

# *Village of Concord*

## *Zoning Ordinance*

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*Adopted February 25, 2003*

*Effective March 17, 2003*

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*The Zoning Ordinance*

*of the*

*Village of Concord*



# ORDINANCE # 136- ZONING

## ARTICLE I

1.1- ENACTING CLAUSE-----	1.
1.2- TITLE-----	1.
1.3- PURPOSES-----	1.

## ARTICLE II - GENERAL PROVISIONS

2.1-SCOPE-----	3.
2.2- DEFINITIONS-----	3.
2.2.1-Administration-----	3.
2.2.2-Accessory Use Building or Structure-----	3.
2.2.3-Alley-----	3.
2.2.4-Alter-----	4.
2.2.5-Alternate tower structure-----	4.
2.2.6-Apartment-----	4.
2.2.7-Applicant-----	4.
2.2.8-Appeals-----	4.
2.2.9-Antenna-----	4.
2.2.10-Area of Shallow Flooding-----	4.
2.2.11-Area of Special Flood Hazard-----	4.
2.2.12-Automobile Service Station-----	4.
2.2.13-Automobile Wrecking-----	5.
2.2.14-Backhaul Network-----	5.
2.2.15-Base Flood-----	5.
2.2.16-Basement-----	5.
2.2.17-Boarding House/Bed and Breakfast-----	5.
2.2.18-Building-----	5.
2.2.19-Building Height-----	5.
2.2.20-Building Setback Line-----	5.
2.2.21-Capital Improvement Program-----	5.
2.2.22-Central Sanitary Sewage System-----	6.
2.2.23-Central Water System-----	6.
2.2.24-Clinic/Medical-----	6.
2.2.25-Comprehensive Plan-----	6.
2.2.26-Conditional Use-----	6.

2.2.27-Development-----	6.
2.2.28-District-----	6.
2.2.29-Divided or Division-----	6.
2.2.30-Drive-In Establishment-----	7.
2.2.31-Dwelling Unit-----	7.
2.2.32-Easement-----	10.
2.2.33-Essential Services-----	10.
2.2.34-Exempt split or exempt division-----	10.
2.2.35-FAA-----	10.
2.2.36-Family-----	10.
2.2.37-FCC-----	10.
2.2.38-Fence-----	10.
2.2.39- Flood or Flooding-----	10.
2.2.40-Flood Insurance Rate Map (FIRM) -----	11.
2.2.41-Flood Insurance Study-----	11.
2.2.42-Floodways-----	11.
2.2.43-Free-Standing Identification Sign-----	11.
2.2.44-Habitable Floor-----	11.
2.2.45-Height-----	11.
2.2.46-Home Occupation-----	11.
2.2.47-Hotel-----	12.
2.2.48-Kennel -----	12.
2.2.49- Lot -----	12.
2.2.50- Lot Area -----	12.
2.2.51- Lot Corner -----	12.
2.2.52- Lot Coverage -----	12.
2.2.53-Lot Depth-----	12.
2.2.54 -Lot of Record-----	12.
2.2.55- Lot, Through or Double Frontage-----	13.
2.2.56-Lot Width-----	13.
2.2.57-Manufactured Home-----	13.
2.2.58-Manufactured Home Park-----	13.
2.2.59-Manufactured Home Subdivision-----	13.
2.2.60-Mobile Home-----	13.
2.2.61-New Construction-----	13.

2.2.62-Nonconforming Use-----	14.
2.2.63- Off-Street Parking-----	14.
2.2.64- Ordinance Interpretation-----	14.
2.2.65-Parking Space, Area, Lot-----	14.
2.2.66-Pre-manufactured (Pre-fabricated) Unit -----	14.
2.2.67-Planned Unit Development (PUD)-----	14.
2.2.68-Pre-existing towers and pre-existing antennas-----	14.
2.2.69- Quarry-----	14.
2.2.70-Recreational Vehicle -----	15.
2.2.71-Rezoning-----	15.
2.2.72-Riding Academy-----	15.
2.2.73-Roadside Stand -----	15.
2.2.74-Salvage Yard-----	15.
2.2.75-Self-created-----	15.
2.2.76-Sign-----	15.
2.2.77-Sign Area-----	16.
2.2.78-Sign, On-Site-----	16.
2.2.79-Site Plan Review-----	16.
2.2.80-Start Construction-----	16.
2.2.81-Story-----	16.
2.2.82-Street -----	16.
2.2.83-Street Line-----	17.
2.2.84-Structure-----	17.
2.2.85-Substantial Improvements-----	17.
2.2.86-Telecommunications Facilities-----	17.
2.2.87-Tower-----	18.
2.2.88-Transition Strip-----	18.
2.2.89-Travel Trailer-----	18.
2.2.90-Unnecessary Hardship-----	18.
2.2.91-Variance-----	18.
2.2.92-Yard, Front-----	18.
2.2.93-Yard, Rear-----	18.
2.2.94-Yard, Side-----	18.
2.3-UNDEFINED TERMS-----	19.
2.4-APPLICATION OF REGULATIONS-----	19.

**ARTICLE III – ZONING DISTRICTS**

3.1-Establishment of Zoning Districts-----20.  
3.2-Official Zoning Map-----20.  
3.2.1- Identification of Official Zoning Map -----20.  
3.3-Interpretation of District Boundaries-----20.  
3.4-Official Flood Hazard Areas-----20.

**ARTICLE IV- ZONING DISTRICTS REGULATIONS**

4.1-Residential Districts-----21.  
4.1.1-Suburban Residential District (RS-1)-----21.  
4.1.2-Urban Residential District (RU-1)-----22.  
4.1.3-Multiple-Family Residential District (RM-1)-----23.  
4.1.4-Rural Non-Farm District (RNF-1)-----24.  
4.2-Commercial Districts-----26.  
4.2.1-General Commercial District (C-1)-----26.  
4.2.2-Highway Service Commercial / Light Industrial District (HC/I-2)-----27.  
4.3-Industrial District-----29.  
4.3.1-Industrial District (I-1)-----29.  
4.4-Compliance with Regulations-----30.  
4.4.1-Yard Measurements-----30.  
4.4.2-Lot Width-----30.  
4.4.3-Height Exemptions-----31.  
4.4.4-Accessory Structures *Sheds*-----31.  
4.4.5-Distance between Grouped Buildings-----31.

**ARTICLE V-SUPPLEMENTAL REGULATIONS**

5.1-Purpose-----32.  
5.2-Sign Regulations-----32.  
5.2.1-General Sign Regulations-----32.  
5.2.2-Permitted on- Site Signs in Residential Districts-----32.  
5.2.3-Permitted on- Site Signs in General Commercial District-----33.  
5.2.4-Permitted on- Site Signs in Highway Service Commercial and all Industrial Districts----33.  
5.2.5-Off-Site Signs-----34.  
5.2.6-Non conforming Signs-----34.  
5.2.7-Temporary Signs-----34.



5.3-Off-Street Parking Requirements-----	35.
5.3.1-Plans-----	35.
5.3.2-Location of Off-Street Parking Areas-----	35.
5.3.3-Parking in Residential Districts-----	35.
5.3.4 -Off-Street Parking Area Design-----	36.
5.3.5-Collective Parking-----	37.
5.3.6-Determining Requirements-----	37.
5.3.7-Schedule of Off-Street Parking Spaces-----	37.
5.3.8-Exception-----	39.
5.4-Off-Street Loading and Unloading Requirements-----	39.
5.4.1-Plans-----	39.
5.4.2 -Off-Street Loading Area Design-----	39.
5.4.3-Off-Street Loading Area Space Requirements-----	39.
5.5 -Conditional Uses-----	40.
5.5.1-Authority to Grant Permits-----	40.
5.5.2-Application and Fees-----	40.
5.5.3-Data Information and Site Plan Application Requirements-----	40.
5.5.4-Public Hearings-----	41.
5.5.5-Required Standards and Findings for Making Determinations-----	41.
5.5.6 -Determination and Imposition of Conditions-----	41.
5.5.7-Approval, Granting of Permit-----	42.
5.5.8-Performance Guarantee-----	43.
5.5.9-Voiding of Conditional Use Permit-----	43.
5.5.10 -Additional Development Requirements for Certain Uses-----	43.
5.5.10A-Quarries-----	43.
5.5.10B-Salvage Yard-----	45.
5.5.10C -Manufactured Home Subdivision-----	45.
5.5.10D -Planned Unit Development (PUD)-----	46.
5.5.10E-Accessory Uses or Structures within front setbacks-----	47.
5.6-Wireless Telecommunications Towers and Antennas-----	48.
5.6.1-General Requirements-----	48.
5.6.2-Permitted Uses-----	50.
5.6.3-Administratively Approved Uses-----	50.
5.6.4-Conditional Use Permits-----	53.
5.6.5-Building or Other Equipment Storage-----	58.

