - 3) A minimum lot size of 3 acres is required.
- B. Manufactured home park, together with accessory buildings and uses, including a residence for the manufactured home park owner or operator and his or her family, recreational buildings and facilities, laundry facilities, maintenance and storage facilities, but excluding any retail sales of manufactured homes unless the same are located upon a developed manufactured home site, subject, however, to the following:
 - 1) A manufactured home shall comply with the requirements of 1996 PA 96 and with any and all regulations promulgated by the Michigan Mobile Home Commission and the Michigan Department of Public Health.
 - 2) No manufactured home park shall be constructed unless and until a site plan has been submitted to and approved by the Planning Commission and all provisions of 1996 PA 96 have been complied with.
 - 3) No access to a manufactured home park shall be permitted through an R-2 district.

- 4) No manufactured home shall be located less than 50 feet to the right-of-way line of a major thoroughfare or less than 20 feet to any manufactured home park property line.

C. Retail sale of any products, produce or flowers grown on the premises, subject to the following:

- 1) Sale shall be made only from the premises where the products, produce or flowers were grown and produced, and all such sales shall be subject to the same guidelines and regulations for Village of Port Austin Garage Sales (refer to Village Ordinance No. 109-05 relating to Regulation of Garage Sales).
- 2) No permanent structure shall be erected in connection with such sale and all temporary structures shall be removed when such products, produce or flowers have been disposed of.

D. Any structure or use that, in the opinion of the Planning Commission, is similar to a structure or use permitted by right or by approval of the Planning Commission in this zoning district.

Section 509. B-1 Service Business District. This district classification is designed to provide sales and commercial service uses dealing directly with consumers and general business and industrial customers.

1. **Uses Permitted By Right. (B-1 Service Business District).** The following structures and or uses shall be permitted by right:

A. Except for the following residential dwelling uses, any other structure or use permitted by right, or by right subject to conditions, in an R-2 district:

- 1) Multiple-family dwellings.
- 2) Semi-detached dwellings.
- 3) Two-family Duplex dwellings.
- 4) Attached one-family dwellings, including Triplexes, Fourplexes, Stacked Ranches and or Townhouses.
- 5) One-family detached dwelling unit.
- 6) Manufactured home not located in a manufactured home park.
- 7) A manufactured home park.

B. Office-type businesses related to executive, administrative or professional occupations, including but not limited to: offices of a lawyer, accountant, insurance or real estate agent, travel agent, and similar occupations.

C. Generally recognized retail sales businesses which supplies commodities on the premises for use or consumption off the premises such as but not limited to: groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware.

- D. Personal service establishment that performs services on the premises such as but not limited to: repair shop (watches, radio, television, shoe, upholstery and etc.), tailor shop, dressmaker, laundry or dry cleaner.
- E. Dry cleaning establishment or pick-up station dealing directly with the consumer. Central dry cleaning plants serving more than 1 retail outlet shall be prohibited.
- F. Business establishment that performs services on the premises, such as, but not limited to: bank, loan company, abstract and or title company, insurance office or real estate; including drive-in facilities as an accessory use only.
- G. Professional service office including the following: lawyer, architect, engineer, doctor, dentist, osteopath, accountant, broker, land surveyor and similar or allied profession, including clinics.
- H. Post office or publicly owned office and meeting building serving persons living in the local area.
- I. Off-street parking lot or facility.
- J. Standard restaurant or other place serving food or beverage, except a drive-in restaurant, carry-out restaurant or fast-food restaurant.
- K. Assembly hall, concert hall or similar place of assembly.
- L. Business school or college or private school operated for profit.
- M. Accessory building or use.

2. Uses Permitted By Right Subject to Conditions. (B-1 Service Business District).

- A. Any structure or use permitted by right subject to conditions, or Special Use approvals in the R-2 District, subject to the conditions imposed thereon, and excepting all residential uses as described in Section 509.1.A. 1), 2), 3), 4), 5), 6), and 7) above.
- B. Mortuary or funeral home, subject to the following:
 - 1) All activities shall take place within the principal building and not in an accessory building. A caretaker's dwelling unit may be provided within the principal building.
 - 2) The lot shall be at least 2 acres with a minimum width of 150 feet.
 - 3) The lot shall be located on a major thoroughfare or collector street to provide for all motor vehicle ingress and egress.
 - 4) Adequate assembly areas shall be provided off-street for vehicles to be used in funeral processions in addition to required off-street parking requirements.
 - 5) Front, side and rear yards shall be at least 40 feet, except on those sides adjacent to non-residential districts which shall be at least 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 requirements

specified, and except for required entrance drives and those walls and or fences used to obscure the use from abutting residential districts.

3. **Special Uses Permitted. (B-1 Service Business District).** All Special Use approval applications, and for those structures and Special Use approvals allowed in the R-2 Multiple Family District, excepting all residential uses as described in Section 509.1.A. 1), 2), 3), 4), 5), 6), and 7), above, shall include a Reviewable Site Plan to be reviewed by the Planning Commission as required in Article III Section 304 of this amended Ordinance.

The following structures and or uses shall be permitted, but only by approval granted by the Planning Commission:

A. Gasoline Filling Station or Gasoline Service Convenience Center, subject to the following:

- 1) The curb cuts for access shall not be permitted at locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than 25 feet from a street intersection (measured from the road right-of-way) or from an adjacent residential lot.
- 2) The lot shall be so arranged that ample space is available for motor vehicles that are required to wait.

B. Open air businesses listed below and when developed as follows:

- 1) Retail sale of plant material not grown on the site, or sale of lawn furniture, playground equipment or garden supplies provided that such use shall be located at the exterior end of the building mass located in a B-1 district, and further provided that:
 - a. The storage and or display of any material and or products shall meet all setback requirements of a structure.
 - b. The storage of any soil, fertilizer, or other loose, unpacked material shall be contained so as to prevent any adverse effect on adjacent lots.
- 2) Recreational space for children's amusement parks or other similar recreation when part of a planned development provided that such use be located at the exterior end of the building mass located in a B-1 district, but not at the intersection of two major thoroughfares. Such recreation space shall be fenced on all sides with a 4 foot high fence.

C. Bowling alley, pool or billiard hall, indoor archery range, indoor tennis court, indoor skating rink, indoor theater or similar forms of indoor commercial recreation; provided all activities are conducted within a completely enclosed main building, and provided further, that all buildings are set back at least 100 feet from any adjacent residential lot.

D. Dwelling unit located within a building used for another approved B-1 use, provided:

- 1) A residential dwelling unit is allowed on any floor, except a basement floor, of a building approved for a business use in the B-1 zoning district, provided that the minimum floor area of the residential dwelling unit is at least 960 square feet and which residential floor area is in addition to the minimum required floor area of 1,500 square feet for the approved business use of the same building.

- 2) Parking for integrated residential units is provided at a rate of 1 space per unit, on the same site or in a permanently reserved area within 500 feet of the site.

E. Hotel or Motel, subject to the following:

- 1) The minimum lot area shall be 1 acre.
- 2) Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
- 3) Each unit shall contain not less than 250 square feet of floor area.
- 4) The front setback line shall be a least 40 feet and the side and rear setback lines shall be at least 30 feet.

F. Veterinary hospital or clinic; provided that all activities are conducted within a completely enclosed main building, and provided further that all buildings are set back at least 200 feet from any adjacent residentially zoned district.

G. Motor Home Park, subject to the following:

- 1) The minimum lot area shall be 10 acres.
- 2) Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
- 3) The front setback line shall be a least 40 feet and the side and rear setback lines shall be at least 30 feet.

H. Any structure or use which, in the opinion of the Planning Commission, is similar to a structure or use permitted by approval of the Planning Commission in this zoning district.

Section 510. B-2 General Business District. The following structures and or uses shall be permitted by Right, by Right Subject to Conditions, and subject to all of the conditions thereon, in a B-1 Service District, and also including all uses permitted by Special Use approval, in a B-1 Service Business District:

- Any structure or use permitted by Right in a B-1 district.
- Car Wash.
- Bus Station.
- New or used car salesroom, showroom or office.
- Kennel or pet shop when completely enclosed in a building.
- Wholesale sale of consumer or professional products.

- Warehousing conducted in a completely enclosed building.
- Automatic dry cleaning or laundry establishment.
- Fast-food restaurant.
- Carry-out restaurant.
- Drive-in restaurant.
- Greenhouse or nursery.
- Reproduction copying services.
- Radio or television station.
- Hotel or Motel.
- Accessory building or use.

1. **Uses Permitted By Right Subject to Conditions. (B-2 General Business District).**

A. Indoor or outdoor sale or rental of new or second-hand automobiles, trucks, mobile homes, but excluding junk, all subject to the following:

- 1) The outdoor lot shall be provided with a durable and dustless surface, and shall be graded and drained so as to dispose of all surface water accumulated within the area.
- 2) Access to the outdoor lot shall be at least 60 feet from the intersection of any 2 streets.
- 3) No dismantling and no major repair or major refinishing shall be performed on the lot.

B. Business in the character of a drive-in or open front store, subject to the following:

- 1) A setback of not less than 60 feet from the right-of-way line of any existing or proposed street must be maintained.
- 2) Access points shall be located not less than 60 feet from the intersection of any 2 streets.

C. Bulk storage of gasoline, oil, and other products or material which is accessory to a permitted use, provided such storage is either underground or within a completely enclosed building.

2. **Special Uses Permitted. (B-2 General Business District).** All Special Use approval applications shall include a Reviewable Site Plan to be reviewed by the Planning Commission as required in Article III Section 304 of this amended Ordinance.

The following structures and or uses shall be permitted, but only by approval granted by the Planning Commission:

A. Auto repair station, subject to the following:

- 1) No auto repair station shall be located within 500 feet of any school, church, public park or auditorium.
- 2) The curb cuts for ingress and egress shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be not less than 25 feet from a street intersection (measured from the road right-of-way) or from any adjacent residentially zoned district.
- 3) The lot shall be so arranged that ample space is available for motor vehicles that are required to wait.

B. Drive-in theater, subject to the following:

- 1) The site shall be located on a major thoroughfare.
- 2) All motor vehicle ingress and egress shall be from said thoroughfare. Local traffic movement shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements into or out of the major thoroughfare.
- 3) All points of entrance or exit for motor vehicles shall be located not less than 200 feet from the intersection of any 2 streets or highways.
- 4) Vehicles exiting the site shall have a clear sight distance not less than 500 feet in either direction along the thoroughfare from the exit.
- 5) Acceleration and deceleration lanes shall be provided at points of ingress and egress to the site. Left turns at entrances and exits shall be prohibited.
- 6) A minimum distance of 100 feet shall separate all uses, operations, and structures, including fences, from any public street or highway right-of-way used for access or exit purposes.
- 7) The drive-in theater shall be enclosed for the full periphery of the site with a solid screen fence not less than 8 feet in height. The fence shall be of sound construction, painted or otherwise attractively and inconspicuously finished.
- 8) One drive-in theater ticket gate shall be provided for each 300 car capacity or fraction thereof of the theater. Motor vehicle standing space shall be provided between the ticket gates and the street or highway right-of-way line equal to at least 30% of the vehicular capacity of the theater.
- 9) Drive-in theater picture screens shall not be permitted to face any public street and shall be so located as to be out of view of any major thoroughfare. The picture screen shall not exceed 65 feet in length.

C. Lumber yard or building supply or equipment rental or retail sales, provided:

- 1) All outdoor storage of materials shall be screened from view by a decorative fence constructed of durable materials.

D. Dwelling unit located within a building used for another approved B-2 use, provided:

- 1) No dwelling unit shall be located on the first floor (at grade level), and all residential units are located on the second floor or above. However, dwelling units located on the first floor (at grade level) shall be allowed in the following designated areas:

Lake Street North of State Street
Spring Street from Bridge Street to Prospect
State Street between Line Street and Adams
Railroad Street from Bridge Street to Lake Street
North Street, in its entire length

- 2) Parking for integrated residential units is provided at a rate of 1 space per unit, on the same site or in a permanently reserved area within 500 feet of the site.

E. Any structure or use that, in the opinion of the Planning Commission, is similar to a structure or use permitted by right or by approval of the Planning Commission in this zoning district.

Section 511. IN- Industrial District. This district classification is designed so as to accommodate wholesale activities, warehouses, and manufacturing, assembling, fabricating, processing and compounding activities. It also is designed to accommodate agricultural and agricultural support enterprises.

1. **Uses Permitted By Right. (IN- Industrial District).** The following structures and or uses shall be permitted by right:

- A. Any use designated as a land use permitted by right in the B-1 or B-2 Districts.
- B. Any use having a principal function of basic research; design; and or pilot, or experimental product development when conducted within a completely enclosed building.
- C. Any of the following uses when the manufacturing, compounding or processing is conducted wholly within a completely enclosed building:
 - 1) Warehousing and wholesale establishment, storage or trucking facility.
 - 2) Manufacturing, compounding, processing, packaging or treatment of such products as, but not limited to: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, and hardware; and cutlery, tool, die, gauge and machine shops.
 - 3) Manufacturing, compounding, assembling or treatment of articles or merchandise from previously prepared materials like bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semiprecious metals or stones, sheet metal, shell textiles, tobacco, wax, wire, wood, yarns or growing farm crops.
 - 4) Manufacturing of pottery and figurines or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas.
 - 5) Manufacturing of musical instruments, toys, novelties, or metal or rubber stamps, or other small molded rubber products.

- 6) Manufacturing or assembling of electrical appliances, electronic products, or instruments and devices, or radios, etc.
 - 7) Laboratories – experimental, film or testing.
 - 8) Similar operations to those listed above.
- D. Storage facility for building materials, sand, gravel, stone, lumber or storage of contractor's equipment and supplies; provided such is enclosed within a building or within an obscuring wall or fence.
 - E. Trade or industrial school.
 - F. Machinery or equipment sales or storage.
 - G. Lumber or planing mill when completely enclosed.
 - H. Metal plating, buffing or polishing.
 - I. Motor freight warehouse.
 - J. Agricultural equipment sales and service.
 - K. Grain or seed elevator or sales; cold storage for cooperative or wholesale agricultural products; or similar enterprise which is directly related to agriculture.
 - L. Agricultural storage facilities.
 - M. Farms and farm-related operations.
 - N. Greenhouses.
 - O. Nurseries.
 - P. Gasoline or petroleum storage.
 - Q. Service garage.
 - R. Accessory building or use.
2. **Uses Permitted By Right, Subject to Conditions. (IN- Industrial District).** Any use designated as a land use permitted by right subject to conditions in the B-1 or B-2 Districts, subject to the requirements imposed thereon.
 3. **Special Uses Permitted. (IN- Industrial District).** All Special Use approval applications shall include a Reviewable Site Plan to be reviewed by the Planning Commission as required in Article III Section 304 of this amended Ordinance.

The following structures and or uses shall be permitted, but only by approval granted by the Planning Commission:

- A. Any use designated as a land use permitted subject to approval in the B-1 or B-2 Districts, subject to the requirements imposed thereon, or any other use deemed similar in nature and character to any of the uses listed below, as determined by the Planning Commission.
- B. Any of the following uses; provided that they are located not less than 800 feet from any residentially zoned district and not less than 300 feet from any other zoned lot or parcel of land:
 - 1) Blast furnace, steel furnace, blooming or rolling mill.
 - 2) Manufacture of corrosive acid or alkali, cement, lime, gypsum or plaster of paris.
 - 3) Production or refining of petroleum or other inflammable liquids.
 - 4) Smelting of copper, iron or zinc ore.
 - 5) Ready-mix concrete or asphalt plant.
 - 6) Coal, coke or fuel yard.
 - 7) Heating or electrical power generating plant.
- C. Radio, television or satellite or other transmission towers or public utility microwaves and their attendant facilities, provided that such structures shall be located centrally on a lot of not less than 1½ times the height of the tower measured from the base of said tower to all points on each property line.
- D. Mining operations and incidental mineral processing, subject to the following:
 - 1) No excavation shall be permitted less than 150 feet from an interior lot line except where lateral support approved by the Planning Commission is provided in which event excavation shall be permitted not less than 50 feet from an interior lot line.
 - 2) No excavation shall be permitted less than 150 feet from a right-of-way.
 - 3) No excavation shall be permitted less than 100 feet from the banks of a stream or waterway.
 - 4) No permanent processing plant, digging or excavating apparatus, stock piling, or loading of materials shall be permitted less than 250 feet from an interior lot line or right-of-way.
 - 5) Sight barriers and such noise and air pollution abatement measures as deemed necessary by the Planning Commission shall be provided.
 - 6) Operations of the use shall be conducted only between the hours of 7:00 am and 7:00 pm and never on Sunday.
 - 7) All pits and excavations shall be fenced and posted with warning signs as to prevent access and injury to children or to other persons not authorized to enter.

- 8) Reclamation and rehabilitation of mineral areas shall be commenced immediately upon termination of mining or excavation of one acre or more and shall be completed within 1 year thereafter.
- 9) Prior to the issuance of any Village Zoning Compliance Permit for this purpose, the Planning Commission shall require the following:
 - a. A site plan which shall include a timetable of the planned mining, excavation, reclamation and rehabilitation of the area together with a report from a qualified soil scientist, soil engineer, or geologist indicating the effect the project will have on the watershed.
 - b. A performance bond to insure the proper reclamation and rehabilitation of the area in an amount to be set by the Planning Commission for each acre proposed to be mined or excavated in the following 12 months and previously mined and not reclaimed and rehabilitated. The bond shall be reviewed by the Planning Commission annually and adjusted, but shall never be for an amount less than \$5,000. The bond shall be filed with the Village Clerk.
 - c. A certificate of insurance which shall be filed annually with the Village Clerk and which shows that the operator is carrying personal injury and property damage insurance in an amount not less than \$300,000 for each person injured or property damaged and \$500,000 for injury or damage to more than 1 person or person's property arising out of 1 occurrence.
- 10) Any Village Zoning Compliance Permit issued for the explicit purpose stated shall be valid for 1 year and shall be automatically renewed annually unless revoked. The Village Zoning Inspector shall monitor the use of the premises and compliance with these provisions. A violation which continues for 30 days after the Village Zoning Inspector has given personal or first class mail notice to the operator shall cause the Village Zoning Compliance Permit to be automatically revoked and void.