5.6.6-Removal of Abandoned Antennas and Towers-----	59.
5.6.7-Non-conforming Uses-----	59.
5.7-Site Plan Review and Approval-----	60.
5.7.1-Buildings, Structures, and Uses Requiring Site Plan-----	60.
5.7.2-Application and Fee for Site Plan Review-----	60.
5.7.3-Planning Commission Review of Site Plan-----	61.
5.7.4-Required Data for Site Plan-----	61.
5.7.5-Standards for Site Plan Review-----	63.
5.7.6-Approval of Site Plan-----	64.
5.7.7-Expiration of Site Plan Certificate-----	64.
5.7.8-Amendment, Revision of Site Plan-----	64.
5.8-Performance Standards-----	65.
5.8.1-Requirements-----	65.
5.8.2-Plans-----	66.
5.8.3-Administration-----	66.
5.9-Storage of Materials-----	66.
5.10-Mobile Homes, Recreational Vehicles and Travel Trailer Parks-----	67.
5.11-Visibility at Intersections-----	68.
5.12-Access to Public Streets-----	68.
5.13-Flood Plains-----	68.
5.13.1-Anchoring-----	68.
5.13.2-Construction Materials and Methods-----	69.
5.13.3-Utilities-----	69.
5.13.4-Subdivision Proposals-----	69.
5.13.5-Specific Standards-----	69.
5.13.6-Floodways-----	70.
5.14-Home Occupation-----	71.
5.15-Fences-----	72.
5.16-Temporary Use-----	72.
5.17-Essential Services-----	72.
5.18-Curb Cuts and Driveways-----	73.
5.19-Swimming Pools-----	73.
5.20-Nonconforming Uses of Land-----	73.
5.20.1-Nonconforming Structures-----	74.
5.20.2-Nonconforming Uses of Structures-----	74.

5.20.3-Change of Tenancy or Ownership-----	75.
5.20.4-Substandard, Nonconforming Lots of Record-----	75.
5.21-Land Division-----	76.
5.21.1-Application for Land Division Approval-----	76.
5.21.2-Procedure for Review of Applications for Land Division-----	77.
5.21.3-Standards for Approval of Land Divisions-----	78.
5.21.4-Allowance for Approval of other Land Divisions-----	78.
5.21.5-Consequences of Noncompliance-----	79.

## **ARTICLE VI-ADMINISTRATION OF THE ORDINANCE**

6.1-Purpose-----	80.
6.2-Administration-----	80.
6.3-Duties of Zoning Administrator-----	80.
6.3.1-Use of Other Base Flood Data-----	81.
6.3.2-Information to be obtained and maintained-----	81.
6.3.3-Alteration of Watercourses-----	81.
6.3.4-Interpretation of FIRM Boundaries-----	81.
6.4-Zoning Compliance Permits-----	82.
6.4.1-Issuance of Zoning Compliance Permits-----	82.
6.4.2-Voiding of Zoning Compliance Permit-----	83.
6.5-Certificate of Occupancy, Final Inspection-----	83.
6.5.1-Issuance of Certificate of Occupancy-----	83.
6.5.2-Voiding of Certificate of Occupancy-----	83.
6.6-Fees, Charges, and Expenses-----	83.
6.7-Violations and Penalties: - Nuisance Per Se: - Abatement-----	84.
6.7.1-Contractors, Architects, Sub - Contractors and Builders-----	84.

## **ARTICLE VII- BOARD OF APPEALS**

7.1-Board of Appeals Established-----	85.
7.2-Duties of the Board of Appeals-----	85.
7.2.1-Flood Plain-----	85.
7.2.2-Variance Conditions-----	86.
7.2.3-Federal Insurance Administration-----	86.
7.3-Variance-----	86.
7.4-Interpretation of Zoning Ordinance-----	88.

7.5-Appeals to the Board of Appeals-----	89.
7.5.1-Appeals, How Taken-----	89.
7.5.2-Who May Appeal-----	89.
7.5.3-Fee for Appeal-----	89.
7.5.4-Effect of Appeal: Restraining Order-----	89.
7.5.5-Notice of Hearing-----	89.
7.5.6-Representation of Hearing-----	90.
7.5.7-Decisions of the Board of Appeals and Appeals to the Circuit Court-----	90.

### **ARTICLE VIII-AMENDMENT PROCEDURES**

8.1-Initiating Amendments and Fees-----	91.
8.2-Amendment Procedures-----	91.
8.3-Conformance to a Court Decree-----	92.
8.4-Public notification-----	92.
8.5-Registration to receive notice by mail-----	94.

### **ARTICLE IX- LEGAL STATUS**

9.1-Conflict with other Laws-----	95.
9.2-Validity and Severability Clause-----	95.
9.3-Period of Effectiveness-----	95.
9.4-Repeal of Ordinance-----	95.
9.5-Effective Date-----	95.

### **APPENDIXES**

Appendix A- 2003 Zoning Map -----	A-1
Appendix B-District Area Yard Height and Bulk Requirements Graphics-----	B-1
Appendix C-Outside Wall Graphic-----	C-1
Appendix D- Land Split Graphic-----	D-1

**Amended 8/8/2006**

## **ARTICLE I**

### **SECTION 1.1 - ENACTING CLAUSE**

An Ordinance adopted under authority of and in accordance with the provisions of the *Michigan Zoning Enabling, PA 110 of the 2006 Public Acts of Michigan*, to establish comprehensive zoning regulations for the Village of Concord, Jackson County, Michigan, and to provide for the administration, enforcement, and amendment thereof, and to repeal all ordinances in conflict herewith.

THEREFORE, THE VILLAGE OF CONCORD ORDAINS:

### **SECTION 1.2 - TITLE**

This Ordinance shall be known and may be cited as "The Zoning Ordinance of the Village of Concord. "The zoning map referred to herein is entitled "Zoning Map, the Village of Concord."

### **SECTION 1.3 - PURPOSES**

This ordinance has been established for the purpose of:

- A. Promoting and protecting the public health, safety, and general welfare;
- B. Protecting the character and stability of the recreational, residential, commercial, and industrial areas, and promoting the orderly and beneficial development of such areas;
- C. Preventing the overcrowding of land and undue concentration of population by regulating the intensity of use of land and the area of open spaces surrounding buildings and structures necessary to provide adequate light, air, and privacy to protect the public health;
- D. Lessening and avoiding congestion on public highways and streets;
- E. Providing for the needs of recreation, residence, commerce, and industry in future growth to conform with the most advantageous uses of land, resources, and properties, with reasonable consideration of other things, including the general and appropriate trend and character of land, buildings, and population development as studied and recommended by the Planning Commission and the Village Council;
- F. Encouraging the most appropriate use of lands in accordance with their character and adaptability, and prohibiting uses which are incompatible with the character of development permitted within a specified zoning district;
- G. Conserving the taxable value of land and structures;
- H. Conserving the expenditure of funds for public improvements and services;
- I. Protecting against fire, explosion, noxious fumes and odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards in the interest of the people;
- J. Providing for the completion, restoration, reconstruction, extension or substitution of non-conforming uses;

**Amended 8/8/2006**

K. To prevent public and private losses due to flood conditions in specific areas by restricting or prohibiting uses in areas that are vulnerable to flooding;

L. To establish general guidelines for the siting of wireless communications towers and antennas;

M. To carry out provisions of the Michigan Land Division Act and establish reasonable standards for prior review and approval of land divisions;

SECTION 12 - VILLAGE

To establish the Village of ...

SECTION 13 - WIRELESS

To establish the Village of ...

To establish the Village of ...

To establish the Village of ...

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## **ARTICLE II**

### **GENERAL PROVISIONS**

#### **SECTION 2.1 - SCOPE**

Every building and structure erected, every use of any lot, building or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of or addition to an existing use, building or structure occurring after the effective date of this ordinance shall be subject to all regulations of this ordinance, which are applicable in the zoning district in which such building, structure or lot is located.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building or structure on which actual construction has lawfully begun prior to the effective date of adoption or amendment of this ordinance, provided that construction shall be completed within 365 days of such effective date and be subject thereafter to the provisions of Section 5.7.7.