E. Adult Entertainment Uses, subject to the following:

- 1) No adult entertainment use shall be located within 1,000 feet of any other adult entertainment use nor within 1,000 feet of any of the following uses:
 - a. All Class "C" establishments licensed by the Michigan Liquor Control Commission.
 - b. Pool or billiard halls.
 - c. Coin-operated amusement centers or video arcades.
 - d. Teenage discos or dance halls.
 - e. Ice or roller skating rinks.
 - f. Pawn shops.
 - g. Indoor or outdoor movie theaters.

- h. Any public park, public playground, public library, or public building.
 - i. Any church, place of worship, or other religious facility.
 - j. Any public or private school having a curriculum including kindergarten or any one or more of the grades 1 through 12.
 - k. Any restaurant that does not serve alcohol.
 - l. Any preschool or day nursery.
 - m. Any indoor or outdoor public, private, or commercial recreational facility. A “recreational facility” is a place designed and equipped for the conduct of sports and leisure time activities. A public recreational facility is defined as a recreational facility open to the general public. A private recreational facility is defined as a recreational facility operated by a non-profit organization and open only to members and guests of such non-profit organization. A commercial recreational facility is defined as a recreational facility operated as a business and open to the public for a fee.
 - n. A single-family dwelling.
 - o. Uses like or similar to the above.
- 2) Such distance shall be measured along the centerline of the street between 2 fixed points on the centerlines determined by projecting straight lines at right angles from the part of the above listed use nearest to the contemplated location of the structure containing the adult entertainment use and from the contemplated location of the structure containing the adult entertainment use nearest to a use listed above.
 - 3) No adult entertainment use shall be located within 1,000 feet of any area zoned R-1 or R-2. Such required distances shall be measured by a straight line between a point on the boundary line of a zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the adult entertainment use to a point on the contemplated structure or contemplated location of the structure containing the adult entertainment use nearest to the boundary lines of a zoned residential area.
 - 4) All adult entertainment uses shall be contained in a free-standing building. Enclosed malls, commercial strip stores, common wall structures, and multi-uses within the same structure do not constitute a freestanding building.
 - 5) No adult use shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas from any public way or from any property not regulated as an adult entertainment use. This provision shall apply to any display, decoration, sign, show window, or other opening.
- F. Wireless communication antenna (WCA) and wireless communication support facilities (WCSF), provided:
- 1) WCA’s shall not be allowed on any site used as a single-family dwelling unit.

- 2) To encourage co-location and to minimize the number of WCSF's within the Village, WCA's shall be considered a permitted accessory use when placed on or attached to any structure which constitutes a principal use, including existing WCSF's, provided that any WCA shall not extend more than 20 feet above the tallest portion of the structure on or to which it is attached. Provided further that the height of any WCA shall not exceed 100 feet unless:
 - a. Located on a lawfully existing or approved WCSF; or
 - b. Located on a structure existing prior to the adoption of this amended Ordinance; or
 - c. Located on a structure which has received a height variance.
- 3) WCA's shall require no personnel on the premises except as necessary for maintenance and repair.
- 4) If a WCA requires an accessory equipment storage structure, it shall not be greater than 15 feet in height and shall meet all zoning requirements.
- 5) All WCA's shall be designed to blend into or meet the aesthetic character of the principal (primary) structure where reasonably practical taking into consideration the location of the WCA and the line of sight angle and distance from the right-of-way and neighboring uses.
- 6) No accessory equipment structure or area shall be allowed in any right-of-ways which creates a public safety hazard.
- 7) The installation of a WCA shall be reviewed by the Planning Commission which shall approve any request that meets the requirements of this section.
- 8) This section shall not exempt the applicant from such other government review and permitting procedures (i.e., FCC, FAA, etc.).
- 9) All WCSF's shall be constructed in compliance with all applicable construction codes, which include the Electronic Industries Association/Telecommunications Industry Association (EIA/TIA) Structural Standards of Steel Antenna Towers and Antenna Supporting Structures.
- 10) The WCSF shall comply with all applicable Federal Aviation Administration (FAA) requirements.
- 11) The WCSF shall not be used for advertising purposes and shall not contain any signage except signage that shall show the identity of the service provider and emergency telephone numbers.
- 12) The WCSF may be located on a lot containing other principal uses. The WCSF may be located within an area smaller than the minimum lot size of the IN-Industrial district provided the zoning lot complies with the applicable minimum lot size for the existing principal use or is a legal nonconforming lot. The area within which the WCSF is located shall be the area subject to the requirements of this section, rather than the entire lot, unless otherwise provided herein.

- 13) The WCSF shall meet all requirements of the IN-Industrial district which are not inconsistent with this section. Minimum yard requirements shall be measured from the boundary of the zoning lot to the closest portion of the WCSF or the accessory equipment structure or storage area, whichever is closer.
- 14) The WCSF shall have a landscaped buffer so that the base of the WCSF and accessory equipment structure or storage area shall be screened from any right-of-way, residential use, or residential zoning district. Such landscaped buffer may be placed on the site in a manner which will maximize the aesthetic and environmental benefits, while at the same time providing the visual buffer required hereby. Such landscaped buffer shall consist of hedges planted leaf to leaf which shall reach a height of not less than 6 feet at maturity and conifer trees planted on 15 foot centers along the approved buffer of a species approved by the Planning Commission unless safety requirements of the principal use requires otherwise (i.e., utility substations).
- 15) The construction of the WCSF shall be of monopole design unless it can be demonstrated that such design is not feasible to accommodate the user or co-location.
- 16) The application shall contain information showing the geographic search area within which the proposed WCSF must be located and shall also provide locations of all structures of similar height within and adjacent to the search area.
- 17) If co-location is not part of the application, then the applicant must demonstrate in the application as to why co-location is not possible.
- 18) WCSF's shall not have a shiny or metallic finish.
- 19) The applicant is required to disclose whose wires will be connecting proposed towers so the Village can assess any separate franchise fees.
- 20) An existing WCSF which was lawful at the time of its construction may be replaced for purposes of accommodating co-location of additional WCA's or otherwise provided that:
 - a. The replacement WCSF shall not exceed a total height of 150 feet or, if the existing WCSF has an approved height greater than 150 feet, the replacement WCSF shall not exceed the approved height.
 - b. The replacement WCSF shall be located within the same zoning lot as the existing WCSF and shall be located so as to maximize compliance with existing minimum yard requirements.
 - c. The applicant shall cause the existing WCSF to be removed within 90 days of completion of the replacement WCSF and the relocation or installation of the WCA. In any event, the existing WCSF shall be removed within 180 days of the Village's final construction inspection of the replacement WCSF.
 - d. If the location of the replacement WCSF is such that the existing WCSF must be moved before the replacement WCSF is constructed, temporary portable antennae support facilities may be used, but must be removed within 30 days of the completion of the replacement WCSF and the relocation or installation of the WCA. In

any event, the temporary portable antennae facilities must be removed within 60 days of the Village's final construction inspection of the replacement WCSF.

- e. The replacement WCSF shall meet all criteria for a new WCSF.
- f. The installation of a replacement WCSF shall be reviewed by the Planning Commission which shall approve any request that meets the requirements of this section.

21) All new WCSF's, except replacement WCSF's, shall be subject to the following review criteria:

- a. A new WCSF shall not be approved unless it can be demonstrated by the applicant that there is a need for the new WCSF that cannot be met by placing WCA on an existing WCSF or on other structures or replacement of an existing WCSF. Information concerning the following factors shall be considered in determining that such need exists:
 - i. Insufficient structural capacity of existing WCSF's or other suitable structures and infeasibility of reinforcing or replacing an existing WCSF.
 - ii. Unavailability of suitable locations to accommodate system design or engineering on existing WCSF or other structures.
 - iii. Radio frequency interference or other signal interference problems at existing WCSF or others structures.
 - iv. The cost of using an existing WCSF or other structure exceeds the costs of permitting and constructing a new WCSF.
 - v. Other factors which demonstrate the reasonable need for the new WCSF.
 - vi. The denial of the application for a proposed WCSF will result in unreasonable discrimination among providers of functionally equivalent personal wireless communication services and or will have the effect of prohibiting the provision of personal wireless communication services.
 - vii. The refusal of owners or parties who control WCSF's or other structures to permit a WCA to be attached to such WCSF's or structures.
- b. The applicant must include a statement in the application of its good faith intent to allow the co-location of the WCA of other entities, provided that the cost of modifying the WCSF to accommodate the co-location WCA is borne by the co-locating entity.
- c. The applicant shall send a written notice to all potential users of the new WCSF offering an opportunity for co-location. The list of potential users shall be provided by the Village based on those entities who have requested approval of WSCF in the past, current FCC license holders, and any other entities requesting to be included on the list. Copies of the notice letters shall be provided to the Village at the time the application is filed. If, during a period of 30 days after the notice letters are sent to potential users, a user or users request, in writing, to co-locate on the new WCSF, the applicant shall accommodate the request(s), unless co-location is not reasonably possible based on the criteria of this subsection.

- d. New WCSF's shall meet the following additional criteria:
 - i. The WCSF shall not exceed 150 feet in height.
 - ii. All WCSF's over 100 feet in height shall be designed for co-location.
 - iii. All WCSF's which are located within 250 feet of a lot used for a residential use or a residential zoning district as measured from the base of the WCSF shall be subject to Special Use approval review provisions of this amended Ordinance as specified in Article III Section 304.
 - iv. The installation of a WCSF shall be reviewed by the Planning Commission which shall approve such WCSF's that meet the requirements of this section. Such review by the Planning Commission shall be without notice.

- e. Application Requirements for New WCSF's:
 - i. A site plan prepared in accordance with the site plan requirements of this amended Ordinance shall be submitted showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
 - ii. The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location that is not otherwise developed. The purpose of landscaping is to provide screening for the structure base, accessory buildings and enclosure. In all cases, there shall be shown on the plan fencing which is required for protection of the support structure and security from children and other persons who may otherwise access facilities that may be unsafe.
 - iii. The application shall include a certification by a State of Michigan licensed and registered professional engineer of the applicant with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulation in determining the appropriate setback to be required for the structure (WCSF) and other facilities.
 - iv. The application shall include a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided below. In this regard, the security shall be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by the Village Council establishing the land in question as security for removal.
 - v. The application shall include a map showing existing and known proposed WCSF's within the Village, and further showing existing and known WCSF's within areas surrounding the borders of the Village in the location, and in the area, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility.
 - vi. The application shall include the name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This

information shall be continuously updated during all times the WCSF is on the premises.

22) Provision shall be made for the removal of the WCA or WCSF once it becomes obsolete, in accordance with the following:

a. Any WCSF that is abandoned shall immediately be removed or demolished. For the purposes of this section, abandoned shall mean that no WCA or other commercial antenna has been operational and located on the WCSF for 180 days or more. Where the removal or demolition of an abandoned WCSF has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days written notice, the Village may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time application was made for establishing the WCSF or the Village may place a lien on the property to cover costs for the removal of the WCSF. A lien on the property shall be superior to all other liens except taxes.

23) Variances from this section may be requested from the Zoning Board of Appeals. Requests for additional height to any permitted or previously approved WCSF may be granted by the Planning Commission to provide for co-location of additional WCA so long as such additional height does not exceed 30 feet. Appeals of a Planning Commission decision shall be taken to the Zoning Board of Appeals.

ARTICLE VI CONDOMINIUM DEVELOPMENTS

Section 600. Intent. The intent of this chapter is to provide regulations and standards governing the development of condominiums within the Village of Port Austin. These provisions apply to residential, commercial and industrial uses on individual building sites and planned unit developments.

Section 601. Initial Information. Concurrently with notice required to be given to the Village of Port Austin pursuant to Section 71 of Public Act 59 of 1978, as amended (the Condominium Act), a person, firm, or corporation intending to develop a condominium project shall provide the following information:

1. The name, address and telephone number of: (1) All persons, firms, or corporations with an ownership interest in the land on which the condominium development will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee or land contract vendee); (2) All engineers, attorneys, architects, planners or registered land surveyors associated with the project; and, (3) The developer or proprietor of the condominium development.
2. The legal description of the land on which the condominium development will be developed together with appropriate tax identification numbers.
3. The square footage content of the land on which the condominium development will be developed.
4. The purpose of the development (for example, residential, commercial, industrial, etc.).
5. Approximate number of condominium units to be developed on the subject parcel.
6. Whether or not a community water system is contemplated.
7. Whether or not a community sewer system is contemplated.

Section 602. Information to be Kept Current. The information shall be furnished to the Village of Port Austin Zoning Inspector, or designate, and shall be kept updated until such time as a Certificate of Occupancy has been issued.

Section 603. Site Plans for New Projects. Prior to recording of the Master Deed required by Section 72 of Public Act 59 of 1978, as amended, the condominium development shall undergo site plan review and approval pursuant to Section 304 of this amended Ordinance. In addition, appropriate engineering plans and inspections prior to the issuance of any Certificates of Occupancy shall be submitted for review and approval to the Huron County Building and Zoning office.

Section 604. Site Plans for Expandable or Convertible Projects. Prior to expansion or conversion of a condominium development on additional land, the new phase of the project shall undergo site plan review and approval pursuant to Section 304 of this amended Ordinance.

Section 605. Master Deed, Restrictive Covenants and "As-Built" Survey. The condominium development developer or proprietor shall furnish the following: 1 copy of the recorded Master Deed; 1 copy of all restrictive covenants, and 2 copies of an "As-Built Survey". The "As-Built Survey" shall be

reviewed by the Planning Commission for compliance with the approved Site Plan. Fees for this review shall be established by resolution of the Village Council.

Section 606. Monuments Required. All condominium developments that consist in whole or in part of condominium units which are residential, commercial, or industrial building sites, mobile home sites, or recreational sites shall be marked with monuments as provided in this subsection.

1. All monuments used shall be made of solid iron or steel bars at least ½" in diameter and 36" long and completely encased in concrete at least 4" in diameter.
2. Monuments shall be located in the ground at all angles in the boundaries of the condominium development; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium development and the intersection of alleys with the boundaries of the condominium development; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys and at all angles of an intermediate traverse line. It is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium development if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.
3. If the required location of a monument is in an inaccessible place or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
4. If a point requiring a monument is on a bedrock outcropping, a steel rod, at least ½" in diameter shall be drilled and grouted into solid rock to a depth of at least 8".
5. All required monuments shall be placed flush with the ground where practicable.
6. All unit corners and the intersection of all limited common elements and all common elements shall be marked by monuments in the field by iron or steel bars or iron pipe at least 18" long and ½" in diameter, or other approved markers.
7. The Port Austin Village Council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed 1 year on the condition that the proprietor deposits with the Village Clerk cash or a certified check, or irrevocable bank letter of credit to the Village of Port Austin, whichever the proprietor selects in an amount to be established by the Village Council, by resolution. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

Section 607. Compliance with Federal, State, and Local Laws. All condominium developments shall comply with federal and state statutes and local ordinances.

Section 608. Occupancy. The Village of Port Austin may allow occupancy of the condominium development before all improvements required by this amended Ordinance are installed provided that cash, a certified check or an irrevocable bank letter of credit is submitted sufficient in amount and type to provide for the installation of improvements before expiration of the Temporary Occupancy Permit without expense to the Village.

Section 609. Site Condominiums.

1. **Review Procedures.** Pursuant to authority conferred by Section 141 of the Condominium Act, Act 59 of 1978, as amended, before condominium units may be sold or site improvements initiated, all condominium subdivision plans must be approved by the Village Council following review and recommendation for approval by the Planning Commission. In determining whether to recommend a condominium subdivision plan for approval to the Village Council, the Planning Commission may consult as required, with all applicable offices or agencies (zoning inspector, village attorney, road commission, etc.) regarding the adequacy of the Master Deed, deed restrictions, utility systems, streets, development layout, and design and compliance with all requirements of the Condominium Act and this amended Ordinance. The review process shall consist of a Preliminary Plan Review and a Final Plan Review.
 - A. **Preliminary Plan Review.** In the preliminary plan review phase, the Planning Commission shall review the overall plan for the site including basic road and unit configurations and the consistency of the plans with all applicable provisions of the Zoning Ordinance and Master Plan. Plans submitted for preliminary review shall include information specified in items A - D of the Exhibit Requirements, as set forth below.
 - B. **Final Plan Review.** Upon receipt of Preliminary Plan Approval, the applicant shall prepare the appropriate engineering plans and apply for final review by the Planning Commission. Final plans shall include information as required by items A - H of the Exhibit Requirements as set forth below. Such plans may be reviewed as required by the Village Zoning Inspector, Village Planner, Village Attorney and Engineer. Further, such plans may be submitted for review and comment to all applicable local, county, and state agencies as may be appropriate, and as determined by the Planning Commission.
2. **Exhibit Requirements.** In addition to the requirements of Section 66 of the Condominium Act and the requirements for site plans contained in Section 304 of this amended Ordinance, all plans for site condominium projects presented for approval shall contain the following information:
 - A. Survey of the condominium subdivision site.
 - B. A survey or drawing delineating all natural features on the site including, but not limited to: ponds, streams, lakes, drains, flood plains, wetlands, and woodland areas.
 - C. The location size, shape, area and width of all condominium units and common elements, and the location of all proposed streets.
 - D. A generalized plan for the provision of utilities and drainage systems.
 - E. A copy of the Master Deed and a copy of all restrictive covenants to be applied to the project.
 - F. A utility plan showing all sanitary sewer, water, and storm water drainage improvements, including all easements to be granted to utility companies or the governmental entities having jurisdiction thereof for repair and maintenance of all utilities.
 - G. A street construction and maintenance plan for all streets within the proposed condominium subdivision.

- H. A storm water drainage and storm water management plan, including all lines, swales, drains, basins and other facilities.
3. A site condominium development, whether intended for residential, commercial, or industrial use shall be subject to all of the requirements and standards of the applicable Zoning District in which the development is located.

ARTICLE VII PLANNED UNIT DEVELOPMENTS

Section 700. Purpose and Applicability.

1. The purpose of these regulations is to permit greater flexibility and consequently, more creative and imaginative design in the development of residential areas than is generally possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, the integration of necessary commercial and community facilities, and the preservation of open space for park and recreational use and for retention of natural features.
2. A Planned Unit Development is a distinctive use of property. It shall therefore be governed only by the provisions of this Article and not by any other provision of this amended Ordinance, anything in this amended Ordinance to the contrary notwithstanding.
3. In addition to the general requirements, section 701 of this amended Ordinance, a Planned Unit Development shall conform to and be in accordance with the Michigan Zoning Enabling Act #110 of 2006, Article V, 125.3503, Section 503.