The adoption of this ordinance shall not limit the construction of any building or structure for which a zoning permit had been obtained prior to the effective date of adoption or amendment of this ordinance even though such building or structure does not conform to the provisions of this ordinance, provided that work shall commence and be carried out within thirty (30) days of obtaining such permit and be subject thereafter to the provisions of Section 5.20 of this ordinance.

#### **SECTION 2.2 - DEFINITIONS**

For the purpose of this ordinance, certain terms are herewith defined. When not inconsistent with the context, the present tense includes the future, the words used in the singular number include the plural number, and the plural, the singular. The word, "shall" is always mandatory and not merely suggestive. The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual. The words "used" or "occupied" include the words "intended, designed" or "arranged" to be used or occupied.

##### **2.2.1. - Administrative:**

Matters that are handled by a body or official pursuant to procedures and standards that are specified in the zoning ordinance. Usually includes zoning permits, site plan review, and special land uses and enforcement matters.

##### **2.2.2 - Accessory Structure, Building or Use:**

A detached structure, building or use on the same lot with, and of a nature customarily incidental and subordinate to the principal structure, building or use. No accessory building or structure shall be placed on a lot or parcel of land unless there is an existing principal structure or building on said lot or parcel. No accessory use shall be carried on or conducted on any lot or parcel of land unless there exists a principal use on such lot or parcel of land.

##### **2.2.3 - Alley:**

A public or private way not more than thirty-three (33) feet wide which affords only a secondary means of access to abutting property.

**2.2.4 - Alter:**

Any structural change in the supporting or load-bearing member of a building, such as: bearing walls, columns, beams, girders or floor joists.

**2.2.5 - Alternative tower structure:**

Any man-made tree, clock tower, bell steeple, light pole and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**2.2.6 - Apartment:**

A dwelling unit in an apartment house arranged, designed or occupied as a residence by a single family, individual or group of individuals.

**2.2.7- Applicant:**

The applicant for a permit shall be the owner, tenant, lessee, or agent of the owner.

**2. 2. 8 - Appeals:**

The action that a person who has been denied approval of any administrative zoning matter may seek. In most cases, appeals go to the Zoning Board of Appeals; from there they go to circuit court.

**2. 2. 9 - Antenna:**

Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

**2. 2. 10 - Area of Shallow Flooding:**

A designated AO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

**2. 2. 11- Area of Special Flood Hazard:**

The land in the flood plain within the Village of Concord subject to a one percent (1%) or greater chance of flooding in any given year.

**2. 2.12 - Automobile Service Station:**

Structures and premises used or designed to be used for the retail sale of fuels, lubricants, and other operating commodities for motor vehicles, including the customary space and facilities for the installation of such commodities; and including space for temporary minor repair or servicing such as polishing, washing, cleaning, greasing, but not including bumping, painting or refinishing thereof.



**2. 2.13 - Automobile Wrecking:**

The dismantling or disassembling of motor vehicles, trailers or the storage, sale or dumping of dismantled or partially dismantled, obsolete, wrecked vehicles or their parts.

**2. 2. 14 - Backhaul network:**

The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

**2. 2. 15 - Base Flood:**

The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**2. 2. 16 - Basement:**

That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

**2. 2. 17 - Boarding House or Rooming House/Bed and Breakfast:**

A dwelling where meals and/or lodging are provided for compensation to persons by prearrangement for definite periods of time.

**2. 2. 18 - Building:**

A structure erected on-site, a manufactured home, mobile structure, pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

**2. 2. 19 - Building Height:**

The vertical distance measured from grade to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the average height between eaves and ridges for gable, hip or gambrel roofs.

**2. 2. 20 - Building Setback Line:**

A line parallel to, or concentric with property lines delineating the minimum allowable distance between the street right - of - way and the front of any building.

**2. 2. 21 - Capital Improvement Program:**

A listing of physical public improvements (roads, streets, sewers, etc.) that are needed for a multi -year period (usually 6 years), where they are located, when they are to be built, and how they are to be financed.

**2. 2. 22 - Central Sanitary Sewage System:**

Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under federal, state or municipal regulations to the public a sanitary sewage disposal system from a central location or plant, but not including septic tanks.

**2. 2. 23 - Central Water System:**

Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under federal, state or municipal regulations to the public a central water system from a central location or plant.

**2. 2 .24 - Clinic/Medical:**

A building in which a group of physicians, dentists or practitioners in related specialties and their professional assistants are associated to conduct their professions, and where no patients are lodged overnight.

**2. 2. 25 - Comprehensive Plan:**

A plan created by the Village Planning Commission and officially adopted to guide the future growth and development of the community, used as the basis for zoning regulations, decisions, subdivision regulations and capital improvement programs.

**2.2.26 - Conditional Use:**

A specific use which is set forth as a Conditional use in the District zone, which may be conducted on the parcel of land only upon approval by the Village Council. A Conditional Use is not a Non-conforming Use.

**2. 2. 27 - Development:**

Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**2. 2. 28 - District:**

A portion of the Village of Concord within which certain uniform regulations and requirements apply under the provisions of this ordinance.

**2. 2. 29 - Divided or Division:**

The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, personal representatives, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the Michigan Land Division Act, as amended

## **2. 2. 30 - Drive - In Establishment:**

A business establishment so developed that its retail or service character is primarily dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in a motor vehicles as well as within the building.

## **2. 2. 31 – Dwelling Unit:**

A house or building or portion thereof, having cooking facilities, which is occupied wholly as the home, residence or sleeping place by one or more human beings whether permanently or transiently; but in no case shall a travel trailer, automobile chassis, tent or portable building be considered a dwelling. The part of the house or building so occupied shall be deemed a dwelling for the purpose of this ordinance and shall comply with the provisions hereof relative to dwellings. Garage space, whether an attached or detached garage, shall not be deemed a part of a dwelling for area requirements. In cases of mixed occupancy where a building is occupied part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this ordinance and shall comply with the provisions thereof relative to dwellings.

A. Dwelling One - Family: A detached building occupied by one family and so designed and arranged as to provide living, cooking and sleeping accommodations for one family only. Also, known as a single-family dwelling.

B. Dwelling Two - Family: A building designed for or occupied by two families with separate housekeeping and cooking facilities for each.

C. Dwelling Multiple: A multiple dwelling is a building used for and as a residence for three or more families living independently of each other and each having their own cooking facilities therein, including apartment houses, townhouses, and apartment hotels, but not including mobile homes.

D. A dwelling unit shall meet the following requirements:

1. Minimum Size - Site Standards:

a. Minimum floor area of the dwelling shall be eight hundred fifty (850) square feet. 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 two dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, enclosed and unenclosed porches. (see Section 2.2.31D.5)

b. Minimum width of principal dwelling as built or assembled on the site shall not be less than twenty (20) feet, as measured across the narrowest portion.

c. Where feasible, the dwelling unit shall be so arranged that the longest dimension is parallel with the principal street frontage.

d. Front, side and rear yard requirements shall be measured from the closest part of the external wall of the structure to the property line, except for porches, patios, steps, walkways, decks, and other such additions. These shall not be included if a clear view between four (4) feet and eight (8) feet, measured from the ground is obtained. The total projection into the yard requirement shall not exceed ten (10) feet and shall not be closer than five (5) feet from any side yard property line.

## 2. Health - Construction Standards:

a. If central water and sanitary sewage facilities are available, the dwelling shall be connected to facilities.

b. Conventional site-built dwellings and all other pre-manufactured dwellings, except manufactured homes, shall comply with the State Building Code Standards and other applicable fire, plumbing, electrical codes and regulations.

c. Manufactured home dwellings shall comply with the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards (24 CFR 3280) as amended, including fire, plumbing, electrical, and other applicable codes and regulations. The manufactured home shall be installed pursuant to the manufacturer's setup instructions.

d. All dwellings shall have a foundation complying with the State Building Code Standards, including a foundation wall of the same perimeter dimensions as the dwelling and constructed of such materials and type as is required in the State Building Code.

e. Site-built dwellings shall have an anchoring system complying with the State Building Code.

## 3. Aesthetic Standards:

a. Dwellings shall not have exposed wheels, towing mechanisms, undercarriage or chassis exposed to view by the public. No storage shall be allowed in any crawl space, which is not a standard basement.

b. The pitch of the main roof of the dwelling shall not be less than one (1) foot of rise for each four (4) feet of the horizontal run. (see Section 2.2.31D.5)

c. Dwellings shall have a roof drainage system with a minimum of four (4) inch gutters with proper downspouts.

d. Materials used for exterior finish shall not create a greater reflection than from siding coated with clean white gloss exterior enamel.

e. All additions to the original dwelling shall be constructed with a similar material and have a similar appearance with quality of workmanship as the original dwelling, including an appropriate foundation and permanent attachment to the principal structure

4. Conformance of Manufactured Homes to Standards:

a. Manufactured homes which do not conform to the standards of Section 2.2.31 of this Ordinance shall not be used for dwelling purposes within the Village unless located within a manufactured home park. The Building Inspector shall not issue a building permit to locate, erect, construct, reconstruct, alter or convert a single, two or multiple-family dwelling unit until adequate data, information, and evidence can be shown that the dwelling complies with the above standards.

5. Additional minimum standards for all new construction after July 1,2003.

a. Roof pitch of 5/12.

a. 1200 sq ft. floor space.

b. Attached garage.

c. Full Basement.

d. 8 ft. 1in. outside wall height, measured from the top of the top plate to the bottom of the bottom plate of the unfinished side wall.(see appendix C-1)

6. If a home is not constructed on-site but meets the requirements of D.5 above, such shall not be considered to be a mobile home.

**2. 2. 32 - Easement:**

A private or dedicated public way other than a street or alley providing a secondary means of access to a property, having a width of not less than twenty (20) feet.

**2.2. 33 - Essential Services:**

Essential services are the erection, construction, alteration or maintenance by public or private utilities, municipal departments, commissions or boards, of underground and surface utilities; including, but not limited to, gas, electric, steam, water, waste collection and disposal systems and communications systems; including poles, wires, drains, sewers, pipes, towers (except as regulated by section 5.6 ), conduits, cables, fire alarm boxes, police call boxes, traffic signals or signs, fire hydrants; and other similar equipment and accessories in connection therewith; for the general public health, safety, convenience, and welfare, but not including buildings or maintenance depots.

**2. 2. 34 - Exempt split or exempt division:**

The partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, personal representatives, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements.(see appendix D-1)

**2.2. 35 - FAA:**

The Federal Aviation Administration

**2. 2. 36 – Family:**

An individual or married couple and the children thereof with not more than two other persons related directly to the individual or married couple by blood or marriage; or a group of not more than five unrelated (excluding servants) persons, living together as a single housekeeping unit in a dwelling unit.

**2.2.37–FCC:**

The Federal Communications Commission

**2. 2. 38 – Fence:**

A structure of rails, stakes, wire, shrubbery or other material, natural or man made, erected as an enclosure, barrier or boundary, as along the limits of a yard or field.

**2. 2. 39 - Flood or Flooding:**

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

**2. 2. 40 - Flood Insurance Rate Map (FIRM):**

The official map on which the Federal Insurance Administration has delineated both the areas and special flood hazards and the risk premium zones applicable to the Village.

**2.2. 41 - Flood Insurance Study:**

The official report provided in which the Federal Insurance Administration has provided Flood Profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

**2. 2. 42 - Floodways:**

The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**2. 2. 43 - Free-Standing Identification Sign:**

A sign designed to identify the title of the business or profession conducted on the premises, and information about the business or profession. The sign shall be supported by a structural frame independent of any other structure.

**2. 2. 44 - Habitable Floor:**

Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a habitable floor.

**2.2. 45 - Height:**

The vertical distance measured from grade to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the average height between eaves and ridge for gable, hip, or gambrel roofs. When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

**2. 2. 46 - Home occupation:**

An incidental and secondary use of a dwelling unit for business purposes, including but not limited to:

- A. Dressmaking;
- B. Handicrafts;
- C. Typing, secretarial services;
- D. Tutoring (limited to six students);
- E. Office facility of a sales representative

**2. 2. 47 - Hotels:**

A building containing guest rooms in which lodging is provided with or without meals for compensation, and which is open to transient or permanent guests or both, and where no permanent provision is made for cooking in any guest room.

**2. 2. 48 - Kennel:**

Any lot or premises on which three (3) or more dogs, six (6) months old or more are kept either permanently or temporarily.

**2. 2. 49 - Lot:**

A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area; and to provide such yards and other open spaces as herein required. Such lot may consist of a single lot of record, a portion of a lot of record, a combination of contiguous lots of record or contiguous portions of lots of record or a parcel of land described by metes and bounds.

**2. 2. 50 - Lot Area:**

The area within the lot lines, excluding that portion in a road or street right-of-way.

**2. 2. 51 - Lot Corner:**

A parcel of land at the junction of and fronting or abutting on two (2) or more intersecting streets.

**2. 2. 52 - Lot Coverage:**

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

**2. 2. 53 - Lot Depth:**

The average distance between the front and rear lines of a lot measured parallel to its side lot lines.

**2. 2. 54 - Lot of Record:**

A lot which is part of a subdivision and is shown on a map thereof which has been recorded in the Office of the Register of Deeds of Jackson County or a lot described by metes and bounds, the deed to which has been recorded in said office.



**2. 2. 55 - Lot through (Double Frontage):**

An interior lot having frontage on two (2) parallel or approximately parallel streets.

**2. 2. 56 - Lot Width:**

Width of the lot measured at the required front yard set back line.

**2. 2. 57 - Manufactured Home:**

A detached residential dwelling unit with a floor area of at least 1200 square feet, prefabricated on a chassis pursuant to the national manufactured housing construction and safety standards act of 1974, title VI of the housing and community development act of 1974, Public Law 93-383, 42 U.S.C. 5401 to 5426, and intended for long term occupancy. It is designed to be transported on its own wheels or on a flatbed truck arriving at the site where it is to be occupied with suitable foundation and shall be connected to the existing utilities

**2.2.58 – Manufactured Home Park:**

A tract of land prepared and approved according to the procedures in this Ordinance to accommodate manufactured homes on rented or leased lots as defined by P.A. 419 of 1976 as amended.

**2. 2. 59 - Manufactured Home Subdivision:**

A legally platted residential subdivision accommodating manufactured homes.

**2. 2. 60 - Mobile home:**

A detached, portable residential dwelling unit, built prior to June 15, 1976 and not in compliance with the national manufactured housing construction and safety standards act of 1974, title VI of the housing and community development act of 1974, Public Law 93-383, 42 U.S.C. 5401 to 5426, with a floor area of at least four hundred (400) square feet, pre-fabricated on its own chassis and intended for long term occupancy. The unit shall contain sleeping accommodations, a flush toilet, tub or shower and eating and living quarters. It is designed to be transported on its wheels or on a flatbed truck arriving at the site where it is to be occupied as a complete dwelling without permanent foundation and shall be connected to existing utilities. A travel trailer is not to be considered a mobile home.

**2. 2. 61 - New Construction:**

Structures for which the start of construction commenced on or after the effective date of this Ordinance.

**2. 2. 62 - Nonconforming Use:**

A use of land or building that was lawfully in existence prior to the adoption of the zoning ordinance and which is therefore permitted to continue in the future even though current zoning regulations applying to that parcel would not permit it.

**2. 2. 63 - Off Street Parking:**

A facility providing vehicular parking spaces with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of automobiles.

**2. 2. 64 - Ordinance Interpretation:**

The power of the Zoning Board of Appeals to determine what an unclear provision in the zoning ordinance means, or where a line actually falls on the zoning map.

**2. 2. 65 - Parking Space, Area, Lot:**

An off-street open area, the principal use of which is for the parking of automobiles, whether for compensation or not, as an accommodation to clients, customers, visitors or employees.

**2. 2. 66 - Premanufactured (Prefabricated) unit:**

An assembly of materials or products intended to comprise all or part of a building or structure, and which is assembled at other than the final location of the unit of the building or structures by a repetitive process under circumstances intended to insure uniformity of quality and material content. Premanufactured units include manufactured homes and modular homes.

**2. 2. 67 - Planned Unit Development (PUD):**

A flexible zoning technique that allows a land developer much more creativity in how the land is utilized without sacrificing public concern for compatibility with adjacent uses of land.

**2. 2. 68 - Pre-existing towers and pre-existing antennas:**

Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

**2. 2. 69 - Quarry:**

Any pit, excavation or mining operation for the purpose of searching for or removing from the premises any earth, rock, sand, gravel, clay, stone, slate, marble or other non-metallic mineral in excess of fifty (50) cubic yards in any calendar year, but shall not include an excavation for the construction of a structure or public highway.

**2. 2. 70 - Recreational Vehicle:**

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

**2. 2. 71 - Rezoning:**

The process of changing the zoning district (as it appears on the zoning map) that applies to a specific parcel (s) of land.

**2. 2. 72 - Riding Academy:**

Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

**2. 2. 73 - Roadside Stand:**

A structure temporarily operated for the purpose of selling produce raised or produced primarily on the premises where situated. Its use shall not make a commercial district, nor shall its use be deemed a commercial activity.