Section 701. General Requirements. A request for a Village Zoning Compliance Permit and for a Planned Unit Development must meet the following requirements to qualify for consideration:

1. The tract of land for a project must be either in one ownership or the subject of a request filed jointly by the owners of all properties included. The holder of a written option to purchase land or the holder of an executory land contract shall for the purposes of such request be deemed to be an owner of such land.
2. A Planned Unit Development shall be allowed only within residential districts and providing the applicant can demonstrate that the proposed character of development will meet the purpose of a Planned Unit Development.
3. Land use need not be uniform in all respects.
4. Public water, sanitary sewer and storm water drainage facilities shall be provided as part of the site development. All interior electric, cable and phone transmission wires shall be placed underground.
5. Approval by the Planning Commission of a sketch plan and detailed site plan is required.

Section 702. Permitted Uses. No structure of part thereof shall be erected, altered or used and no land shall be used except for one or more of the following, regardless of the zoning district in which the same is located:

1. All residential uses, except Manufactured Home Parks.
2. Commercial uses designed and intended to serve the community needs of the people residing in the Planned Unit Development including, but not limited to the following:
 - A. Bakeries (retail only).

- B. Banks and financial institutions.
 - C. Barber or beauty shop.
 - D. Book and stationary stores.
 - E. Drug stores.
 - F. Dry cleaning (pickup or coin operated only).
 - G. Florist and garden shops.
 - H. Food stores.
 - I. Hardware stores.
 - J. Offices.
 - K. Post Office.
 - L. Private clubs, excepting those of which the primary activity is a service customarily carried on as a business.
 - M. Shoe sales and repair stores.
 - N. Variety stores.
 - O. Wearing apparel shops.
 - P. Full course menu, table top, indoor restaurants conforming in appearance to a residence which provide no "drive-in", "short-order" or "car service" food or drink facility. Alcoholic beverages may be served incidental to the sale of the food.
3. Accessory and associated uses designed and intended to serve the community needs of the people residing in the Planned Unit Development including, but not limited to:
- A. Churches.
 - B. Elementary and secondary schools.
 - C. Private garages.
 - D. Recreational play areas.
 - E. Storage sheds.

Section 703. Design Requirements. Within the Planned Unit Development approved under this Article, the requirements hereinafter set forth shall apply in lieu of any conflicting regulations applicable to the district in which the development is located:

1. The maximum number of dwelling units permitted within the project shall be determined by dividing the net Planned Unit Development area by the minimum residential lot area per dwelling unit required by the district in which the project is located. In the event the project lies in more than one zoning district, the number of dwelling units shall be computed for each district separately.
2. The minimum setback and yard or open space requirements for buildings and structures may be reduced or increased at the discretion of the Planning Commission to avoid unnecessary disruption of the environment where reasonable equivalent open space is provided elsewhere upon the site.
3. A screening area may be required by the Planning Commission along the perimeter of the development if deemed necessary to protect the values of adjoining property under separate ownership.
4. Within every Planned Unit Development there shall be planned and set aside permanently, as part of the total development, an amount of open space equal to not less than the aggregate accumulation of lot size reduction below the minimum lot area for the development as a whole. Before accepting the open space as meeting the requirements of this provision, the Planning Commission must find the land thus designated sufficient in size, suitably located, with adequate access. Evidence shall be provided that satisfactory arrangements will be made for the maintenance of such designated land to relieve the Village of future maintenance thereof.
5. All required open space within a Planned Unit Development shall be arranged so as to provide access and benefit to the maximum number of lots and or dwelling units. Separate tracts of open space shall have adequate access from at least one point along a public street.

Section 704. Procedure. Whenever any Planned Unit Development is proposed, before any Village Zoning Compliance Permit is granted, the developer shall apply for and secure approval from the Planning Commission in accordance with this procedure. Approval of a Planned Unit Development shall not constitute a change in the underlying zoning classification of a subject site. Once approved, a Planned Unit Development Village Zoning Compliance Permit shall be considered permanently attached to the subject site.

1. In order to allow the Planning Commission and the developer to reach an understanding of basic design requirements prior to detail site design investment, the developer shall submit a sketch plan of the proposal to the Planning Commission with the applicable fee. The sketch plan shall be drawn to scale and clearly show the following information:
 - A. Boundaries of the property.
 - B. Location and height of all buildings and structures.
 - C. Interior roadway system, parking facilities and all existing right-of-ways and easements, whether public or private.
 - D. Delineation of the various residential and or commercial areas indicating for each such area its size, number of buildings, structures and composition in terms of total number of dwelling units,

approximate percentage allocation by dwelling unit type plus a calculation of the net residential density and commercial density.

- E. The interior open space system.
 - F. The overall storm water drainage system.
 - G. If grades exceed 30 percent on portions of the site, have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and or ponding, an overlay outlining the above susceptible soil areas shall be provided.
 - H. Principal ties to the neighborhood and community with respect to transportation, water supply and sewage disposal.
 - I. General description of the provision of other community facilities, such as schools, recreational facilities, fire protection services, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
 - J. A location map showing uses and ownership of abutting lands.
2. In addition, the following documentation shall accompany the sketch plan:
 - A. A statement that the proposal is compatible with the goals and objectives of the Village's Master Plan.
 - B. A statement as to how common open space is to be owned and maintained.
 - C. If the development is to be constructed in phases, an indication of the sequence of phases shall be shown.
 3. The Planning Commission shall hold a public hearing or hearings on the application for a Planned Unit Development in accordance with the procedure of Article III Section 304 Planning Commission Site Plan Review and Approval Procedure. Notice of the hearing shall be provided in accordance with Section 308.
 4. Following the public hearing, the Planning Commission shall, within 60 days, approve or disapprove the sketch plan or require modifications thereto and so notify the applicant of its decision.
 5. Approval of a sketch plan shall not constitute approval of the detailed Site Plan, but shall be deemed an expression of approval of the conceptual layout as a guide to the preparation of the detailed Site Plan.
 6. If it becomes apparent that certain elements of the sketch plan, as it has been approved by the Planning Commission, become not feasible and in need of modifications, the applicant shall then resubmit his entire sketch plan, as amended, to the Planning Commission pursuant to the above procedure.
 7. After receiving approval from the Planning Commission of a sketch plan, the applicant may prepare his detailed Site Plan and submit it to the Planning Commission for approval.

8. The detailed Site Plan shall conform to the sketch plan that has been approved. It shall incorporate any revisions or other features that may have been recommended by the Planning Commission at the preliminary review.
9. The detailed Site Plan shall be prepared in accordance with the Site Plan Review requirements contained within Article III, and shall include all information required by Section 304.
10. In any case where the construction of the Planned Unit Development has not commenced within 1 year from the date of approval by the Planning Commission, the Village Zoning Compliance Permit shall be null and void.
11. After a Planned Unit Development has been approved and construction of any part thereof commenced, no other type of development will be permitted on the site without further approval by the Planning Commission after proceedings conducted as in the original application. This limitation shall apply to successive owners.
12. If construction and development of a Planned Unit Development does not conform to the approval of the Planning Commission, any Village Zoning Compliance Permit shall be forthwith revoked by the Village Zoning Inspector by written notice of such revocation posted upon the site and mailed to the developer and or owner at their last known addresses. Upon revocation, all further construction activities and development shall cease upon the site, other than for the purpose of correcting the violation.

Section 705. Standards for Approval. The Planning Commission's review of the detailed Site Plan shall include, but shall not be limited to, the following:

1. That the requirements of Article III for Site Plan Review have been met.
2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization, traffic controls, and pedestrian movements.
3. Location, arrangement, appearance, and sufficiency of off-street parking.
4. Location, arrangement, size and entrances of buildings, walkways and lighting.
5. Relationship of the various uses to one another.
6. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and or a noise reduction screen between adjacent uses and adjoining lands.

**ARTICLE VIII
AREA, DENSITY, BULK, HEIGHT AND YARD REQUIREMENTS**

Section 800. Schedule of Area, Density, Bulk, Height and Yard Requirements.

| Zoning District | Minimum Lot Size for 1 Building or Dwelling Unit | | Maximum Height of Structure | | Minimum Yard Setback per Lot in Feet for Main Building | | | Minimum Floor Area for Building | Maximum % of Lot Area Covered by All Buildings |
|-----------------|--|---------------|-----------------------------|------|--|-----------|------|---------------------------------|--|
| | Area in Sq. Feet | Width in Feet | Stories | Feet | Front | Each Side | Rear | | |
| Residential (1) | 10,000 | 60 | 2 1/2 | 35 | 20 | 6 | 20 | 960 Sq. Ft. | 45% |
| Residential (2) | 10,000 | 60 | 2 1/2 | 35 | 20 | 6 | 20 | 960 Sq. Ft. | 45% |
| Business (1) | 15,000 | 100 | 3 | 40 | 50 | 10 | 20 | 1500 Sq. Ft. | 75% |
| Business (2) | 25,000 | 100 | 3 | 40 | 50 | 15 | 20 | 1500 Sq. Ft. | 75% |
| Industrial (IN) | 25,000 | 125 | 3 1/2 | 45 | 50 | 15 | 20 | 1500 Sq. Ft. | 75% |

Section 801. General Rules. The area, density, bulk, height, and yard requirements of the preceding schedule and the following rules shall apply in all cases except where specific provisions are otherwise provided in this amended Ordinance for a specific use, development, structure or circumstance in which event those specific provisions shall apply. (Refer to Appendix of Illustrations).

Section 802. Area, Density, and Bulk.

1. The area used for computing lot size and density shall be the total site area exclusive of any dedicated public right-of-way except where a lot abuts a private alley or land in which event 1/2 of the width of the alley or land abutting the lot shall be included.
2. There shall be no more than 1 single-family dwelling unit per lot.
3. There shall be no more than 12 multiple-family dwelling units per acre. For town houses, stacked ranches, fourplexes, triplexes, two-family and semi-detached dwellings, there shall be no more than 6 dwelling units per acre. For the purpose of computing the permitted number of dwelling units per acre, the following lot area assignments shall control:

UNIT TYPE

Efficiency
1 Bedroom
2 Bedroom
3 Bedroom
4 Bedroom

LOT AREA/UNIT

1,200 Square Feet
2,400 Square Feet
3,600 Square Feet
4,800 Square Feet
6,000 Square Feet

Where plans show 1 or 2 bedroom units including a den, library, or other extra room, such extra room shall be counted as a bedroom for the purpose of computing density.

4. No dwelling unit having 2 or less bedrooms shall have a square foot area of less than 960 feet and each additional bedroom shall have an additional 150 square feet, each being measured around the interior faces of the exterior walls. A room designated as a den, library, or extra room shall be considered a bedroom for computing square footage requirements.
5. All multiple-family dwelling units shall have at least 1 living room and 1 bedroom, except that not more than 10% of the units may be of an efficiency apartment type.
6. In zoning districts B-1, B-2, and Industrial, no single retail establishment, whether located in a single building or combination of buildings, shall exceed 5,000 (Five thousand) square feet of gross floor area in the aggregate.
The term "gross floor area" shall include indoor and outdoor space utilized for retail display and sale of goods, and does not include area utilized for storage and warehousing. The gross floor area of adjacent stores shall be aggregated in cases where the stores (1) are engaged in the selling of similar or related goods, wares or merchandise and operate under common ownership or management; (2) share check-stands, a warehouse, or a distribution facility; or (3) otherwise operate as associated, integrated or co-operative business enterprises.

Section 803. Heights. (Refer to Appendix of Illustrations).

1. A basement shall not be counted as a story, but that portion of a basement that is above ground level shall be considered in connection with height limitations.

Section 804. Yards. (Refer to Appendix of Illustrations).

1. Setbacks shall be measured from the existing and or proposed adjacent public right-of-way lines or from the center of existing and or proposed adjacent private alleys, whichever is applicable.
2. When 25% or more of all the frontage on one side of a street between 2 intersecting streets has, on the effective date of this amended Ordinance, been built up with buildings, the front setback line for that side of the street between those intersecting streets shall be that line established by the front of the building closest to the street line. The established nature of setbacks in the following designated areas in the B-1 district and the downtown nature of those areas, the setback lines, front, rear and side yard shall be the lot lines. The designated areas are as follows:

Lake Street North of State Street
Spring Street from Bridge Street to Prospect
State Street between Line Street and Adams
Railroad Street from Bridge Street to Lake Street
North Street, in its entire length

3. In the case of a rear yard abutting a side yard, the side yard abutting a street shall not be less than the minimum front yard of the district in which located.
4. On corner lots, the side yard abutting a street shall not be less than 15 feet when there is a common rear yard line. In the case of a rear yard line abutting a side yard line of an adjacent lot, the side yard abutting a street shall not be less than 20 feet.

5. If permanent access is provided to the rear of the property by a public alley or a driveway, the side yard requirement may be waived, except as otherwise specified in applicable Building Codes; provided that if walls or structures facing interior side lot lines contain windows, or other openings, side yards of not less than 6 feet shall be provided.
6. Every lot on which an attached single-family (stacked ranches, townhouses, fourplexes, triplexes, two-family and semi-detached dwellings) or a multiple-family dwelling is erected shall be provided with a side yard on each side of the lot. The width of each side yard shall be increased by 1 foot for each 10 feet or part thereof, by which the length of the multiple-family or attached single-family dwelling exceeds 40 feet in overall dimensions along the adjoining lot line. No attached single-family or multiple-family dwelling shall exceed 180 feet in length. The depth of any lot shall not be greater than 3 times the width.
7. Access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached buildings. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other pavement serving a like function and not in excess of 9 inches above finished grade shall, for the purpose of this amended Ordinance, not to be considered to be a structure and shall be permitted in any required yard.
8. Decks and porches may project into a required side or rear yard area a distance not to exceed 8 feet, provided:
 - A. The porch is no higher than 1 story and erected on supporting piers.
 - B. The porch shall be located at least 6 feet from any side or rear lot line.
9. Enclosed porches shall be considered an integral part of the building and shall be subject to all yard requirements.
10. Special structural elements such as cornices, sills, chimneys, gutters, and similar structural features may project into any yard to a maximum of 2½ feet.
11. Fire escapes, outside stairways and balconies, if of open construction, may project into yard areas up to a maximum of 6 feet.
12. Paved terraces, patios and uncovered porches shall not be subject to yard requirements, provided:
 - A. The paved area is unroofed and without walls or other forms of solid continuous enclosure that link the paved area to the principal building.
 - B. The highest finished elevation of the paved area is not over 2 feet above the average surrounding finished grade.
 - C. No portion of any paved area is less than 5 feet from any lot line nor projects into any front yard setback area. Such paved areas may have non-continuous windbreaks or walls not over 6 feet high and not enclosing more than ½ the perimeter of the paved area.
13. For any industrial structure or use, 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 10 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.

14. **Projections into Yards.** Architectural features, not including vertical projections, may extend or project into a required side yard not more than 3 inches for each 1 foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than 30 inches.
15. **Access Through Yards.** For the purpose of this amended Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other pavement servicing a like function, and not in excess of 9 inches above the grade upon which placed, shall for the purpose of this amended Ordinance not be considered to be a structure and shall be permitted in any required yard.

**ARTICLE IX
SEVERABILITY, AMENDMENT AND REPEAL**

Section 900. Severability. This amended Ordinance and the various parts, articles, sections, subsections, clauses, paragraphs, and sentences hereof are hereby declared to be severable. If any part, clause, sentence, paragraph, subsection, section or article is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this amended Ordinance shall not be affected thereby.

Section 901. Amendment.

1. The Village Council may, upon recommendation from the Village Planning Commission, amend, supplement, or change the regulations or the district boundaries of this amended Ordinance pursuant to the authority and according to the procedure set forth in the Michigan Zoning Enabling Act, Act 110 of 2006, as amended. Whenever a petitioner requests a zoning district boundary amendment, he shall be the fee holder owner of the premises concerned or else have the fee holder owner also subscribe to his petition and shall submit a petition for rezoning to the Village Clerk. However, there shall be a 12 month waiting period between a Village denial for a zoning district boundary change and a new request for a zoning district boundary amendment of the same property.
2. Any applicant desiring to have any change made in this amended Ordinance shall, with his petition for such change, deposit the sum established by resolution of the Village Council with the Village Clerk at the time that the petition is filed to cover the publication and other miscellaneous costs for said change.
3. Zoning Ordinance text and map amendments shall only be approved by the Village after receipt of a recommendation by the Village Planning Commission. Before submitting its recommendation, the Village Planning Commission shall hold not less than 1 public hearing, notice of which hearing shall be provided in accordance with Article III Section 308.
4. If an individual property or several adjacent properties are proposed for rezoning, the Village Planning Commission shall give a notice of the proposed rezoning to the owner of the property in question, to all persons to whom any real property within 300 feet of the premises in question is assessed, and to the occupants of all single and multiple-family dwellings within 300 feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notice shall be made not less than 15 days before the hearing stating the time, place, date, and purpose of the hearing.
5. The Village Planning Commission shall transmit a summary of comments received at the public hearing and its proposed text and or map amendment(s) to the Village Council. The Village Council may hold additional hearings if the Village Council considers it necessary. Should it be considered necessary to hold such additional hearings, a notice of a public hearing held by the Village Council shall be published in a newspaper which circulates in the Village. The notice shall be published not less than 15 days before the hearing. If the Village Council considers amendments, changes, additions, or departures advisable to the proposed amendment(s), the Village Council shall refer the same to the Village Planning Commission for a report thereon within a time specified by the Village Council.

6. Any Village Zoning Ordinance amendment(s) shall be filed with the Village Clerk, and 1 notice of Ordinance amendment adoption shall be published in a newspaper of general circulation in the Village within 15 days after adoption. The notice of Ordinance amendment adoption shall include either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment, the effective date of the Ordinance amendment, and the place and time where a copy of the Ordinance amendment may be purchased or inspected.

Section 902. Repeal. Any ordinance or parts thereof which are inconsistent with this amended Ordinance are hereby repealed. However, the adoption of this amended Ordinance shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of the prior ordinance, as amended, if the use, so in violation, is in violation of the provisions of this amended Ordinance.