**2. 2.74 - Salvage Yard:**

A structure or parcel of land where junk, waste, discard, salvage or similar materials such as old iron or other metal, wood, lumber, glass, paper rags, cloth, leather, rubber, bagging, cording, barrels, containers, etc., are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including auto wrecking yards, inoperative machines, used lumber yards, house wrecking, and structural steel materials, and other equipment and including establishments for sale, purchase, or storage of salvaged machinery and the processing of used, discarded or salvaged materials for any thirty (30) consecutive days.

**2. 2. 75 - Self - Created:**

A zoning problem created by the action of the applicant himself. A self-created problem is not grounds for a variance.

**2. 2. 76 - Sign:**

Any device designed to inform or attract the attention of persons not on the premises on which the sign is located; however, the following shall not be included within this definition:

A. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers or other identification of premises not having commercial connotations;

B. Flags and insignia of any government, except when displayed in connection with commercial promotion;

C. Legal notices, identification, information, or directional signs erected or required by governmental bodies;

D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights; and

E. Signs directing and guiding traffic and parking to private property, but bearing no advertising matter.

**2. 2. 77 - Sign Area:**

The area of a sign consisting of the entire projected area (visible from any point) of any regular geometric form or combinations of regular geometric forms, comprising all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of such area.

**2. 2. 78 - Sign, On-Site:**

A sign advertising a product for sale or a service to be rendered on the immediate premises where the sign is located.

**2. 2. 79 - Site Plan Review:**

A review by the Planning Commission and the Village Council of certain buildings and structures that can be expected to have a significant impact on natural resources, traffic patterns, and adjacent land usage.

**2. 2. 80 - Start Construction:**

The first placement of a permanent structure on a site, such as the pouring of slabs or Footings, or any work beyond the stage of excavation.

**2.2. 81 - Story:**

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

**2.2.82-Street:**

A public or private thoroughfare which affords the principal means of access to abutting property having a right-of-way not less than sixty-six (66) feet in width.

**2. 2. 83 - Street Line:**

The dividing line between the street right-of-way and the lot. When such right-of-way is not definable, a line shall be defined as thirty-three (33) feet on either side of the center of the street.

**2. 2. 84 - Structure:**

That which is built or constructed, including without limitation because of enumeration, buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, chute escapes, railings, water tanks, towers, open grade steps, sidewalks or stairways, tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

**2. 2. 85 - Substantial Improvements:**

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

- A. Before the improvement or repair is started, or
- B. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the original dimensions of the structure. The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
- B. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**2. 2. 86 - Telecommunication Facilities:**

All structures and accessory facilities relating to the use of radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, cellular towers, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), satellite dish facilities, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial radio service facilities, paging and similar services which are licensed and marketed to the general public, except pre-emption as stated in the Federal Telecommunications Act of 1996. Not included in this definition are citizen band radio facilities, short wave receiving facilities, federally licensed amateur (ham) radio facilities, and government facilities that are subject to state or federal law or regulations which pre-empt municipal regulatory authority.

**2. 2. 87 - Tower:**

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

**2. 2. 88 - Transition Strip:**

A screened area which reduces the visual or noise impact of one use upon another.

**2. 2. 89 - Travel Trailer:**

A vehicle designed as a travel unit for occupancy as a temporary or seasonal living unit, capable of being towed by a passenger vehicle and not exceeding two hundred (200) square feet in area.

**2. 2. 90 - Unnecessary Hardship:**

A standard which an applicant must prove has been met in order gain approval for a variance.

**2. 2. 91 - Variance:**

A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship.

**2. 2. 92 - Yard, Front:**

An open, unoccupied space extending the full width of the lot between the front lot line and the nearest line of the principal building on the lot.

**2. 2. 93 - Yard, Rear:**

An open, unoccupied space extending the full width of the lot between the rear line of the lot and the rear line of the principal building.

**2. 2. 94 - Yard, Side:**

An open, unoccupied space on the same lot with the principal building, between the side line of the principal building and the adjacent side line of the lot, extending from the rear line of the front yard to the front line of the rear yard, and if no front yard is required, the front boundary of the side yard shall be the front line of the lot.

### **SECTION 2.3 - UNDEFINED-TERMS**

Any term not defined herein shall have the meaning of common or standard use.

### **SECTION 2.4 - APPLICATION OF REGULATIONS**

The regulations established by the ordinance within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall not preclude the establishment of higher or more restrictive standards or requirements for the authorization of any conditional use permit, where such higher or more restrictive standards or requirements are found necessary by the Planning Commission to attain the purposes of this ordinance.

## **ARTICLE III**

### **ESTABLISHMENT OF ZONING DISTRICTS**

#### **SECTION 3.1 - ESTABLISHMENT OF ZONING DISTRICTS**

RS-1	Suburban Residential District
RU-1	Urban Residential District
RM-1	Multiple - Family Residential District
RNF- 1	Rural Non - Farm District
C-1	General Commercial District
HSC/I-2	Highway Service Commercial/Light Industrial District
1-1	Industrial District

#### **SECTION 3.2 - OFFICIAL ZONING MAP**

The Zoning Districts as provided in Section 3.1 of this ordinance are bounded and defined on a map entitled "Official Zoning Map, the Village of Concord, Jackson County, Michigan," dated 2003, which map, with all explanatory matter thereon, is hereby adopted as a part of this ordinance. (Reference appendix A-1)

##### **3.2.1 - IDENTIFICATION OF OFFICIAL ZONING MAP:**

The Official Zoning Map shall be identified by the signature of the Village President and attested by the Village Clerk. The Official Zoning Map shall be located in the office of the Clerk and available for examination.

#### **SECTION 3.3 - INTERPRETATION OF DISTRICT BOUNDARIES:**

Except where specifically designated on the Official Zoning Map, the zoning district boundary lines are intended to follow lot lines, the centerlines of streets or alleys, the centerlines of creeks, streams, or rivers, the centerlines of streets or alleys projected, centerlines of railroad right-of-way lines, section lines, one-quarter (1/4) section lines, one-eighth (1/8) section lines or a corporate limit line, all as they existed at the time of the enactment of this ordinance, as subsequently modified and designated as such boundary line. Where a district boundary does not coincide with any of the above lines, the district boundary lines shall be dimensioned on the Official Zoning Map. When the location of a district boundary is uncertain, the Board of Appeals shall interpret the exact location of the district boundary.

#### **SECTION 3.4 - OFFICIAL FLOOD HAZARD AREAS:**

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Village of Concord", dated September 1, 1981, with accompanying Flood Insurance Rate Maps and Flood Boundary Floodway Maps is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file in the office of the Village Clerk and available for examination.



## **ARTICLE IV**

### **ZONING DISTRICTS REGULATIONS:**

The intent, permitted uses, conditional uses, height, area, density, and sign regulations of each district are set forth in this section.

#### **SECTION 4.1 - RESIDENTIAL DISTRICTS:**

The Suburban Residential District, Urban Residential District, Multiple - Family Residential District and Rural Non - Farm Districts are designated principally for residential use and are limited to dwellings and uses normally associated with residential neighborhoods in order to encourage a suitable and healthy environment for family life. The residential districts are designed to regulate the location of residential uses and dwellings according to a well considered plan which reflects the different types of residential uses and dwellings, the different densities of population and the intensity of land use desired, potential nuisances and hazards which may cause unhealthy conditions, and the relationship of residential uses and dwellings to other areas devoted to commercial or industrial use and to streets. The purpose of each residential district is further stated below.

##### **4.1.1 - Suburban Residential District (RS-1):**

This district is designed to provide principally for moderate suburban densities where necessary services and facilities, including central sewage and supply systems can be feasibly provided.

Minimum lot size is ten thousand (10,000) square feet, with minimum lot width of eighty (80) feet, front yard set back of thirty five (35) feet, side yard set backs of ten (10) feet and twenty five (25) feet rear yard setback. Corner lots will require thirty five (35) feet setback on all yards abutting streets. Lot coverage shall not exceed thirty percent (30%). Principle building shall not exceed two and one-half (2½) stories or thirty five (35) feet. Accessory structures shall not exceed twenty five (25) feet in height. (Reference appendix B-1, B-8)

##### **A. Permitted Uses:**

1. Single - family detached dwellings
2. On - site signs only in accordance with the regulations specified in 5.2.2
3. Essential services, only in accordance with the regulations specified in 5.17
4. Accessory uses or structures

**B. Conditional- Uses:**

1. Planned unit residential developments
2. Country clubs, recreation centers, public swimming pools, parks, playgrounds, and playfields
3. Churches and other buildings for religious worship
4. Public and private nurseries, primary and secondary non - profit schools
5. Essential service structures of a non - industrial character, but not including maintenance depots or warehouses
6. Government or community owned buildings
7. Golf courses, but not including golf driving ranges
8. Two - family dwellings
9. Medical and Dental Clinics
10. Home Occupations
11. Telecommunication uses only in compliance with Section 5.6

**4.1.2 - Urban Residential District (RU-1):**

This district is designed to provide areas principally for high-density single - family residential dwellings where necessary urban services and facilities can be feasibly provided, including central sanitary sewage and central water systems.

Minimum lot size is seventy five hundred (7500) square feet, with sixty (60) feet front yard width, twenty five (25) feet front yard set back, five (5) feet side yard set back, and twenty (20) feet rear yard set back. Corner lots require twenty five (25) feet set back on all yards abutting streets. Lot coverage shall not exceed thirty percent (30%). Principal buildings shall not exceed two and one half (2½) stories or thirty-five (35) feet. Accessory buildings shall not exceed twenty five (25) feet in height. (Reference appendix B-2, B-9)

**A. Permitted Uses:**

1. Single - family detached dwellings
2. On - site signs in accordance with regulations specified in Section 5.2.2
3. Essential services in accordance with the regulations specified in Article V, Section 5.17

4. Accessory uses or structures

**B. Conditional Uses:**

1. Planned - unit residential developments
2. Recreation centers, public swimming pools, parks, playgrounds and playing fields
3. Churches and other buildings for religious worship
4. Public and private nursery, primary and secondary non - profit school
5. Essential service structures of a non - industrial character, but not including maintenance depots or warehouses
6. Government or community owned buildings
7. Two-family dwellings
8. Medical and Dental Clinics
9. Home Occupations
10. Multiple-family dwellings
11. Telecommunication uses only in compliance with Section 5.6

**4.1.3 - Multiple - Family Residential District (RM-1)**

This district is designed to permit a high density of population and a high intensity of land use in those areas which are served by a central water supply system and a central sanitary sewage system, and which abut or are adjacent to such other uses or amenities which support, complement or serve such a density and intensity.

Minimum lot size is fifteen thousand (15,000) square feet with a one hundred twenty (120) feet lot width, front yard set back of twenty five (25) feet, side yards set backs of ten (10) feet and twenty five (25) feet rear yard set back. Corner lots require twenty five (25) feet set back from all abutting streets. Single family units require the same as RS-1. Lot coverage shall not exceed twenty five percent (25%). Principal buildings shall not exceed two and one-half (2 ½) stories or thirty five (35) feet. Accessory buildings shall not exceed twenty five (25) feet in height. (Reference appendix B-3, B, 10)

**A. Permitted Uses:**

1. Multiple-family dwellings
2. Two-family dwellings

3. On-site signs, only in accordance with the regulations specified in 5.2.2
4. Essential services, only in accordance with the regulations specified in 5. 17
5. Accessory uses or structures
6. Rooming houses and Boarding houses

**B. Conditional Uses:**

1. Planned-unit residential developments
2. Public swimming pools, recreation centers, parks, playgrounds, and playing fields
3. Churches and other buildings for religious worship
4. Public and private nurseries, primary and secondary non - profit schools, and colleges and universities
5. Medical and dental clinics
6. Hospitals, convalescent or nursing homes, sanitariums, and orphanages
7. Essential service structures of a non-industrial character, but not including maintenance depots or warehouses
8. Mobile home parks and subdivisions
9. Offices
10. Government or community owed buildings
11. Funeral establishments
12. Single - family dwellings
13. Home Occupation
14. Telecommunication uses only in compliance with Section 5.6

**4.1.4 - Rural Non - Farm (RNF-1)**

This district is designed to provide residential areas principally for low suburban densities with limited animal, crop, and recreational uses where necessary urban services and facilities, including central sewage and water supply systems can be feasibly provided.

Minimum lot size is one (1) acre, forty-four thousand (44, 000) square feet with two hundred (200) feet minimum yard width, thirty-five (35) feet front yard set back, thirty-five (35) feet side yard set back and sixty (60) feet rear yard set back. Lot coverage shall not exceed ten percent (10%). Principal building shall not exceed two and one - half (2 ½) stories or thirty-five (35) feet. Accessory structures shall not exceed twenty-five (25) feet in height. (Reference appendix B-4, B-11)

**A. Permitted Uses:**

1. General and specialized farming and agricultural activities, except feed lots, but including the raising, growing, storage or preservation of crops, sod, livestock, poultry, rabbits, and other farm animals, plants, trees, shrubs, and nursery stock
2. Sale of agricultural products raised and grown on the premises, including a roadside stand for said sales
3. Single-family detached dwellings
4. Kennels
5. Conservation and/or recreation areas, including forest preserves, game refuges, nature reservations, hunt clubs, and similar areas of low intensity use
6. On - site signs only in accordance with the regulations specified in 5.2.2
7. Essential services and structures of a non - industrial character, but not including maintenance depots and warehouses, only in accordance with the regulations specified in Article V, Section 5.17
8. Accessory uses or structures
9. Telecommunication uses only in compliance with Section 5.6

**B. Conditional Uses:**

1. Quarries
2. Golf courses
3. Group or organized camps, camping grounds, and general or specialized resorts
4. Airstrips
5. Public and private nurseries, primary or secondary non-profit schools, and colleges and universities
6. Convalescent homes, nursing homes, hospital, sanitariums, and orphanages

7. Churches and other buildings for religious worship
8. Cemeteries
9. Golf driving ranges
10. Recreational vehicle parks
11. Two-family dwellings
12. Home Occupations

#### **SECTION 4.2 - COMMERCIAL DISTRICTS:**

The General Commercial District and Highway Commercial /Light Industrial District are designed to limit compatible commercial enterprises at appropriate locations to encourage efficient traffic movement, parking, utility service, advance public safety, and protect surrounding property. The commercial districts are designed to regulate the location of these business uses according to a well-considered plan which determines the types of such uses and the intensity of land, street and highway use in each such district, potential nuisances and hazards which may cause unsafe conditions, and the relationship of commercial uses to each other and to other areas devoted to residential or industrial use and to streets and highways. The purpose of each commercial district is further stated below.

##### **4.2.1 - General Commercial District (C-1):**

This district is intended to encourage planned and integrated groups of retail services and administrative establishments, which will provide retail convenience and comparison goods and provide personal and professional services for the entire area.

Minimum lot size is ten thousand (10, 000) square feet with seventy-five (75) feet minimum width, thirty-five (35) feet front yard set back, twenty (20) feet side yard set back and thirty-five (35) feet rear yard set back. Lot coverage shall not exceed twenty-five percent (25%). In central business district no yard requirements or transition strips are required, only side yard and rear yard when abutting residential districts. (Reference appendix B-5, B-12)

##### **A. Permitted Uses:**

1. Personal services, including barbershops and beauty salons, medical and dental clinics, dry cleaners, laundromats, and sale and repair of watches, shoes, radios, and televisions
2. Business services, including banks, loan offices, real estate offices, and insurance offices
3. Offices of an executive, administrative or professional nature

4. Indoor commercial amusement and recreation services, including theaters, bowling alleys, and roller and ice skating rinks
  5. On - site signs, only in accordance with the regulations as specified in Section 5.2.4
  6. Essential services and structures of a non - industrial character
  7. Accessory uses or structures
  8. Retail sale of foods, drugs, hardware, notions, books, and similar convenience goods
  9. Clubs and lodges
  10. Funeral homes
  11. Printing establishments
  12. Business schools, including dance schools, music schools, and art schools
  13. Indoor retail sales establishments
  14. Eating and drinking establishments, but not including drive-in types
- A. Conditional Uses:**
1. Planned - Commercial Unit Developments
  2. Churches and other buildings for religious worship
  3. Single - family dwellings
  4. Two - family dwellings

**4. 2. 2 - Highway Service Commercial / Light Industrial - (HCI-2)**

This district is intended to provide for various commercial and light industrial establishments offering accommodations, supplies, and services to local as well as through automobile and truck traffic. This district should be along major thoroughfares or adjacent to the interchange ramps of limited access highway facilities and should encourage groupings and discourage dispersion of these activities.