ARTICLE X DEFINITIONS

1. **ACCESSORY BUILDING:** A building or portion of a building subordinate to a main building on the same lot occupied by, or devoted exclusively to, an accessory use.
2. **ACCESSORY STRUCTURE:** A detached structure on the same lot with and of a nature customarily incidental and subordinate to, the principal structure.
3. **ACCESSORY USE:** A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces) located on the same zoning lot as the principal use to which it is related. An accessory use includes, but is not limited to, the following:
 - A. Residential accommodations for servants and or caretakers.
 - B. Swimming pools for the use of the occupants of a residence, or place of business.
 - C. Domestic or agricultural storage in a barn, shed, tool room or similar accessory building or other structure.
 - D. Storage of merchandise normally carried in stock in connection with a business or industrial use unless such storage is excluded in the applicable district regulations.
 - E. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
 - F. Accessory off-street parking spaces, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
 - G. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.
 - H. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.
 - I. Satellite dishes or television or radio antennae for the use of occupants of a residence, or place of business.
 - J. Uses clearly incidental to a main use such as, but not limited to: offices of a commercial or industrial complex located on the site of the commercial or industrial complex.
4. **ACREAGE:** Any tract or parcel of land which has not been subdivided or platted.
5. **ADDITION:** An extension or increase in floor area or height of a building or structure.
6. **ADULT:** A person having arrived at the legal age of adulthood defined by the laws of the state of Michigan.

7. **ADULT ENTERTAINMENT USES:** Any use of land, whether vacant or combined with structures or vehicles thereon, by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing, or presenting "Specified Sexual Activities" or "Specified Anatomical Areas." Adult entertainment uses shall include, but not be limited to, the following:
- A. **Adult Book Store:** A use which has a display containing books, magazines, periodicals, newspapers, slides, pictures, cassettes, videotapes, DVDs, motion picture films, or other printed, recorded, or electronic material which has as a significant portion of its content or exhibit matter or actions depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", or an establishment with a substantial segment or section devoted to the sale or display of such material. Retail establishments which display, sell, distribute, provide, or rent such material within an enclosed area not greater than 5% of the total usable retail space, which is limited to persons 18 years of age or older, shall not be included in this definition. "Usable Retail Space" is defined as that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. The portion of the floor area which is used or intended to be used, principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities shall be excluded from the computation of "Usable Retail Space."
 - B. **Adult Cabaret:** A nightclub, theater, or other establishment which features live performances by one or more topless and or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, wait staff, or other persons, where a significant portion of such performances show, depict, or describe "Specified Sexual Activities" or "Specified Anatomical Areas."
 - C. **Adult Mini-Motion Picture Theater:** An enclosed building with a capacity for less than 50 persons used for presenting motion picture films, video cassettes or tapes, DVDs, cable television, or other visual display depicting, describing, or presenting "Specified Sexual Activities" or "Specified Anatomical Areas."
 - D. **Adult Model Studio:** Any place where, for any form of consideration or gratuity, figure models who display "Specified Anatomical Areas" are provided to be observed, sketched, drawn, painted, sculptured, videotaped, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to a recognized educational institution providing figure models for the purpose of instruction in drawing, painting, sculpture, or photography.
 - E. **Adult Motel:** A motel wherein matter, actions, or other displays are presented which contain a significant portion depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas."
 - F. **Adult Motion Picture Arcade:** Any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, monitors, projectors, video machines, or other image producing devices are maintained to show images to 5 or fewer persons per machine at any one time, and where a significant portion of images so displayed depict, describe, or relate to "Specified Sexual Activities" or "Specified Anatomical Areas."

- G. **Adult Motion Picture Theater:** An enclosed building with a capacity of 50 or more persons used for presenting motion picture films, videotapes or cassettes, DVDs, cable television, or other visual display depicting or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein.
 - H. **Adult Novelty Business:** Any establishment that offers for sale devices which stimulate human genitals or devices designed for sexual stimulation.
 - I. **Adult Personal Service Establishment:** Any business, agency, or service which arranges, solicits, or provides for the benefit of its customers or clients, escorts, dates, models, unlicensed therapists, companions, or entertainers, either on or off the premises, for the purpose of engaging in "Specified Sexual Activities" or "Specified Acts of Violence", or displaying "Specified Anatomical Areas" as defined herein. These establishments include, but are not limited to: escort services, exotic rubs, modeling, tattoo and or body piercing parlors, body painting studios, wrestling studios, baths, and theatrical performances.
 - J. **Adult Physical Culture Establishment:** Any establishment, club, or business by whatever name designed, which provides, offers, or advertises, or is equipped or arranged so as to provide as part of its services, either on or off the premises, massages, body rubs, physical stimulation, baths, tattoos and or body piercing, or other similar treatment by any other person. The following uses shall not be included within the definition of an adult physical culture establishment:
 - 1) Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed osteopath, a licensed or certified physical or massage therapist, a licensed practical nurse, or any other similarly licensed medical professional.
 - 2) Electrolysis treatment by a licensed operator of electrolysis equipment.
 - 3) Continuing instruction in martial or performing arts or in organized athletic activities.
 - 4) Hospitals, nursing homes, medical clinics, or medical offices.
 - 5) Barber shops or beauty parlors, health spas and or salons that offer massage to the scalp, face, neck, or shoulders only.
 - K. **Adult Sexual Encounter Center:** Any business, agency, or person who, for any form of consideration or gratuity, provides a place where two or more persons, not all members of the same family, may congregate, assemble, or associate for the purpose of engaging in "Specified Sexual Activities" or exposing "Specified Anatomical Areas."
 - L. **Restricted Adult Business:** Any of the defined adult entertainment uses, which are not customarily open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
8. **ADULT FOSTER CARE FACILITY:** A governmental or nongovernmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released from or assigned to a correctional facility.

- A. **Adult Foster Care Family Home:** A private residence with the approved capacity to receive 6 or fewer adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
 - B. **Adult Foster Care Large Group Home:** An adult foster care facility with approved capacity to receive at least 13 but not more than 20 adults to be provided supervision, personal care, and protection, in addition to room and board, for 24 hours a day, 5 or more days a week and for 2 or more consecutive weeks for compensation.
 - C. **Adult Foster Care Small Group Home:** An adult foster care facility with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection, in addition to room and board, for 24 hours a day, 5 or more days a week and for 2 or more consecutive weeks for compensation.
9. **AGRICULTURAL EQUIPMENT SALES AND SERVICE:** An establishment for the repair or sale of equipment or machinery directly associated with the operation of a farm.
 10. **AGRICULTURAL STORAGE FACILITIES:** A building or structure or part of a building or structure used for the storage of agricultural products to be later sold or distributed for the use by other than the person producing the products. This definition shall include commercial grain elevator facilities but shall not include on-site storage facilities for individual farming operations.
 11. **ALLEY:** Any dedicated public way other than a street affording a secondary means of access to abutting property, and not intended for general traffic circulation.
 12. **ALTERATION:** Any change, addition, or modification in construction or type of occupancy; any change in the structural members of a structure, such as walls or partitions, columns, beams or gliders, the consummated act of which may be referred to herein as “altered” or “reconstructed”.
 13. **ANIMAL FEED LOT:** Any tract of land or structure wherein any type of fowl or the by-products thereof are raised for sale at wholesale or retail; and any structure, pen or corral wherein cattle, horse, sheep, goats, swine or other livestock are maintained in close quarters for the purposes of fattening before final shipment to market.
 14. **APARTMENT:** A room or suite of rooms arranged and intended as a dwelling unit for a single-family or a group of individuals living together as a single housekeeping unit; typically intended for rental use or as an individual unit in a collection of units cooperatively owned by its occupants.
 15. **APARTMENT BUILDING:** A building used and or arranged for rental occupancy, or co-operatively owned by its occupants, having three or more attached single family or single dwelling units, with a yard, compound, service, or utilities in common.
 16. **ARCADE:** Arcade shall mean any place of business or establishment whose principal use is mechanical amusement devices and which contains 6 or more mechanical amusement devices. Mechanical amusement devices include any machine, which, upon the insertion of any coin, slug, token, plate or disc, or which, for a fee paid to the operator or owner, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, skill ball, mechanical grab machines, television display devices or machines and all games, operations or transactions similar thereto

whether operated principally by mechanical means or electrical means or a combination thereof, under whatever name they may be indicated or called.

17. **ARCHITECTURAL FEATURES:** Architectural features of a building or a structure shall include, but shall not be limited to, cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys, and decorative ornaments.
18. **AS-BUILT SURVEY:** A survey plan of a lot, parcel of land, or combination thereof, prepared by a Michigan licensed Professional Land Surveyor showing the horizontal and vertical "as-built" measurements and locations of the constructed above ground buildings and structures; and underground utility lines, structures and infrastructure facilities. Such facilities include, but are not limited to: Cable TV, Gas, Electrical and Telephone utility lines; Potable water lines; Sanitary sewer lines; Storm water and drainage lines; Culverts; and ancillary appurtenances such as fire hydrants, gate valves, manholes, catch basins, wireless transmitters, detention/retention basins, etc.
19. **AUTO REPAIR STATION:** A structure or use where the following services are performed: general repair; rebuilding or reconditioning of motor vehicles and/or engines; collision service of motor vehicles, such as body, frame, or fender straightening and repair; or overall painting and undercoating of motor vehicles.
20. **BASEMENT:** That portion of a building which is partly or wholly below grade and having the vertical distance from the average grade to the floor greater than the vertical distance from the average grade to the ceiling. (Refer to Appendix of Illustrations).
21. **BED AND BREAKFAST OPERATIONS:** A use which is subordinate to the principal use of a dwelling unit as a single family dwelling unit and a use in which transient guests are provided a sleeping room and board in return for payment.
22. **BLOCK:** The property abutting one side of a street and lying between the nearest intersecting street (crossing or terminating) and another street or a railroad right-of-way, unsubdivided acreage, lake, river or live stream, any other barrier to the continuity of development or Village boundary line or between any of the foregoing.
23. **BOARD:** The word "BOARD" shall mean the Village of Port Austin ZONING BOARD OF APPEALS.
24. **BOARDING HOUSE:** A dwelling where meals, or lodging and meals, are provided for compensation and where 1 or more rooms are occupied by persons by pre-arrangement for definite periods of not less than 1 month. A boarding house is to be distinguished from a hotel, motel, bed and breakfast establishment, or a convalescent, nursing, or group home.
25. **BUILDING:** Any structure, either temporary or permanent, having a roof supported by columns or walls, and used or built for the shelter or enclosure of persons, animals, or property of any kind.
26. **BUILDING HEIGHT:** The vertical distance measured from the established finished grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on a terrace, the height shall be measured from the average finished ground level of the terrace at the building wall. (Refer to Appendix of Illustrations).

27. **BUILDING FRONT LINE:** A line that coincides with the face of the building nearest the front line of the lot. This face includes sun parlors and enclosed porches, but does not include steps, or the cantilevered projection of an interior portion of the building, such as a bay window, where such projection is not on the building foundation and where such projection does not exceed 30 inches from the outside face of the building. Said line shall be parallel to the front lot line and measured as a straight line between the intersection points with the side yard. For the purposes of this amended Ordinance, the front building line shall be the front setback line. (Refer to Appendix of Illustrations).
28. **BULK STATIONS:** A place where flammable liquids or motor oils are stored for wholesale purposes only, where the aggregate capacity of all storage tanks is more than 6,000 gallons.
29. **CAR WASH:** An establishment being housed in a building or portion thereof, together with the necessary mechanical equipment used for washing motor vehicles.
30. **CELLAR:** That portion of a building partly below the average grade and so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling, with a ceiling height of less than 6.5 feet. (Refer to Appendix of Illustrations).
31. **CHILD CARE CENTER:** A facility, other than a private residence, receiving 1 or more preschool or school age children for care for periods less than 24 hours a day, and where the parents or guardians are not immediately available to the child. The term includes a facility which provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The term also includes any facility referred to as day care center, day nursery, nursery school, drop-in center, and parent cooperative preschool.

A child care center does not include a Sunday school, vacation bible school, or religious instructional class operated by a religious organization where children are in attendance for not greater than 3 hours per day for an indefinite period or not greater than 8 hours per day for a period not-to-exceed 4 weeks during a 12 month period.
32. **CLINIC:** A building where human patients are admitted for examination and treatment by a group of physicians, dentists or similar professionals.
33. **CLINIC, VETERINARY:** A building where animals are admitted for examination and treatment by a group of physicians, dentists, groomers or similar professionals.
34. **CLUB:** Any facility or organization established to provide recreational or social activities, for special purposes or for the promulgation of sports, arts, sciences, literature, politics or the like for the exclusive use of its members, their families, and guests.
35. **COLLECTOR STREET:** A street that provides both land access and traffic movement in the local district.
36. **COMMON LAND:** A parcel or parcels of land together with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a Planned Unit Development, condominium development or site condominium development.

37. **CONDOMINIUM:** A condominium is a system of separate ownership of individual units and/or multi-unit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners. For the purposes of this amended Ordinance, condominium terms shall be defined as follows:
- A. **Common Elements:** Portions of the condominium project other than the condominium units.
 - B. **Condominium Act:** Shall mean Public Act 59 of 1978, as amended.
 - C. **Condominium Lot:** That portion of the land area of a site condominium project designed and intended to function similar to a platted subdivision lot for purposes of determining minimum yard setback requirements and other requirements set forth in the Schedule of Regulations of this amended Ordinance.
 - D. **Condominium Subdivision Plan:** Drawings and information which show the location, nature and approximate size of common elements, and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.
 - E. **Condominium Unit:** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed for the condominium project.
 - F. **Contractible Condominium:** A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to provisions in the condominium documents and in accordance with this amended Ordinance and the Condominium Act.
 - G. **Conversion Condominium:** A condominium project containing condominium units, some or all of which were occupied before the establishment of the condominium project.
 - H. **Convertible Area:** A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to provisions in the condominium documents and in accordance with this amended Ordinance and the Condominium Act.
 - I. **Expandable Condominium:** A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this amended Ordinance and the Condominium Act.
 - J. **General Common Elements:** Common elements other than the limited common elements, intended for the common use of all co-owners.
 - K. **Limited Common Elements:** Portions of the common elements reserved in the master deed for the exclusive use of less than all co-owners.
 - L. **Master Deed:** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan.
 - M. **Site Condominium Project:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project

shall be considered as equivalent to a platted subdivision for the purposes of regulation in this amended Ordinance.

38. **CONGREGATE CARE FACILITY:** A supervised personal care facility for 20 or fewer individuals, 60 years of age or older, if the facility is operated in conjunction with and as a distinct part of a licensed nursing home, and such facility does not include any of the following type uses: a hotel, adult foster care facility, hospital, nursing home, or county medical care facility, that provides room, board, and supervised personal care to 21 or more unrelated, non-transient, individuals 60 years of age or older.
39. **CONVALESCENT HOME:** A facility that provides, on a regular basis, personal care, including dressing and eating and health related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital provides.
40. **CORRAL:** A pen or enclosure for confining animals or livestock, but not a grazing area.
41. **COUNTY:** The County of Huron, Michigan.
42. **CUL DE SAC:** A street at one end with a turning radius.
43. **DAY CARE CENTER:** A private home in which 6 or less children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage, or adoption. Day care centers include homes that give care to an unrelated minor child for more than 4 weeks during a calendar year.
44. **DECK:** An uncovered courtyard, patio, or platform extending horizontally out from the main building or structure.
45. **DEVELOPMENT:** The construction of a new structure on a lot, the relocation of an existing structure on another lot, or the use of open land for a new use.
46. **DIRECT ACCESS:** Access not requiring trespass over adjacent property or right-of-way.
47. **DISPLAY:** As used in connection with Adult Entertainment Uses, the word display shall mean any single motion or still picture, presentation, dance or exhibition, live act, or collection of visual materials such as books, films, slides, periodicals, pictures, video cassettes, DVD's or any other printed or recorded matter which is open to view or available to the general population whether for free or otherwise.
48. **DISTRICT:** A portion of the Village within which certain regulations and requirements or various combinations thereof apply under the provisions of this amended Ordinance.
49. **DRIVE-IN:** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a structure, or to provide self-service for patrons and food carry-out.
50. **DUMPSTER:** A container of more than 1 cubic yard capacity, whether covered or not, used for the depositing and or temporary storage of rubbish ordinarily with the collection, transportation, and disposal of such rubbish by motor vehicle.

51. **DWELLING:** A structure or portion thereof, which is used exclusively for human habitation.
- A. **Dwelling, Attached:** A one family dwelling attached to 2 or more one family dwellings by common vertical walls.
 - B. **Dwelling, Detached:** A dwelling that is not attached to any other dwelling by any means.
 - C. **Dwelling, Fourplex:** A building containing four dwelling units attached by vertical common party walls, each of which has primary ground floor access to the outside.
 - D. **Dwelling, Multiple-Family:** A building containing 3 or more dwelling units designed for residential use where each unit may have access to common hallways, stairs, and elevators, or in a low-rise building, where each unit may have individual access to a street or common courtyard.
 - E. **Dwelling, One-Family:** A building containing not more than one dwelling unit designed for residential use, complying with the following standards:
 - 1) It complies with the minimum square footage requirements of this amended Ordinance for the zone in which it is located.
 - 2) It has a minimum width across any front, side or rear elevation as designed for the zoning district of the property and complies in all respect with the Huron County building code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the building code, then in that event, such federal or state standard or regulation shall apply.
 - 3) It is firmly attached to a permanent frost-free foundation constructed on the site in accordance with the building code and shall have a permanent frost-free wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home as defined herein, such dwelling shall, in addition thereto, be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
 - 4) In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling will have any exposed towing mechanism, under carriage, or chassis.
 - 5) The dwelling is connected to the public sewer and water supply or to such private facilities approved by the Huron County Health Department.
 - 6) The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet area, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

- 7) The dwelling contains no additions or rooms or other areas that are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- 8) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within, connected to said mobile home shall be of a type and quality conforming to the mobile home construction and safety standards of Federal and State Governments, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- 9) The foregoing standards shall not apply to a mobile home located in a mobile home park, except to the extent required by state or federal law or otherwise specifically required in this amended Ordinance pertaining to mobile home parks.
- 10) All construction required herein shall be commenced only after applicable construction or building permits have been obtained in accordance with the applicable building code provisions and regulations.

F. **Dwelling, Semi-Detached:** A one family dwelling attached to one other one family dwelling by a common vertical wall, and each dwelling located on a separate lot. The semi-detached dwelling is part of a two family structure with the dwelling units side by side as opposed to one on top of the other.

G. **Dwelling, Stacked Ranch:** A two-story building divided horizontally and vertically by common party walls and floors into 8 or less single-family dwelling units. Each unit shall have an independent pedestrian entrance either directly to the outside or through a common vestibule. Such buildings shall have integrated, separate garages each having direct access to a dwelling unit in the same building.