Minimum lot size is fifteen thousand (15, 000) square feet with one hundred (100) feet minimum width, front yard set back of thirty-five (35) feet, side yard set backs of twenty (20) feet and rear yards set back of twenty (20) feet. Corner lots require thirty-five (35) feet set back from all streets. Lot coverage shall not exceed twenty-five percent (25%) with thirty-five (35) feet height limit. (Reference appendix B-6, B-13)

**A. Permitted Uses:**

1. Automobile service stations
2. Sales, rental, and service of motor vehicles, trailers and boats
3. Drive-in retail and service establishments, except drive-in theaters
4. On-site and off-site signs, only in accordance with the regulations as specified in Article V, Section 5.2. 5 and 5.2.6
5. Motels and hotels
6. Eating and drinking establishments
7. Essential services and structures of a non-industrial character
8. Accessory uses or structures
9. Indoor and outdoor commercial amusements
10. Communication uses only in compliance with Section 5.6

**B. Conditional Uses:**

1. Drive-in theaters
2. Wholesale merchandising or storage warehouses
3. Trucking terminals
4. Farm machinery and equipment sales and repair
5. Contractor's yard
6. Lumber yards
7. Industrial office buildings
8. Skilled trade services, including plumbing, electric, printing and painting establishments
9. Light industrial uses which require no special support services or present an environmental impact
10. Single and two - family dwellings
11. Accessory uses or structures within the setback



## **SECTION 4.3 - INDUSTRIAL DISTRICT:**

It is recognized by this ordinance that the value to the public of designating certain areas for certain types of industrial uses is represented in the employment opportunities afforded to citizens and the resultant economic benefits conferred upon the Village of Concord. In order that this value may be maintained and this use encouraged, this ordinance has established zoning districts designed to regulate the location of industrial uses according to a well considered plan which reflects the types of such uses and the intensity of land, street, and highway use in such district, potential nuisances and hazards which may cause unsafe and unhealthy conditions, and the relationship of industrial uses to each other and to other areas devoted to agricultural, residential or commercial use and to streets, highways, and other means of transportation. To these ends, certain uses, which would function more effectively in other districts and would interfere with the operation of industrial activities and the purpose of these districts, have been excluded. The purpose of each industrial district is further stated below.

### **4.3.1 - Industrial District (I-1):**

This district is designed to provide suitable space for industrial operations of all types that can comply with all provisions of this ordinance and can assure protection of the public interest and surrounding property and persons.

Minimum lot size is twenty thousand (20, 000) square feet, minimum lot width of eighty (80) feet with thirty five (35) feet front yard set back, twenty (20) feet side yard set back and thirty five (35) feet rear yard set back. Corner lots require thirty five (35) feet set back from all streets. Maximum lot coverage of twenty five (25%) and building height of thirty five (35) feet. (Reference appendix B-7, B-14)

#### **A. Permitted Uses: NONE**

#### **B. Conditional Uses:**

1. All industrial uses not in conflict with any enacted state or local laws
2. Railroad terminals
3. Trucking terminals
4. Farm machinery and equipment sales and repair
5. Contractor's yard
6. Industrial office buildings
7. General service and repair establishment including dyeing, cleaning or laundry works and upholstery or appliance repair
8. Assembly and manufacture, from pre-fabricated parts, of household appliances, electronics, machinery, hardware, and similar products, or the processing or assembling of parts for production of finished equipment

9. Skilled trade services, including plumbing, electric, heating, printing, and painting.
10. Research and testing laboratories
11. Essential services and structures
12. On - site and off - site signs only in accordance with the regulations as specified in Article V, Section 5.2.5 and 5.2.6
13. Salvage yards
14. Telecommunication uses only in compliance with Section 5.6
15. Bulk oil storage

#### **SECTION 4.4 - COMPLIANCE WITH REGULATIONS:**

A. No building or structure shall hereafter be erected or altered to exceed the height, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards, side yards or other open spaces than prescribed for the district in which the building or structure is located.

B. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth for the district in which the yard or lot is located. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

C. No part of a yard or other open space required for, or in connection with, any structure for the purpose of complying with this ordinance, shall be included as part of a yard or open space similarly required for any other structure.

##### **4.4.1 - Yard Measurements:**

A. Lots which abut on more than one street shall provide the required front yards along every street.

B. All front, side, and rear yards shall be the minimum perpendicular distance measured from the principal structure, including all projections to the respective property line, street right-of-way line, river bank or lake shore.

##### **4.4.2 - Lot Width:**

Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard.

#### **4.4.3 - Height Exceptions:**

Exceptions to the maximum height regulations for each district specified in this ordinance may be permitted subject to the following provisions:

##### **A. Height Limitations:**

The limitations affecting the height of structures shall not apply to the following appurtenant appendages and structures, provided they comply with all other provisions of this or any other applicable ordinances: parapet walls, chimneys, smokestacks, church spires, flagpoles, radio and television towers, penthouses for mechanical equipment and water tanks.

##### **B. Increased Height:**

Building height in excess of the height above average ground level allowed in any district may be permitted provided all minimum front, side and rear yard depths are increased one (1) foot for each additional one (1) foot of height and provided that adequate fire protection can be demonstrated.

#### **4.4.4 - Accessory Structures:**

A. No detached accessory building or structure shall be located closer than ten (10) feet to any other building or structure.

B. All detached accessory structures shall be subject to the same dimensional requirements affecting the principal structure; however, such accessory structure may be placed not less than three (3) feet from any rear lot line or the rear yard portion of any side lot line, except side yards abutting streets of corner lots

#### **4.4.5 - Distance between Grouped Buildings:**

In addition to the required set back lines provided elsewhere in this ordinance, in group dwellings (including semi-detached and multiple dwellings) the following minimum distances shall be required between each said dwelling:

A. Where buildings are front to front or front to rear, three (3) times the height of the taller building, but not less than seventy (70) feet

B. Where buildings are side to side, one (1) times the height of the taller building, but not less than twenty (20) feet

C. Where buildings are front to side, rear to side or rear to rear, two (2) times the height of the taller building, but not less than forty five (45) feet

## **ARTICLE V**

### **SUPPLEMENTAL REGULATIONS**

#### **SECTION 5.1- PURPOSE**

It is the purpose of this article to provide regulations and requirements that supplement the provisions contained under the respective district regulations in Article IV, and may or may not apply to all zoning districts.

#### **SECTION 5.2 - SIGN REGULATIONS**

##### **5.2.1 - General Sign Regulations:**

- A. No sign shall be erected at any location, where by reason of the position, size, shape, color, movement, or illumination may interfere with or obstruct the view of traffic, nor shall any sign be confused with any authorized traffic sign, signal or device.
- B. All signs shall be designed, constructed, and maintained so as to be appropriate in appearance with the existing or intended character of their vicinity so as not to change the esthetic character of such area.
- C. In all districts, signs may be illuminated only by non -flashing light. Any light used to illuminate such signs shall be arranged so as to reflect light away from adjoining premises and streets.
- D. All signs (except signs in the Highway Service/Light Industrial District) shall be placed no closer to the street right - of - way than one - half (1/2) the minimum authorized front yard depth.
- E. Signs in the Highway Service Commercial/Light Industrial District may be placed at the front property line and shall conform to all other provisions of the district.

##### **5.2.2 - Permitted on - Site Signs In Residential Districts:**

- A. One on - site sign advertising the sale or lease of the lot, chattels or building, which shall not exceeding six (6) square feet in area.
- B. One on - site sign announcing a home occupation, boarding home or professional service shall be attached flat against the front wall of the building.
- C. One on - site sign advertising a recorded subdivision or development not to exceed eighteen (18) square feet in area. Such sign shall be removed within one year after the sale of ninety (90%) percent of all lots or units within said subdivision or development.
- D. One on - site sign not having commercial connotations identifying a multiple - family building or development or mobile home park which shall not exceed eighteen (18) square feet.

E. One on - site sign identifying a school, church, public building or other authorized use which shall not exceed eighteen (18) square feet in area.

**5.2.3 - Permitted on - Site Signs In General Commercial District:**

The following on - site signs are permitted on any one lot in the General Commercial District.

A. One on-site identification sign may be affixed flat against the wall of a building. The total sign area shall not exceed twenty four (24) square feet. No such sign shall extend above the wall to which it is affixed.

B. One on - site free-standing identification sign may be erected for a neighborhood shopping center. Such sign shall not exceed twenty four (24) square feet in area, nor be closer to the front, side or rear property line than one - half (1/2) the distance of the required setback.

C. One on - site free - standing identification sign may be erected for each separate enterprise situated on an individual lot not within a shopping center. Such sign shall not exceed eighteen (18) square feet in area, nor be closer to the front, side or rear property line than one - half (1/2) the distance of the required setback.