H. **Dwelling, Townhouse:** A building divided vertically by common walls into 4 to 12 one family attached dwelling units, in which each unit has independent entrances to both a front yard and to a back yard immediately abutting the front and back walls of the dwelling unit and no unit is located above another unit. A garage entrance may qualify as a rear yard entrance.

I. **Dwelling, Triplex:** A building divided horizontally into three separate dwelling units, each of which has an independent pedestrian entrance either directly to the outside or through a common vestibule.

J. **Dwelling, Two-Family Duplex:** A structure on a single lot containing 2 dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

52. **DWELLING UNIT:** A house or a building or portion thereof having cooking facilities, which is occupied wholly as the home residence or sleeping place of 1 family, either permanently or transiently, but in no case shall a travel trailer, camping trailer, motor home, truck camper, slide-in camper, chassis-mount camper, a single section mobile home without permanent foundation, tent or portable building be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this definition and shall comply with provisions thereof relative to dwellings.

- A. **Dwelling Unit, Efficiency:** A dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities.
 - B. **Dwelling Unit, Manufactured:** A dwelling unit which is substantially built, constructed, assembled, and finished off the premises upon which it is intended to be located.
 - C. **Dwelling Unit, Site Built:** A dwelling unit which is substantially built, constructed, assembled, and finished on the premises which are intended to serve as its final location. Site built dwelling units shall include dwelling units constructed of precut materials and panelized wall, roof and floor sections when such sections require substantial assembly and finishing on the premises, which are intended to serve as its final location.
53. **EARTH BERM:** A mound of earth of a minimum 18 inches in height, planted with ground cover, grass, trees, or other landscaping material intended to minimize the view of parking areas and reduce noise and dust from adjacent uses and passersby.
 54. **EASEMENT:** A grant of 1 or more of the property rights by the property owner to and or for the use by the public, a corporation, or another person or entity.
 55. **ENVIRONMENTAL AREA:** An area determined by the Michigan Department of Natural Resources and or the Michigan Department of Environmental Quality to be necessary for the preservation and maintenance of wildlife, water, soil, open space, and or forest resources.
 56. **ERECTED:** Built, constructed, altered, reconstructed, moved upon, or any physical operation on the premises which are required for construction, excavation, fill, drainage and the like.
 57. **ESSENTIAL SERVICES:** The erection, construction, alteration, or maintenance by public utilities, private companies, or governmental departments or commissions of underground or overhead gas, electrical, steam or water transmission, distribution, collection, communication, supply or disposal systems, including poles, wire, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, telephone exchange and or repeater buildings, electric substations and equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public health or governmental departments or commissions or for the public health or general welfare.
 58. **ESTABLISHMENT:** Any business or enterprise that utilizes any building, structure, premises, parcel, place, or area.
 59. **EXCAVATION/GRADING:** the moving, adding, or removing of rock, gravel, sand, topsoil, or earth in excess of 30 cubic yards in any calendar year on any parcel of land, except excavation in connection with the construction of a building or within a public highway right-of-way.
 60. **EXCEPTION:** A modification of the standards of this amended Ordinance specifically permitted by the terms of other applicable provisions hereof; such modification being necessary because of impracticality or because the provisions of this amended Ordinance covering conditions precedent or subsequent are not precise enough to all applications. An exception is not a variance.
 61. **EXOTIC ANIMALS:** For the purposes of this amended Ordinance, exotic animals shall be considered to be all animals not indigenous to Michigan.

62. **FAMILY:** A single individual doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking, and living together upon the premises or a separate housekeeping unit in a domestic relationship based upon birth, marriage, or other domestic bonds distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel.
63. **FAMILY DAY CARE CENTER:** A private home in which 6 or less children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage, or adoption. Day care centers include homes that give care to an unrelated minor child for more than 4 weeks during a calendar year.
64. **FARM:** A parcel of land on which the predominant activity is farming.
65. **FARM BUILDINGS:** Any structure or building, other than a dwelling, used or built on a farm.
66. **FARM OPERATION:** A condition or activity which occurs on a farm in connection with the commercial production of farm products, and includes, but is not limited to, marketed produce at roadside stands or farm markets; related noise, odors, dust and fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.
67. **FARM PRODUCT:** Those plants and animals useful to human beings and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur.
68. **FEEDLOT:** Any tract of land or structure wherein any type of fowl or the by-products thereof are raised for sale at wholesale or retail; and any structure, pen or corral wherein cattle, horse, sheep, goats, swine or other livestock are maintained in close quarters for the purposes of fattening before final shipment to market.
69. **FENCE:** A wall composed of posts carrying boards, rails, pickets, or wire, or iron structures consisting of vertical or horizontal bars or of open work.
70. **FENCE, DECORATIVE:** An open or semi open fence, ornamental in nature, not intended to provide a permanent barrier to passage or for screening. Decorative fencing does not include chain link fencing.
71. **FLOOR AREA, GROSS:** The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating 2 buildings. The "floor area" of a building shall not include the basement floor area. This does not exclude the lowest floor area when more than one half of the lowest floor is above grade, as such a floor no longer qualifies as a basement.

"Floor area" shall include elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof), attic space having headroom of 7 feet, 10 inches or more, interior balconies, and mezzanines. Any space devoted to off street parking or loading shall not be included in "floor area."

72. **FLOOR AREA, GROUND:** The horizontal area of the first floor of a building other than a cellar or basement measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of attached garages, breezeways, and unenclosed porches.
73. **FLOOR AREA, RESIDENTIAL:** For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating 2 dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.
74. **FLOOR AREA, USABLE:** That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area that is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of "Usable Floor Area." Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls. (Refer to Appendix of Illustrations).
75. **FRATERNAL ORGANIZATION:** An organization that represents the relationship between its members as akin to brotherhood.
76. **GARAGE, PRIVATE:** An accessory building or portion of a main building designed or used exclusively for the storage of motor vehicles, boats, and similar vehicles owned and used by the occupants of the building to which it is accessory.
77. **GARAGE, SERVICE:** A structure or use for the storage or care of motor vehicles, or where any such vehicles are equipped for operations, repaired or kept for remuneration, hire or sale.
78. **GASOLINE FILLING STATION:** A place for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories, but not including any automotive service repair.
79. **GASOLINE SERVICE STATION:** A structure or use for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and service for motor vehicles, and also including auto repair services.
80. **GASOLINE SERVICE CONVENIENCE CENTER:** A place for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and a full fast-food restaurant incorporated into the primary structure, but not including any automotive service repair.
81. **GOLF COURSE:** An improved recreational area, public or private, including any landscaped area designed for playing golf, but not including miniature golf.
82. **GOVERNMENTAL AGENCY:** Any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, township, village, authority, district, or governmental unit.
83. **GRADE:** The highest point of the ground contacting any portion of the basement or foundation of a building.

84. **GREENHOUSE:** A structure or use, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping, but not including a structure or use for the sale of fruits, vegetables or Christmas trees.
85. **GROUP DAY CARE HOME:** A private home in which 7 but not more than 12 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage, or adoption. Group day care homes include homes that give care to an unrelated minor child for more than 4 weeks during a calendar year.
86. **HEALTH CARE FACILITY:** A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis and treatment of disease, pain, injury, deformity or physical condition allowing overnight stay, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, tuberculosis hospital, or chronic disease hospital.
87. **HIGH RISK AREA:** An area which is determined by the State of Michigan on the basis of studies and surveys to be subject to erosion.
88. **HOME FOR THE AGED:** A supervised personal care facility, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility, that provides room, board, and supervised personal care to 21 or more unrelated, non transient, individuals 60 years of age or older. Home for the aged includes a supervised personal care facility for 20 or fewer individuals 60 years of age or older if the facility is operated in conjunction with and as a distinct part of a licensed nursing home.
89. **HOME OCCUPATION:** An occupation that is traditionally and customarily carried on within a dwelling unit and is clearly incidental and subordinate to the use of a dwelling unit.
90. **HOTEL:** A building or part of a building, with a common entrance or entrances, in which dwelling or rooming units are used primarily for transient occupancy, and in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial or desk service, and bellboy service. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms, or meeting rooms as accessory uses.
91. **HOSPITAL:** An institution for the diagnosis, treatment and or care of aged, sick or injured people. The term "hospital" shall include sanitarium, rest home, but not nursing home or convalescent home.
92. **HOUSEHOLD:** A household includes all persons who occupy a house, an apartment, a group of rooms, or a single room occupied as separate living quarters.
93. **HOUSING FOR THE ELDERLY:** A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older, or couples where either spouse is 60 years of age or older. This does not include a foster care home, home for the aged, nursing home, or convalescent home.

94. **IMPROVEMENTS:** A feature or action associated with a project which is considered necessary to protect natural resources, or the health, safety and welfare of the residents of the Village and further users or inhabitants of a project or project area, including, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. Improvement does not include the entire project.
95. **INDUSTRIAL PARK:** A planned industrial development on a tract of land containing an internal road network suitable for trucks and employee traffic and adequate utilities, including a sufficient potable water supply and distribution system, wastewater collection and disposal system, and an adequate system for collection, detention/retention and discharge of storm water runoff and cable TV, electric, telephone and natural gas lines.
96. **JUNK YARD:** A structure or use for commercial handling, storage and or sale of paper, rags, used or second hand materials, scrap metals, other scrap or discarded materials, and the like; or for the dismantling, storage, or salvaging of automobiles or other vehicles not in running condition, or of machinery or parts thereof, but not including a dump.
97. **KENNEL:** A structure or use in which 3 or more dogs, cats or other household pets are permanently or temporarily boarded, bred for remuneration or sold.
98. **LIVESTOCK:** Domestic animals, such as cattle, horses, sheep, hogs, chickens, geese, or goats raised and or boarded for home use or for profit.
99. **LOADING SPACE:** An off-street space within a building or on the same lot with a building or group of buildings for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials, such space having direct and unobstructed access to a street or alley.
100. **LOT:** A parcel of land occupied or intended for occupancy by a structure together with its accessory structures and the open spaces, parking spaces and loading spaces required by this amended Ordinance. A lot may or may not be specifically designated as such on public records.
101. **LOT AREA:** The total horizontal area included within lot lines. Where the front lot line lies in part of a street, the lot area shall not include that part of the lot in use or to be used as the street.
102. **LOT, CORNER:** A lot located at the intersection of two streets or a lot bounded on two sides by a curving street, any two chords of which form an angle of 135 degrees or less as measured on the lot side. The point of intersection of the street lot lines is the corner. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. (Refer to Appendix of Illustrations).
103. **LOT COVERAGE:** The part or percent of the lot occupied by any structure.
104. **LOT DEPTH:** The horizontal straight-line distance between the front and rear lot lines, measured along the median between side lot lines. (Refer to Appendix of Illustrations).
105. **LOT, DOUBLE FRONTAGE:** Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. (Refer to Appendix of Illustrations).
106. **LOT, FLAG:** A lot not meeting minimum frontage requirements and where access to a public or private road is by a narrow, private right-of-way or driveway.

107. **LOT, INTERIOR:** A lot other than a corner lot.
108. **LOT LINES:** The lines bounding a lot as defined herein (Refer to Appendix of Illustrations):
- A. **Front Lot Line:** That side of the lot abutting a public or private street right-of-way; in the case of a corner lot or a double frontage lot, either street right-of-way line may be considered the front line of the lot if it contains the minimum required frontage except where there is a row of double frontage lots, one street shall be designated the front street for all lots on the plat and any building permit.
 - B. **Rear Lot Line:** That lot line which is opposite and most distant from the front lot line. In the case of an irregular shaped lot, a line 10 feet in length entirely within the lot and parallel to and at the maximum distance from the front lot line shall be considered the rear lot line for the purpose of determining required rear yard spacing.
 - C. **Side Lot Line:** Any lot line not qualifying as a front or rear lot line. A side lot line separating a lot from a street right-of-way shall be known as a Side Street Lot Line. A side lot line separating a lot from another lot or lots shall be known as an Interior Side Lot Line.
109. **LOT OF RECORD:** A lot which actually exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded. Whenever an owner has combined 2 or more lots as contained on any recorded plat into a single building site, or combined 2 or more lots contained on any recorded plat in the records of the Assessor or Treasurer, said combination of lots shall be deemed to be a single lot of record for the purposes of this amended Ordinance.
110. **LOT, THROUGH:** Any interior lot having frontage on 2 more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required. (Refer to Appendix of Illustrations).
111. **LOT WIDTH:** The horizontal straight-line distance between the side lot lines, measured along the median between the front and rear lot lines.
112. **MAJOR THOROUGHFARE:** An arterial street that is intended to serve as a large volume traffic way for both the immediate municipal area and the region beyond.
113. **MANUFACTURED HOME:** A factory built, single-family structure that meets the National Manufactured Home Construction and Safety Standards Act, commonly known as the HUD (United States Department of Housing and Urban Development) Code. This definition shall also apply to BOCA modular homes.
114. **MANUFACTURED HOME PARK:** A parcel of land that has been planned and improved for the placement of manufactured homes for residential use.
115. **MANUFACTURED HOME SPACE:** A plot or parcel of land within a Manufactured Home Park designed to accommodate 1 manufactured home.
116. **MANUFACTURED HOME STAND:** That part of a Manufactured Home Space which has been reserved for the placement of a Manufactured Home, appurtenant structure, or additions.

117. **MARGINAL ACCESS DRIVE:** A street that is parallel to and adjacent to a primary street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the primary street and so that the flow of traffic on the primary street is not impeded by direct driveway access from a large number of abutting properties.
118. **MASTER PLAN:** The Master Plan indicating the physical development of the Village, as adopted by the Planning Commission, including any unit or part of such plan and any amendment to such plan or parts thereof.
119. **MEZZANINE:** An intermediate floor in any story occupying not to exceed one-third of the floor area of such story. (Refer to Appendix of Illustrations).
120. **MINI STORAGE:** A facility consisting of a building or a group of buildings in a controlled access compound, where individual stalls or lockers are rented out to different tenants for the dead storage of customers' goods and wares. The use of the premises shall be limited to storage only, and shall not be used for any auction, or sales, or storage and transfer business; for the servicing, repair, or fabrication of any vehicle, boat, trailer, appliance, or similar item; or for the operation of power tools, compressors, kilns, or similar equipment; except, that limited sales to tenants of products and supplies incidental to the principal use, such as packing materials, identification labels, rope, locks, tape, etc., shall be permitted on the site devoted to this use. The storage of combustible or flammable liquids, combustible fibers or explosive materials, as defined in the fire protection code, or toxic materials is expressly prohibited.
121. **MOBILE HOME:** A detached residential dwelling unit with a body width greater than 8 feet, of not less than 35 feet in length, and designed for transportation, after fabrication, on streets or highways, on its own wheels, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks, or other temporary or permanent foundations, connections to utilities, and the like. For the purposes of this amended Ordinance, a mobile home shall be considered a manufactured home. However, a travel trailer, motorized home, or any other type of recreational vehicle shall not be considered a mobile home.
122. **MOBILE HOME PARK:** A parcel of land that has been planned and improved for the placement of mobile homes for residential use.
123. **MODULAR HOME:** A house that is divided into multiple modules or sections which are manufactured in a remote facility and then delivered to its intended homesite. Typically, the modules are assembled into a single residential building using either a crane or trucks.
124. **MOTEL:** A series of attached, semi-detached or detached rental units containing a bedroom, bathroom, and closet space having direct access to an open parking lot, which are rented for overnight lodging primarily to the public traveling by motor vehicle.
125. **MOTOR HOME:** Any house trailer, trailer home, trailer coach, or similar vehicle used, or so constructed as to permit its being used, as a conveyance upon the public streets or highways, and duly licensable as such, so designed, constructed, or added to by means of accessories in such manner, and will permit the occupancy thereof.
126. **MOTOR HOME PARK:** A licensed park being designed specifically to permit the parking of travel trailers. Also may be commonly referred to as a travel trailer park or RV park.

127. **MURAL:** A two-dimensional work of art applied to the exterior of a building or structure not containing content displayed for commercial or informational purposes.
128. **NON-CONFORMING BUILDING:** A building or portion thereof lawfully existing at the effective date of this amended Ordinance, or amendments thereto and that does not conform to the provisions of this amended Ordinance in the district in which it is located as of the date of adoption of this amended Ordinance.
129. **NON-CONFORMING LOT:** Any lot, outlot, or parcel of land, which through a change in regulation, no longer conforms to the provisions of this amended Ordinance as of the adoption date of this amended Ordinance.
130. **NON-CONFORMING STRUCTURE:** A structure, which through a change in regulation, no longer conforms to the provisions of this amended Ordinance as of the adoption date of this amended Ordinance.
131. **NON-CONFORMING USE:** A use which lawfully occupied a building or land at the effective date of this amended Ordinance, or amendments thereto, but does not conform to the use regulations of the district in which it is located as of the adoption date of this amended Ordinance.
132. **NUISANCE:** An offensive, annoying, unpleasant or obnoxious thing or practice; a cause or source of annoyance, especially a continuing or repeated excessive or concentrated invasion of any activity or use across a property line which can be perceived by or affects a human being, such as, but not limited to: noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, effluent, noise from the congregation of people, particularly at night, passenger traffic, invasion of non-abutting street frontage by traffic, dirt, fly ash, or barking dogs for extensive periods.
133. **NURSERY:** A structure or use, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping, but not including a structure or use for the sale of fruits, vegetables or Christmas trees.
134. **NURSERY SCHOOL:** A facility, other than a private residence, receiving 1 or more preschool or school age children for care for periods less than 24 hours a day, and where the parents or guardians are not immediately available to the child. The term includes a facility which provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The term also includes any facility referred to as day care center, day nursery, drop-in center, and parent cooperative preschool.
135. **NURSING HOME:** A nursing care facility, including a county medical care facility, but excluding a hospital or a facility created by Act No. 152 of the Public Acts of 1885, as amended, being Sections 36.1 to 36.12 of the Michigan Compiled Laws, which provides organized nursing care and medical treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity.
136. **OCCUPIED:** Arranged, designed, built, altered, converted to, rented or leased, or intended, to be occupied.
137. **OFF-STREET PARKING LOT OR FACILITY:** A structure or use providing parking spaces for more than 3 motor vehicles along with adequate drives and aisles for maneuvering.

138. **OFFICE:** A room, suite of rooms, or building in which are located desks, chairs, tables, couches, bookcases, accounting, filing, recording, communication and or stenographic equipment for current use in the office business, and personnel engaged in executive, administrative, professional, political, informative research and or clerical duties; and other similar, related or incidental furniture, equipment or personnel connected or concerned with the performance of a personal service.
139. **OPEN AIR BUSINESS USE:** An open air business use, as used herein, shall be deemed to include any of the following businesses when said business is not conducted from a wholly enclosed building:
- A. Bicycle, trailer, motor vehicle, boats, or home equipment sale or rental services.
 - B. Outdoor display and sale of storage buildings, swimming pools and similar uses.
 - C. Sale of trees, fruits, vegetables, shrubbery, plants, seed, topsoil, humus, fertilizer, trellis, lawn furniture, playground equipment, and other home garden supplies and equipment.
 - D. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park, or similar recreation uses.
140. **OPEN FRONT STORE:** A business establishment so developed that service to the patron may be extended beyond the walls of the building, not requiring the patron to enter the building. The term "Open Front Store" shall not include auto repair stations or gasoline service station.
141. **OPEN SPACE:** Any unoccupied space to the sky on the same lot with a building.
142. **PARKING SPACE:** An area of definite length and width exclusive of drives, aisles or entrances and fully accessible for the parking of motor vehicles.
143. **PATIO:** An uncovered courtyard, deck, or platform extending horizontally out from the main building or structure.
144. **PERMIT:** A Village Zoning Compliance Permit is issued by the Village Zoning Inspector required before the issuance of a Building Permit as issued by the Huron County Building and Zoning Department.
145. **PLAN:** The Master Plan indicating the physical development of the Village, as adopted by the Planning Commission, including any unit or part of such plan and any amendment to such plan or parts thereof. Also, refer to definition No. 118 of Master Plan, above.
146. **PLANNED UNIT DEVELOPMENT:** A planning or construction project involving the use of special zoning requirements and review procedures which are intended to provide design and regulatory flexibility, so as to encourage innovation in land use planning and design and thereby achieve a higher quality of development than might otherwise be possible.
147. **PLANNING COMMISSION:** The Village of Port Austin Planning Commission; empowered to administer this amended Ordinance and operate under an adopted set of bylaws and pursuant to the Michigan Planning Enabling Act, Public Act 33 of 2008.

148. **POND:** A natural or manmade body of water used to provide water for livestock, fish and wildlife, recreation, fire control, crop and orchard spraying and irrigation, and other related uses for the personal use of the property owner and or tenants.
149. **PORCH:** A covered projection on a building or structure containing a floor, which may be either totally enclosed or open except for columns supporting the porch roof, and projects out from the main wall of said building or structure, and has a separate roof or an integral roof with the principal building or structure to which it is attached.
150. **PRINCIPAL USE:** The main use to which the premises are devoted and the principal purpose for which the premises exist.
151. **PRIVATE ROAD:** An area of road used for ingress and egress to serve more than 1 parcel of property not part of a subdivision created under State Act 288, P.A. 1967, as amended, or the Land Division Act of 1997, as amended.
152. **PUBLIC BUILDING:** Buildings that are financed largely by public funding and are available for public use, as distinguished from buildings that are government financed, but are intended for private use; e.g., public housing.
153. **PUBLIC FACILITY:** Any facility other than a recreation area which is maintained by public funds, including, but not limited to, libraries, museums, administrative offices, and fire and police stations. This definition does not include schools, community hospitals or any facility involving outdoor storage.
154. **PUBLIC UTILITY:** A person, firm, corporation, municipal or county department, or council or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public, gas, steam, electricity, sewage disposal, telegraph, telephone, transportation or water.
155. **RECREATION AREA:** Any area designated for sport or outdoor activities only, whether natural or improved, public or private.
156. **RECREATION FACILITY, PRIVATE:** Any recreation facility which is privately owned and operated on a for profit basis. This definition shall include, but not necessarily be limited to, privately owned golf courses, riding stables, race courses, bowling alleys, private clubs and lodges.
157. **RECREATION FACILITY, PUBLIC:** Any recreation facility, which is publicly owned and maintained and available to the general public, with or without a fee.
158. **RECREATIONAL VEHICLE:** A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, travel trailers, and tent trailers; provided, however, that any such vehicle or unit which is 40 feet or more in overall length shall be considered a travel trailer and shall be subject to all regulations of this amended Ordinance.
159. **RESIDENTIAL DISTRICT:** As referenced within this amended Ordinance, a residential district shall be defined as the (R-1) One-Family Residential District or the (R-2) Multiple-Family Residential District.

160. **RESTAURANT, CARRY-OUT:** A carry-out restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready to consume state and whose design or method of operation includes both of the following characteristics:
- A. Foods, desserts, or beverages are usually served in paper, plastic, or other disposable containers.
 - B. The consumption of foods, desserts, or beverages within the restaurant building or within a motor vehicle parked upon the premises is prohibited. Food is intended primarily to be consumed off the premises.
161. **RESTAURANT, DRIVE-IN:** A drive-in restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready to consume state and whose design, method of operation, includes 1 or both of the following characteristics:
- A. Foods, desserts, or beverages are served directly to the customer in a motor vehicle, either by a carhop or by other means which eliminate the need for the customer to exit the motor vehicle.
 - B. The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is permitted.
162. **RESTAURANT, FAST-FOOD:** A fast-food restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready to consume state for consumption either within the restaurant building or for carry out with consumption off the premises and whose design or principal method of operation includes both of the following characteristics:
- A. Foods, desserts, or beverages are usually served in paper, plastic, or other disposable containers.
 - B. The consumption of foods, desserts, or beverages within a motor vehicle parked upon the premises is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.
163. **RESTAURANT, STANDARD:** A standard restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready to consume state and whose design or principal method of operation includes 1 or both of the following characteristics:
- A. Customers, normally provided with an individual menu, are served their foods, desserts, or beverages by a restaurant employee at the same table or counter at which said items are consumed.
 - B. A cafeteria type of operation where foods, desserts, or beverages generally are consumed within the restaurant building.
164. **RIGHT-OF-WAY:** A street, alley or other thoroughfare or easement permanently established for passage of person or vehicle.

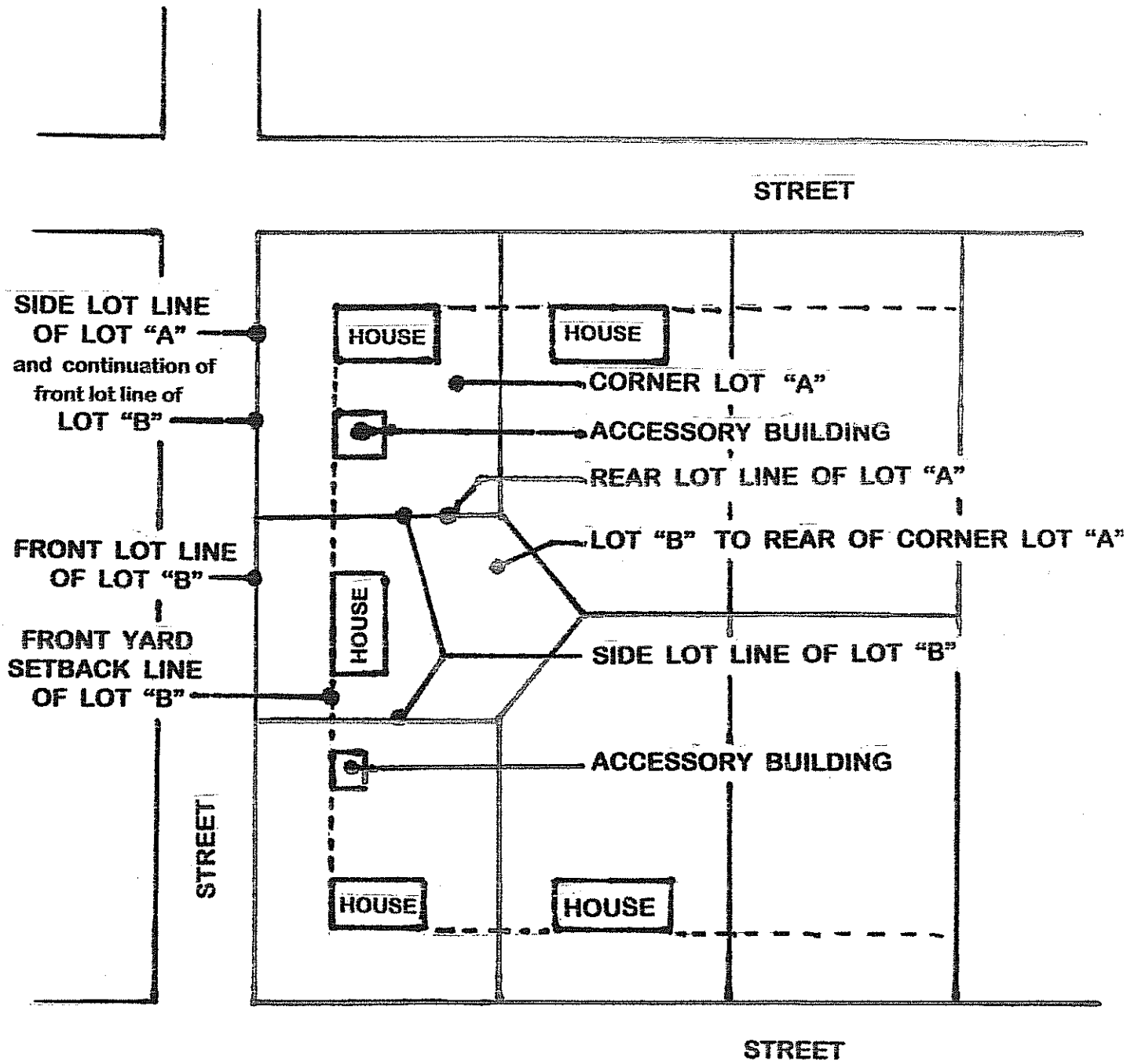
165. **ROADS:** A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles.
166. **SELF-STORAGE FACILITY:** A facility consisting of a building or a group of buildings in a controlled access compound, where individual stalls or lockers are rented out to different tenants for the dead storage of customers' goods and wares. The use of the premises shall be limited to storage only, and shall not be used for any auction, or sales, or storage and transfer business; for the servicing, repair, or fabrication of any vehicle, boat, trailer, appliance, or similar item; or for the operation of power tools, compressors, kilns, or similar equipment; except, that limited sales to tenants of products and supplies incidental to the principal use, such as packing materials, identification labels, rope, locks, tape, etc., shall be permitted on the site devoted to this use. The storage of combustible or flammable liquids, combustible fibers or explosive materials, as defined in the fire protection code, or toxic materials is expressly prohibited.
167. **SERVICE AREA:** An outdoor area used, in connection with a nonresidential use, for loading and unloading operations and for the receipt and temporary storage of goods, materials, and equipment.
168. **SETBACK:** The minimum horizontal distance a structure, or any portion thereof, is required to be located from the boundaries of the lot or parcel of land upon which the same is situated. (Refer to Appendix of Illustrations).
169. **SIGN:** Any outdoor sign, name identification, description, display, device, figure, painting, drawing, message, placard, poster, or illustration which is affixed to or represented directly or indirectly upon a structure or land and which is intended to direct attention to an object, product, place, activity, person, institution, organization or business. A "sign" shall not include any display of official court or public office notices nor shall it include the flag of a political unit or school.
170. **SIGN, ACCESSORY:** A sign that is accessory to the principal use of the premises.
171. **SIGN, NON-ACCESSORY:** A sign that is not accessory to the principal use of the premises.
172. **SIGNIFICANT PORTION:** As used in connection with Adult Entertainment Use, the phrase "significant portion" shall mean and include:
- A. Any 1 or more portions of the display having continuous duration in excess of 5 minutes.
 - B. The aggregate of portions of the display having a duration equal to 10% or more of the display.
 - C. The aggregate of portions of the collection of any materials or exhibits composing the display equal to 10% or more of the display.
173. **SPECIAL APPROVAL:** An action by the Planning Commission approving an application for, or a site plan showing, a SPECIAL USE or SPECIAL LAND USE as permitted in an appropriate zoning district pursuant to the provisions of this amended Ordinance.
174. **SPECIAL USE OR SPECIAL LAND USE:** Any use of land listed as a Use Permitted Subject to Special Approval which, due to its potential effect on adjacent lands, in particular, and the overall community in general, requires approval according to the standards as provided in this amended Ordinance.

175. **SPECIFIED ACTS OF VIOLENCE:** The graphic depiction, whether real or simulated, of human or animal decapitation, dismemberment, physical torture, stabbing, shooting, strangulation, drowning, electrocution, aggravated assault (whether accomplished by human contact, instruments, or weapons), rape, disfigurement, mutilation, burning or disembowelment.
176. **SPECIFIED ANATOMICAL AREAS:** Areas less than completely and opaquely covered: (i) human genitals, pubic region, (ii) buttock, and (iii) female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
177. **SPECIFIED SEXUAL ACTIVITIES:** Activities involving human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse, or sodomy and or fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
178. **STOP WORK ORDER:** A written order from the Village Zoning Inspector, or other authorized representative of the Village of Port Austin, delivered to the owner, lessee or occupant of premises within the Village of Port Austin, or posted on such premises, stating that all work not consistent with one or more Village of Port Austin ordinances shall cease immediately upon receipt or posting of such order, violation of which shall be cause for sanctions pursuant to section 305 of Village of Port Austin Zoning Ordinance No. 106.04.
179. **STORY:** The part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling joists next above. (Refer to Appendix of Illustrations).
180. **STORY, HALF:** An uppermost story lying under a sloping roof having a floor area of at least 200 square feet with a clear height of 7 feet 6 inches, or more.
181. **STREET:** A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. For purposes of this amended Ordinance, streets shall be defined to also include the term roads. Streets are further classified by the functions they perform.
- A. **Local (Minor) Streets:** Streets primarily designed to provide access to immediately adjacent properties. Through movement may be possible but is not encouraged by operational controls; it may be impossible in the case of cul de sacs. Part of the street width is usually allocated to vehicle parking without restrictions, although special snow emergency parking prohibitions may be necessary. Each abutting property may have a driveway connection to the street.
- B. **Collector (Secondary) Streets:** Streets primarily designed to provide access to abutting land parcels and also enable moderate quantities of traffic to move expeditiously between local streets and the major street network.
- C. **Major (Primary) Streets:** Streets primarily designed for the efficient movement of through traffic at speeds which are as high as can be reasonably allowed in view of safety considerations and the amount of access also being provided. Capacity is obtained by provision of wide street cross sections and high capacity controls at intersections, or by elimination of intersections by grade separation.

182. **STREET LINE:** The line that separates a public street right-of-way from the adjoining privately owned properties abutting the said line. Also referred to as a street right-of-way line. (Refer to Appendix of Illustrations).
183. **STRUCTURE:** Anything constructed or erected, including a building, the use of which requires location on the ground or attachment to something having location on the ground.
184. **STRUCTURE, ACCESSORY:** A structure or portion thereof subordinate to and on the same lot as a main structure and devoted exclusively to an accessory use.
185. **STRUCTURE, MAIN:** A structure or portion thereof in which is conducted the principal use of the lot on which it is located.
186. **SUBDIVIDE or SUBDIVISION:** Refer to definition in Section 102 (f) of Subdivision Control Act of 1967, being PA 288 of 1967.
187. **SWIMMING POOL:** A structure that is inground, above ground, or portable that is filled with water for the use of swimming.
188. **TELEVISION SATELLITE DISH:** Any device capable of receiving television signals from satellites.
189. **TEMPORARY BUILDING AND USES:** A structure or use permitted to exist during periods of construction of the main use, or for special events.
190. **TERRACE:** A row of 4 or more attached one family dwellings, not more than 2 rooms deep, and having the total dwelling space on one floor.
191. **TRAVEL TRAILER:** Any house trailer, trailer home, trailer coach, or similar vehicle used, or so constructed as to permit its being used, as a conveyance upon the public streets or highways, and duly licensable as such, so designed, constructed, or added to by means of accessories in such manner, and will permit the occupancy thereof.
192. **USE:** The purpose of which land, premises, or structure is arranged, designed or intended, or for which land, premises or structure is or may be occupied.
193. **VARIANCE:** A deviation from the literal provision of this amended Ordinance granted when strict enforcement would cause undue hardship and or practical difficulties owing to circumstances unique to the individual property on which the variance is granted. A variance is not an exception.
194. **VILLAGE:** Village of Port Austin, Huron County, Michigan.
195. **VILLAGE COUNCIL:** The Village Council of the Village of Port Austin, Michigan.
196. **VILLAGE ZONING COMPLIANCE PERMIT:** An approved Village Zoning Compliance Permit is written acknowledgment that the applicant and the Village Zoning Inspector and or the Village Planning Commission are in agreement as to the zoning requirements. If required, the applicant must obtain a permit from the County Building and Zoning Office.
197. **VILLAGE ZONING INSPECTOR:** The official designated by the Village Council with the responsibility and duty of administering and enforcing this amended Ordinance, including the issuance and approval of Village Zoning Compliance Permits and or stop work orders.

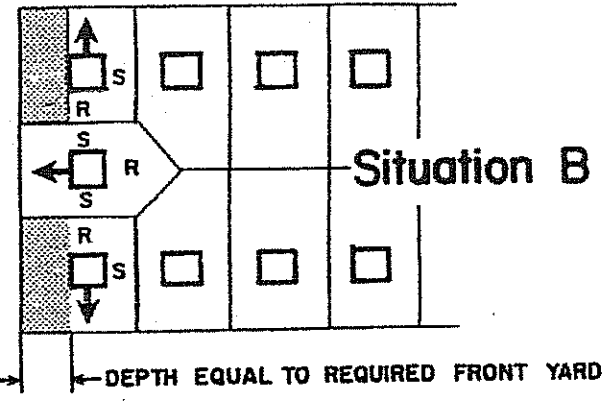
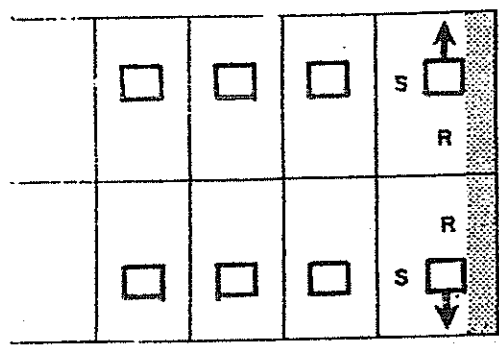
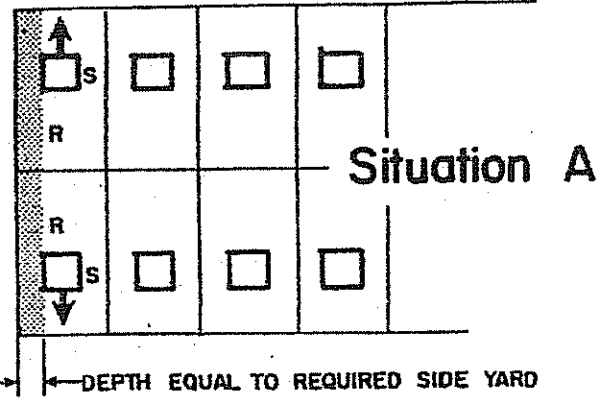
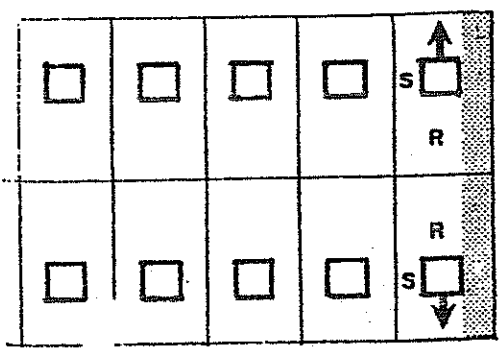
198. **WALL, OBSCURING:** A structure of definite and continuous height, length, and location to serve as an obscuring screen in carrying out the requirements of this amended Ordinance.
199. **WIRELESS COMMUNICATION ANTENNA (WCA):** Any antenna used for the transmission or reception of wireless communication signals excluding those used for public emergency systems, television, ham radio, satellite antennas and video programming services.
200. **WIRELESS COMMUNICATION SUPPORT FACILITY (WCSF):** A monopole, guyed or lattice type tower designed for the attachment of or as support for wireless communication antennas or other antennas.
201. **YARD:** The open space on the same lot with a main building unoccupied and unobstructed from the ground upward except as otherwise provided in this amended Ordinance.
202. **YARD, FRONT:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building. (Refer to Appendix of Illustrations).
203. **YARD, REAR:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage. (Refer to Appendix of Illustrations).
204. **YARD, SIDE:** An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the minimum horizontal distance from the nearest point on the side lot line to the nearest point of the main building. (Refer to Appendix of Illustrations).
205. **ZONING DISTRICT:** A zoning district is a portion of the Village within which, on a uniform basis, certain uses of land and buildings are permitted and within which are contained yards, open spaces, lot area, and other requirements as established by this amended Ordinance.

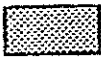

APPENDIX OF ILLUSTRATIONS



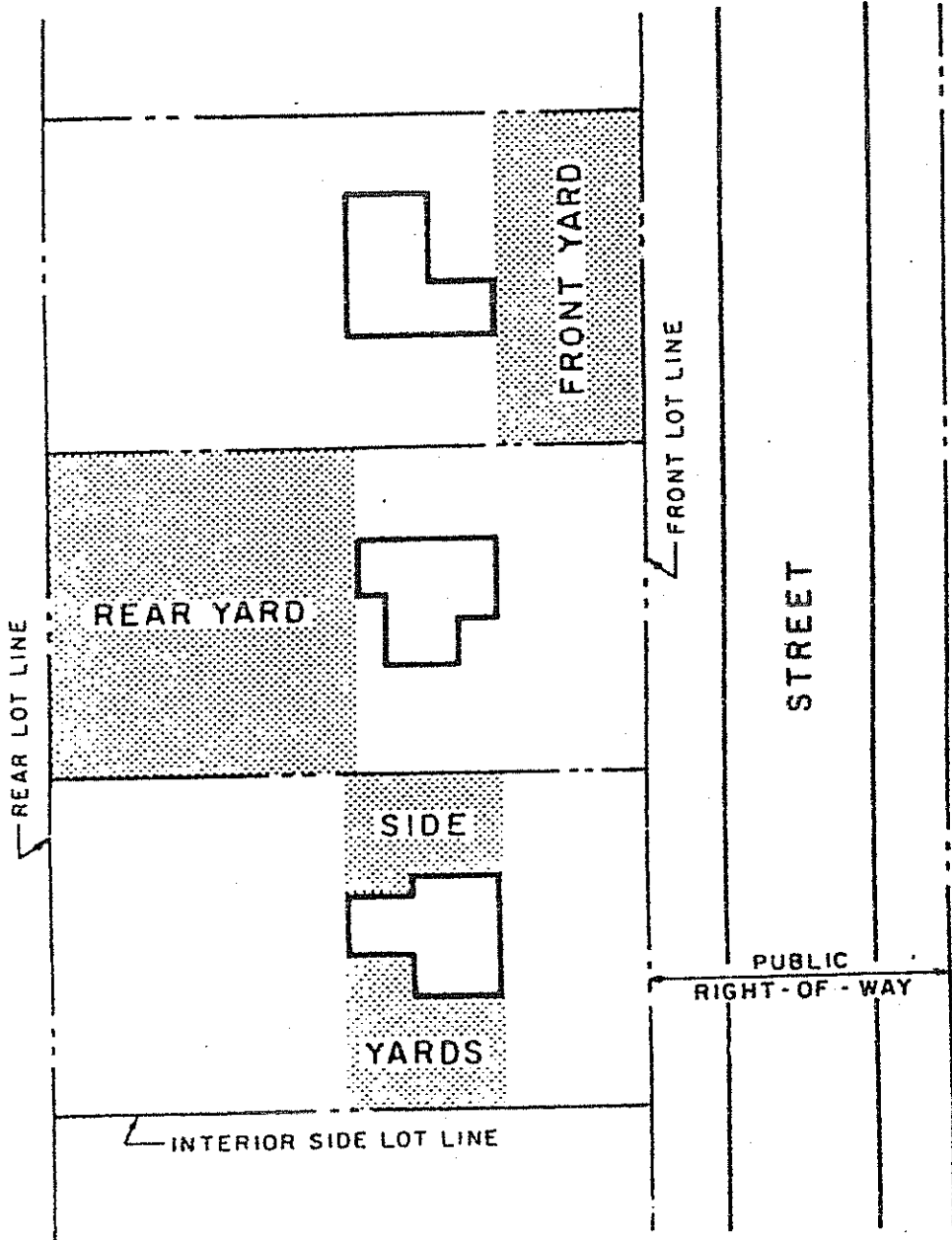
ACCESSORY BUILDING SETBACK LOCATION

Reference: Section 404-7
 Port Austin, MI Amended 2009 Zoning Ordinance



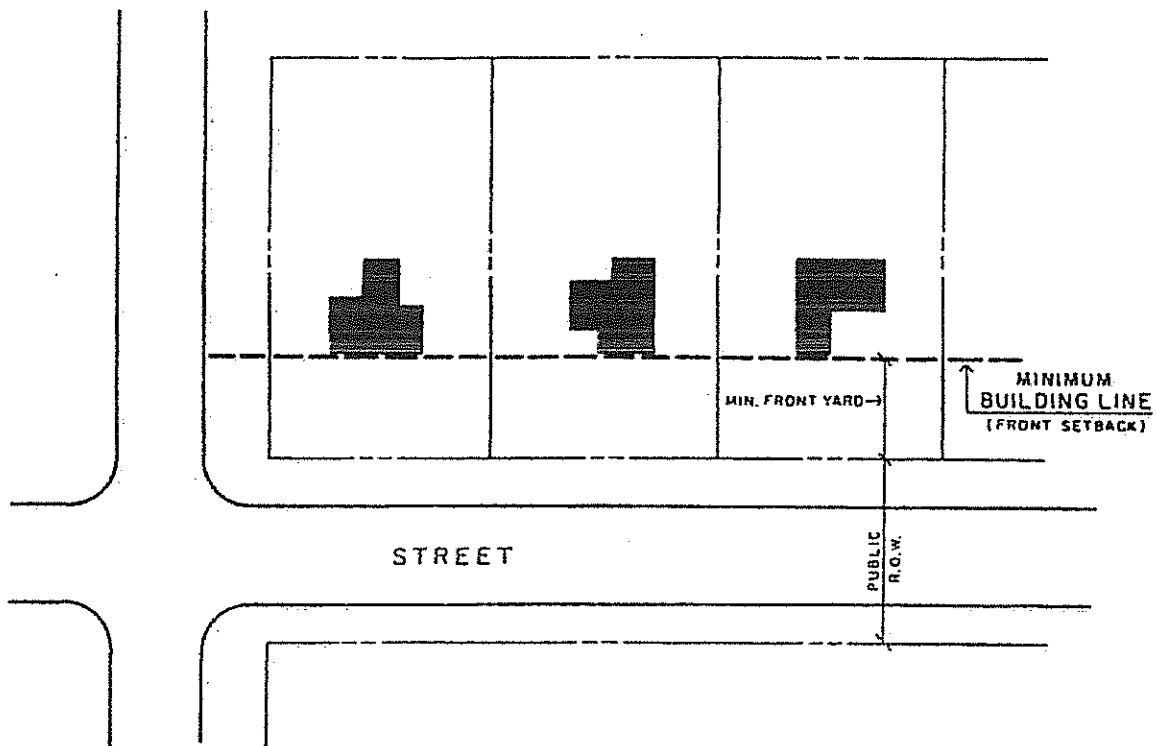
-  REQUIRED SETBACKS - CORNER LOT
-  FRONT YARD
- R REAR YARD
- S SIDE YARD

SIDE YARDS ABUTTING A STREET

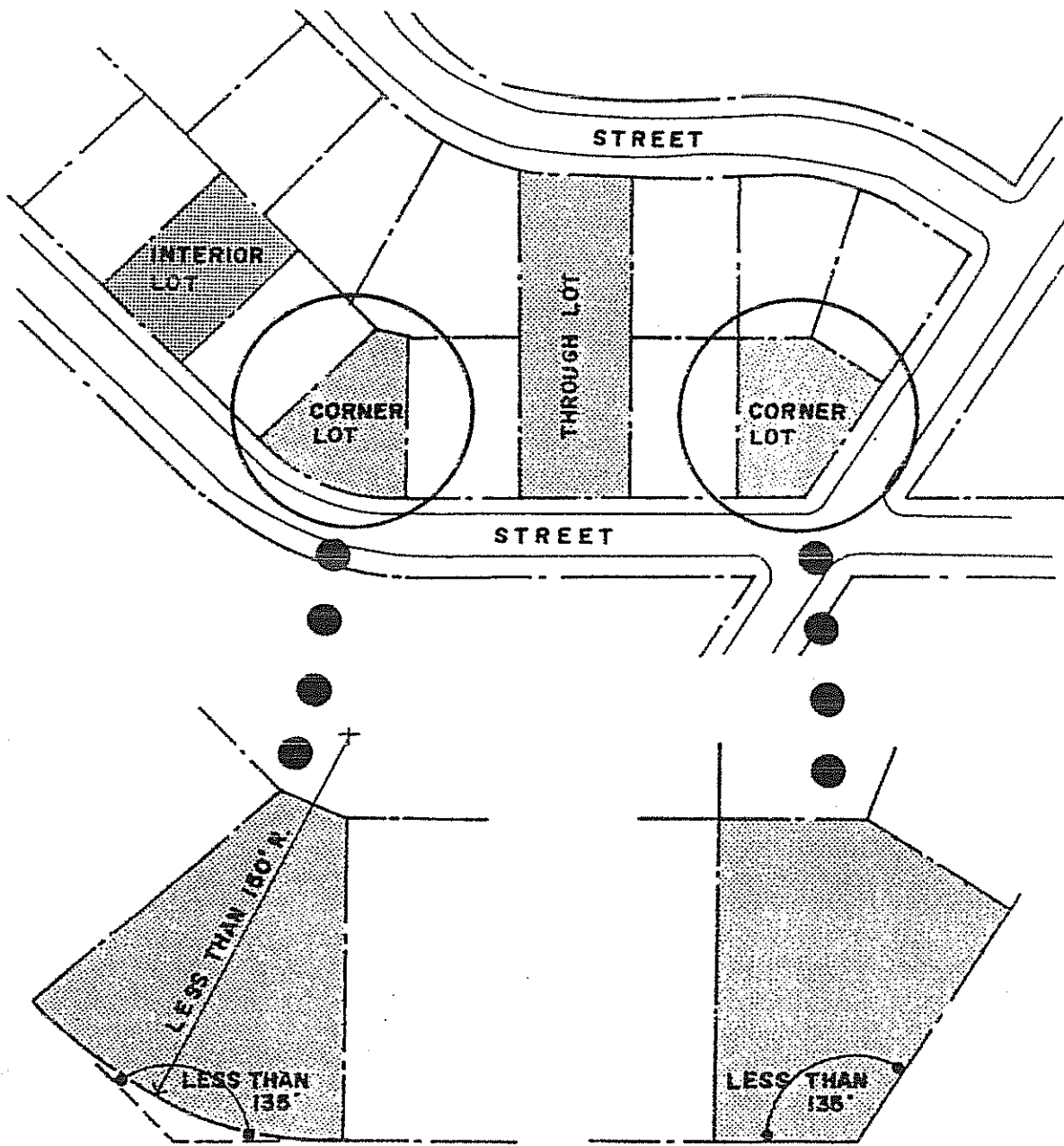


YARDS

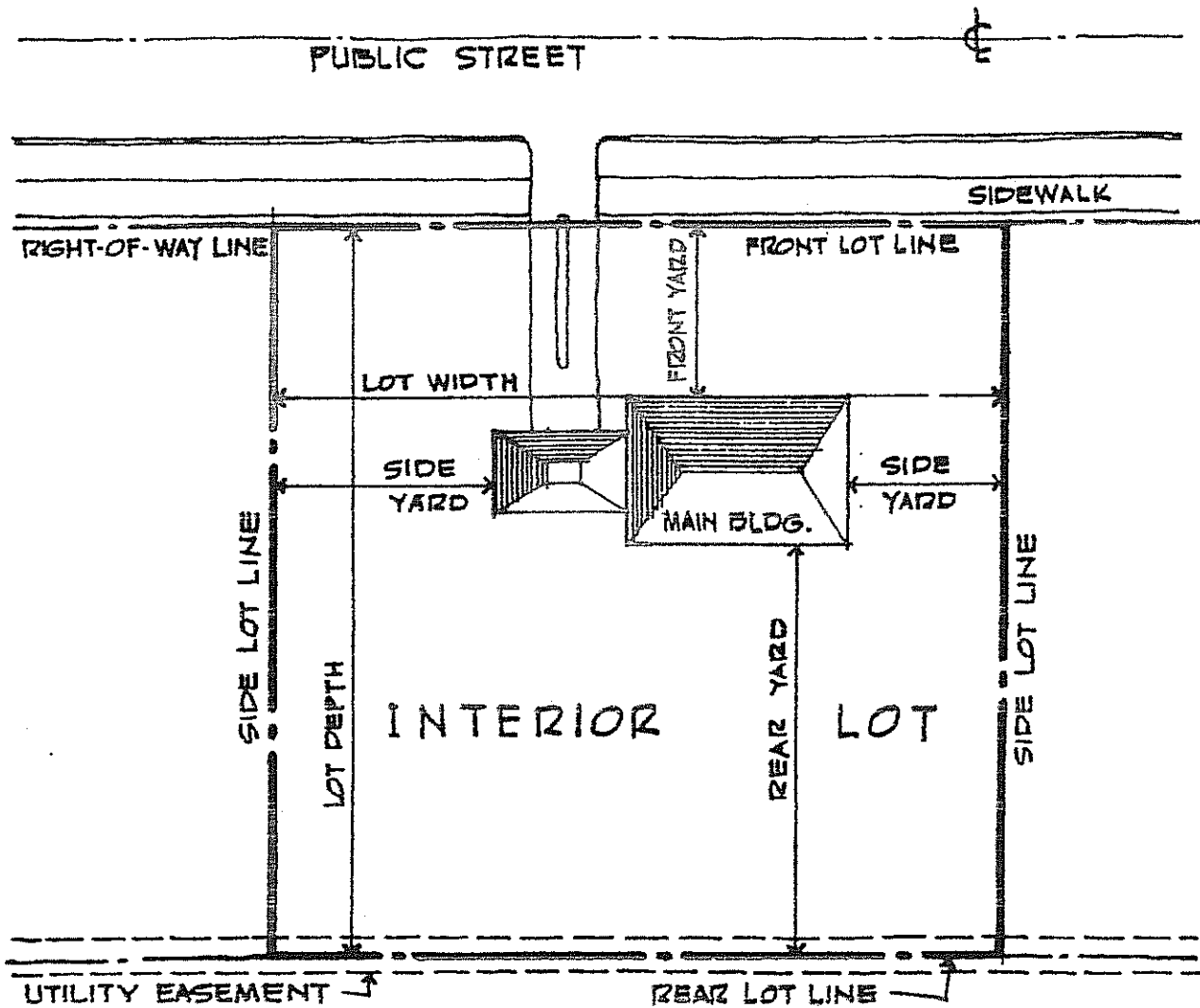
Building line means a line formed by the face of the building (see following diagram).



BUILDING LINE



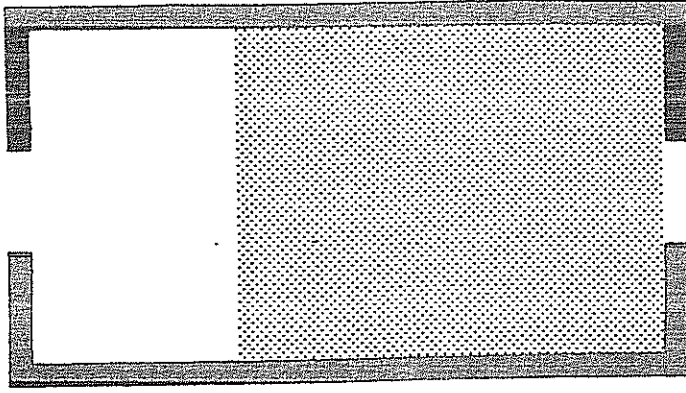
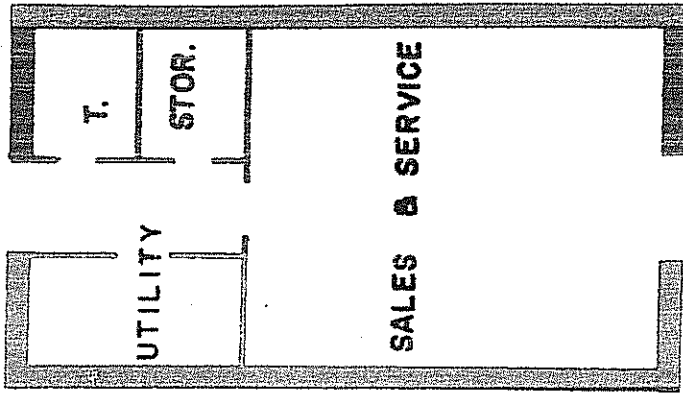
INTERIOR, THROUGH & CORNER LOTS



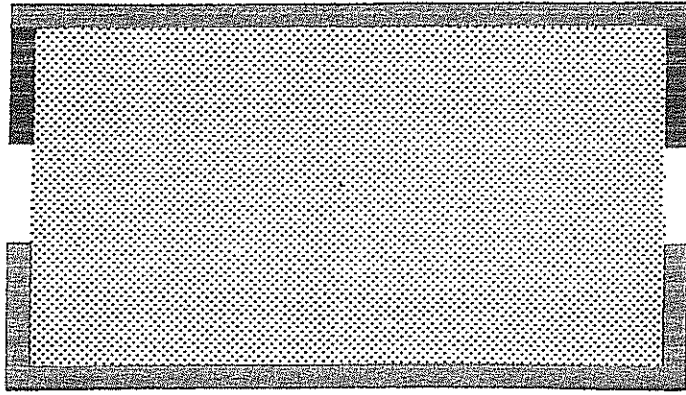
LOT AREA = TOTAL HORIZONTAL AREA

LOT COVERAGE = PERCENT OF LOT OCCUPIED BY BUILDING

LOTS & AREAS

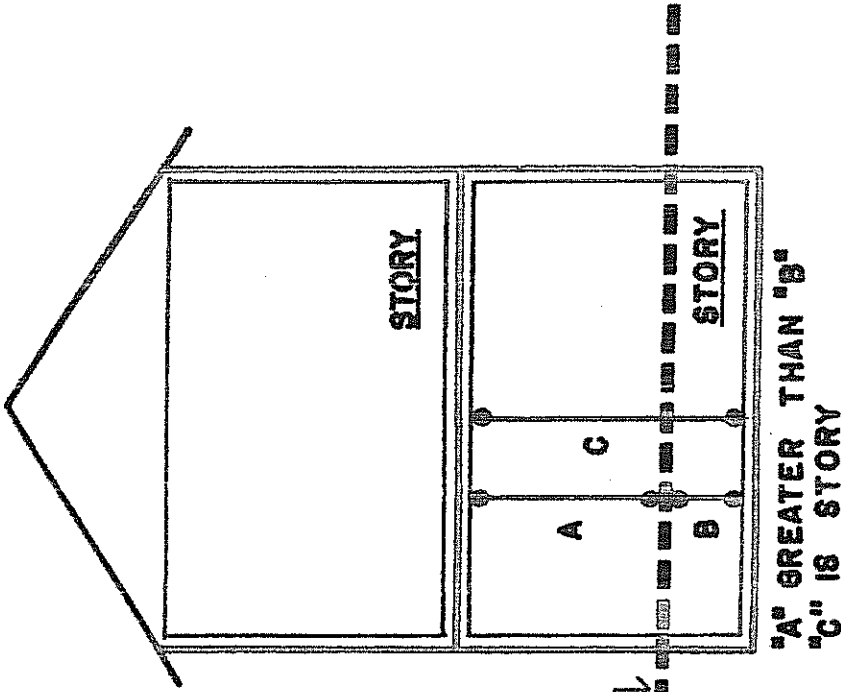


USABLE FLOOR AREA
(FOR PURPOSES OF COMPUTING PARKING)

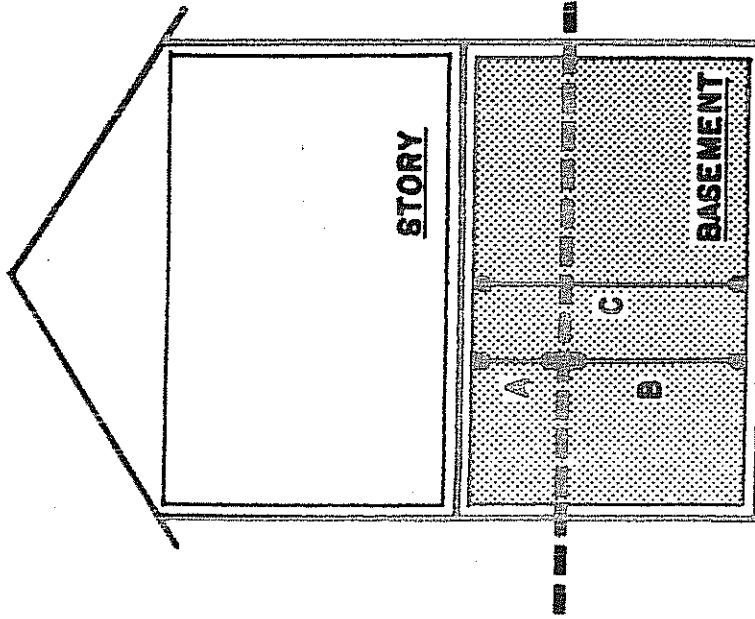


TOTAL FLOOR AREA

FLOOR AREA

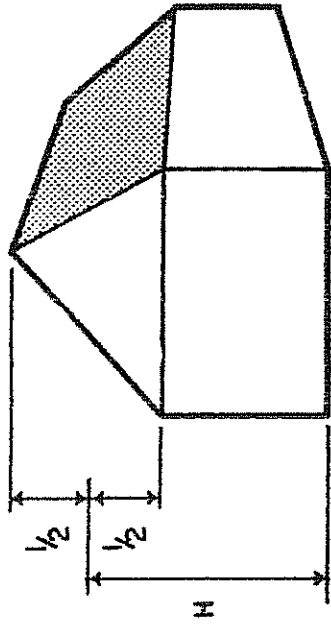


"A" LESS THAN "B"
 "C" IS BASEMENT

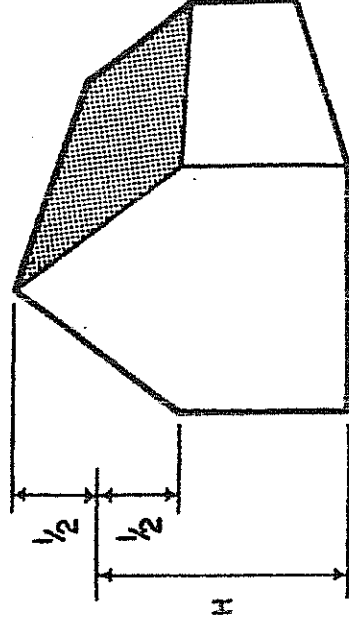


"A" GREATER THAN "B"
 "C" IS STORY

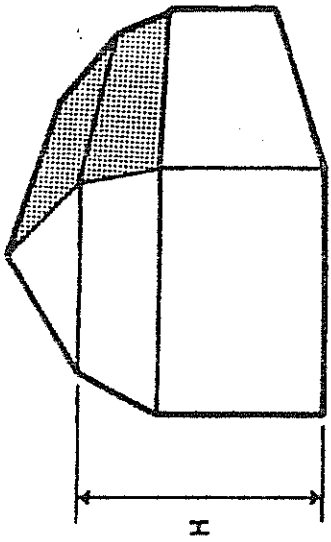
BASEMENT & STORY



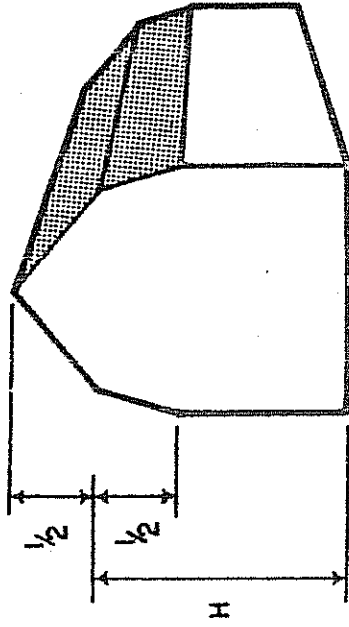
HIP ROOF



GABLE ROOF



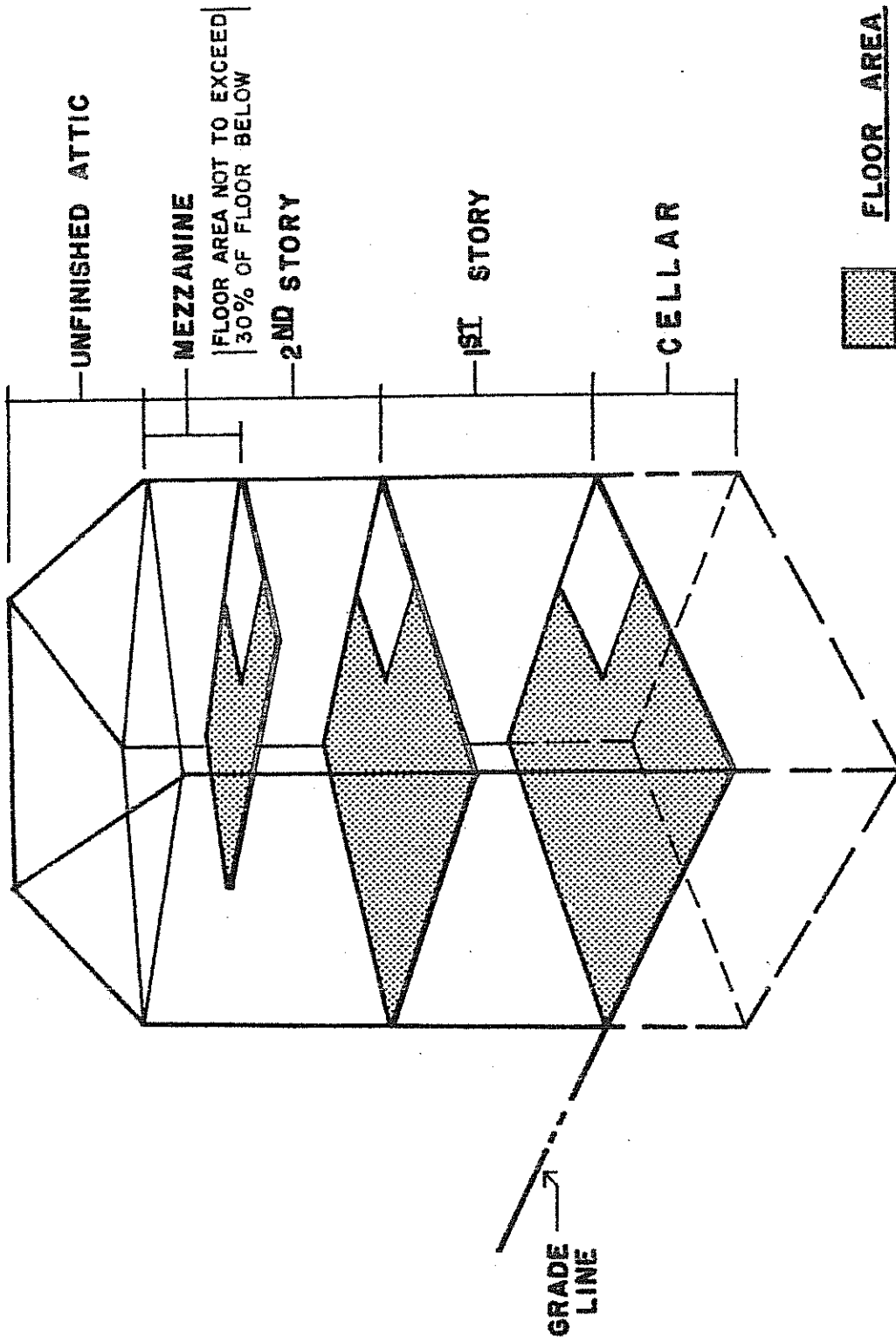
MANSARD ROOF



GAMBREL ROOF

H = HEIGHT OF BUILDING

BUILDING HEIGHT



BASIC STRUCTURAL TERMS

**APPENDIX
OF
PLANNING
COMMISSION
BYLAWS**

VILLAGE OF PORT AUSTIN PLANNING COMMISSION BY-LAWS

(as amended by the Planning Commission at a regular meeting on June 18,2009)

ARTICLE (1) MEMBERSHIP AND OFFICERS

- SECTION 1. In accordance with Public Act 33 of 2008 (Michigan Planning Enabling Act), paragraphs 125.3815, 125.3817 and 125.3819, the Planning Commission shall consist of five members. One member shall be selected from the membership of the Village Council by resolution of the Village Council to serve as a member ex-officio. The ex-officio member of the Planning Commission shall have full voting rights. The term of service of the ex-officio member shall be determined by the Village Council, but cannot exceed the member's term of office as a member of the Village Council. The resignation of the ex-officio member from the Village Council, prior to the expiration of his/her elective term of office, terminates said member's membership on the Planning Commission. The remaining four Planning Commission *Members at Large* shall be appointed by the Village President, subject to the approval of a majority of the Village Council. Members at Large of the Planning Commission shall be appointed for three (3) year staggered terms. Alternate or substitute members of the Planning Commission shall be prohibited.
- SECTION 2. The Commission shall elect one of its appointed members as Chairperson, another of its appointed members as Vice Chairperson and another of its members as Secretary. Said officers shall be elected to one (1) year terms. A secretarial assistant may be hired and compensated at the discretion of the Village Council.
- SECTION 3. The Chairperson shall preside at meetings, but in the absence or disability of the Chairperson, the Vice Chairperson shall preside. If both of said officers shall be absent, the Commission shall choose one of its appointed members as its presiding officer.
- SECTION 4. All matters requiring a vote shall be determined by a majority of the membership and voting with the following exceptions:
- a) Financial matters requiring a decision of the Planning Commission of which the affirmative vote of not less than four (4) members of the Planning Commission shall be required.

- b) Final approval of any proposed Subdivision Plats, Planned Unit Developments, Condominiums, or Site Condominium Projects, of which the affirmative vote of not less than four (4) members of the Planning Commission shall be required.
- c) Adoption of all or part of the Master Plan of which the affirmative vote of not less than four (4) members of the Planning Commission shall be required.

SECTION 5. The presiding officer shall designate the members of any committee as may be found necessary from time to time, unless otherwise directed by a majority of the Commission present.

SECTION 6. The Secretary of the Commission shall sign all Plats, Condominium Projects, documents, and other instruments required by law, and shall keep official minutes of the meetings and a record thereof and be responsible for all official correspondence of the Planning Commission. The Secretary will be responsible for the compilation of required maps, files and records from any application, which will be filed in the village office and with the assistance of the Village Clerk. The Secretary or secretarial assistant will be responsible for the clerical and other duties of the Village Planning Commission.

SECTION 7. In accordance with Public Act 33 of 2008 (Michigan Planning Enabling Act), the ex-officio member of the Planning Commission, appointed by the Village Council, shall be subject to removal from the Planning Commission by the Village Council for like cause. The members at large of the Planning Commission shall be subject to removal by the Village President, following a Public Hearing, for neglect of duty, inefficiency or malfeasance in office.

ARTICLE (2) MEETINGS

SECTION 1. In accordance with Public Act 33 of 2008 (Michigan Planning Enabling Act) the Commission shall hold at least four (4) regular meetings each year, as scheduled by the Planning Commission.

SECTION 2. Cancellation and/or rescheduling of one of the regular meetings may occur when deemed necessary by the Village Clerk or the Planning Commission Chairperson. All cancellation recommendations are to be forwarded to and approved by the Planning Commission Chairperson. All cancellations and/or rescheduling may only be executed by the Planning Commission Chairperson, or his/her designated presiding officer; provided notice is given to the Commission and the public, as

required by law. Grounds for such occurrence include lack of a quorum of three (3) members, an absence of agenda items for the meeting, other than minutes, or other house-keeping matters not requiring immediate attention.

SECTION 3. Special meetings may be held at the call of the Chairperson, or at the request of not less than two (2) members of the Commission, provided that all members shall be properly notified at least 24 hours before the time set and meeting date being properly posted, as required by law.

SECTION 4. All meetings shall be open to the Public.

SECTION 5. A quorum of the Commission shall consist of any three (3) members present and voting.

SECTION 6. All meetings of the Commission shall be conducted in accordance with Roberts Rules of Order.

SECTION 7. Rehearing. An application asking for the same relief in connection with the same property that has previously been heard and acted upon shall not be received for one (1) year following denial of an application, except where a showing is made in the application that a substantial change in conditions has occurred since the previous hearing which justifies the Commission in treating the matter as a regular new application.

A "Substantial Change In Conditions" must include, but may not be limited to, one or more of the following: a zoning change, a land use change, a change in traffic patterns and/or a change in the Master Plan.

ARTLICE (3) PUBLIC HEARING

SECTION 1. The Commission shall provide for the holding of all Public Hearings required by law, and the publication of notices thereof, and further, for any Public Hearing deemed by the Commission to be in the public interest.

SECTION 2. The conduct of the public hearing for the purpose of considering a requested zoning map amendment shall generally be:

- a) Presentation of request by the Zoning Inspector
- b) Comments by Petitioner
- c) Comments of proponents and opponents, and
- d) Discussion and/or action by Planning Commission

June 18, 2009

SECTION 3. All other public hearings shall be conducted at the discretion of the Planning Commission.

SECTION 4. Public Address. In order to allow all interested parties an opportunity to address the Commission and to provide for the orderly conduct of meetings, public address, insofar as possible, may be limited to five (5) minutes per person at the discretion of the Planning Commission Chairperson.

SECTION 5. Applicant request to adjourn. Upon the applicant's timely request for the adjournment of a public hearing, the Commission Chairperson shall grant the request; provided, however, the applicant agrees to cover the costs incurred to provide adequate public notice of the rescheduled hearing. Only one adjournment of a public hearing is allowed at the request of the applicant.

ARTICLE (4) ORDER OF BUSINESS

SECTION 1. The general order of business at a regular Planning Commission Meeting shall be as follows:

- a) Additions or changes to the agenda
- b) Approval of agenda
- c) Minutes of previous meetings and disposal
- d) Zoning Inspectors Report
- e) Public Hearing (if scheduled)
- f) Site Plan Review
- g) Old Business
- h) New Business
- i) Public Comments
- j) Commissioners Comments
- k) Adjournment

ARTICLE (5) AMENDMENT OF BY-LAWS

SECTION 1. Amendment of these By-Laws may be made by the Planning Commission at any meeting, provided that notice of said proposed amendment is given to all Commissioners in writing at least five (5) days prior to such meeting, and shall be adopted by an affirmative vote of at least four (4) members.