**5.2.4 - Permitted on - site signs in Highway Service Commercial/Light Industrial and all Industrial Districts:**

The following on - site signs are permitted on any site in the Highway Service Commercial/Light Industrial and all Industrial Districts:

A. One on - site sign may be affixed flat against the wall of the building or may project out not more than forty eight (48) inches. The total sign area shall not exceed (48) square feet.

B. One on - site free standing identification sign may be erected for a shopping center or other integrated group of stores or commercial buildings. The area of said sign shall be based on one (1) square foot for each front footage of building or buildings, for which it is established; however, it shall not exceed two hundred (200) square feet in area, and may be placed at the front property line of the lot, or no closer to the side or rear property line, than one - half (1/2) the distance of the required building setback.

C. One on - site free - standing identification sign may be erected for each separate enterprise situated on an individual lot not located within a shopping center. Such sign shall not exceed eighty (80) square feet in area, it shall be permanently installed and may be placed at the front property line of the lot, or one - half (1/2) the distance of the required building setback from the side or rear property line.

### **5.2.5 - Off - Site Signs:**

Off - site signs advertising a product for sale or a service to be rendered at a location other than the premises shall be permitted in the Highway Service Commercial /Light industrial and all Industrial Districts under the following conditions:

- A. Off - site signs are required to conform to the same yard and height requirements as other principal structures or buildings in the zone in which they are situated.
- B. Where two or more off - site signs are along the frontage of a single street or highway, they shall not be less than one thousand (1,000) feet apart. A double face (back- to - back) or a v-type structure shall be considered a single sign.
- C. The total surface area, facing in the same direction of off - site sign, shall not exceed three hundred (300) square feet in area.
- D. No - off site signs shall be erected on the roof of any building, nor can one sign be placed above another sign.
- E. Off - site signs may be illuminated by reflected light only, provided the source of light is not directly visible and is arranged so as to reflect away from the adjoining premises and provided that such illumination shall not be placed so as to cause confusion or a hazard to traffic or conflict with traffic control signs or lights. No illumination involving movement by reason of lighting arrangement or other devices shall be permitted. Notwithstanding any provision of this section to the contrary, the following shall apply to legal nonconforming signs:

### **5.2.6 - Nonconforming signs**

- A. A legal nonconforming sign shall lose its legal nonconforming status if the sign is relocated or replaced or the structure or size of the sign is altered in any way except for the purpose of bringing it more closely into compliance with this ordinance.
- B. Nonconforming signs shall not be repaired or re-erected after deterioration or damage if the repair or erection of the sign would cost more than fifty (50%) percent of the cost of an identical new sign.

### **5.2.7 - Temporary Signs:**

- A. As regulated by this section, temporary signs shall include any sign, banner, pennant or advertising display constructed of cloth, canvas, light materials, with or without frames, intended to be displayed for a short period of time, not to exceed twenty one (21) days for new or relocating businesses within the first ninety (90) days of operation.
- B. A permit shall be obtained for placement of the sign, and such permit shall authorize the erection of said sign and its maintenance for a period not to exceed twenty-one (21) days.

C. The sign shall not be placed closer to the front or side boundary line of the property than what is allowed for permanent signs in each district.

D. The sign shall be secured to prevent displacement by weather conditions and shall be level.

E. Garage sale (yard sale, estate sale, moving sale, ect.) signs are permitted for a period not to exceed seven (7) days in a given ninety (90) day period. Off - premise garage sale signs shall be removed by the sponsor of the sale within forty eight (48) hours after end of the sale.

F. Any sign with a total area greater than four (4) square feet that is not anchored to the ground by concrete footings or posts set no less than three (3) feet in the ground is determined to be of a temporary nature and must comply with this section.

### **SECTION 5.3 - OFF - STREET PARKING REQUIREMENTS**

In all districts, there shall be provided at the time any building, structure or use is established, enlarged or increased in capacity, off- street parking spaces for motor vehicles with the requirements herein specified. Such off-street parking spaces shall be maintained and shall not be encroached upon by structures or other uses so long as the principal building, structure or use remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this ordinance.

#### **5.3.1 - Plans:**

Plans and specifications showing required off - street parking spaces, including the means of access and interior circulation shall be submitted to the Zoning Inspector for review at the time of application for a zoning compliance permit for the erection or enlargement of a building.

#### **5.3.2 - Location of Off - Street Parking Areas:**

Required off - street parking facilities shall be located on the same lot as the principal building or on a lot within three hundred (300) feet thereof, except that this distance shall not exceed one hundred fifty (150) feet for single - family and two - family dwellings. This distance specified shall be measured from the nearest point of the parking facility to the nearest point of the lot occupied by the building or use that such facility is required to serve.

#### **5.3.3 - Parking In Residential Districts:**

Parking of motor vehicles in residential districts shall be limited to passenger vehicles, recreational vehicles, and not more than one commercial vehicle of the light delivery type, not to exceed one (1) ton, shall be permitted per dwelling unit. The parking of any other type of commercial vehicle, except for those parked on school or church property, is prohibited in a residential zone.

### **5.3.4 Off-Street Parking Area Design:**

- A. Each off-street parking space for automobiles shall be not less than two hundred (200) square feet in area, exclusive of access drives or aisles, and shall be of usable shape and condition.
- B. There shall be provided a minimum access drive of ten (10) feet in width and where a turning radius is necessary, it will be of such an arc as to reasonably allow an unobstructed flow of vehicles.
- C. Parking aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of parking space. The minimum width of such aisles shall be:
1. For ninety (90) degree or perpendicular parking, the aisle shall not be less than twenty-two (22) feet in width.
  2. For sixty (60) degree parking, the aisle shall not be less than eighteen (18) feet.
  3. For forty five (45) degree parking, the aisle shall not be less than thirteen (13) feet in width.
  4. For parallel parking, the aisle shall not be less than ten (10) feet in width.
- D. All off - street parking spaces shall not be closer than five (5) feet to any property line, except where a wall, fence or compact planting strip exists as a parking barrier along the property line.
- E. All off - street parking areas shall be drained so as to prevent drainage to abutting properties and shall be constructed of materials which will have a dust free surface resistant to erosion.
- F. Any lighting fixtures used to illuminate off street parking areas shall be arranged so as to reflect the light away from any adjoining residential lot or institutional premises.
- G. Any off - street parking area providing space for five (5) or more vehicles shall be effectively screened on any side which adjoins or faces property adjoining a residential lot or institution, by a wall, fence or compact plantings not less than four (4) feet in height. Planting shall be maintained in good condition and not encroach on adjoining property.
- H. All off - street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off - street parking areas of one - or two - family dwellings.



### **5.3.5 - Collective Parking:**

Requirements for the provision of parking facilities with respect to two or more property uses of the same or different types may be satisfied if the permanent allocation of the requisite number of spaces designed is not less than the sum of individual requirements.

### **5.3.6 - Determining Requirements:**

For the purposes of determining off - street parking requirements, the following units of measurement shall apply:

#### **A. Floor Area:**

In the case where floor area is the unit for determining the required number of off - street parking spaces, said unit shall mean the gross floor area, except that such floor area need not include any area used for parking within the principal building and need not include any area used for incidental service storage, installations of mechanical equipment, penthouse housing ventilators and heating systems, and similar uses.

#### **B. Places of Assembly:**

In stadiums, sports arenas, churches and other places of assembly in which those in attendance occupy benches, pews or other similar seating facilities, each eighteen (18) inches of such seating facilities shall be counted as one (1) seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.

#### **C. Fractions:**

When units of measurement determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including one - half (1/2) shall be disregarded and fractions over one - half (1/2) shall require one (1) parking space.

### **5.3.7 - Schedule of Off - Street Parking Spaces:**

The minimum required off street parking spaces shall be set forth in the following Schedule of Off - Street Parking Spaces. Where a use is not specifically mentioned the parking requirements of a similar or related use shall apply.

A. Use - Automobile or Machinery Sales and Service Garages: One (1) space for each two hundred (200) square feet of showroom floor area plus two (2) spaces for each service bay plus one (1) space for each two employees

B. Use - Bank, Business, and Professional Offices: One (1) space for each two-hundred (200) square feet of gross floor area

C. Use - Barber Shops and Beauty Parlors: One (1) space for each chair plus one (1) space for each employee

D. Use - Bowling Alleys: Seven (7) spaces for each alley

- E. Use - Churches, Auditoriums, Stadiums, Sports Arenas, Theaters, Dance Halls, Assembly Halls (other than schools): One (1) space for each four (4) seats
- F. Use - Dwelling Units: Two (2) spaces for each family or dwelling unit
- G. Use -Funeral Homes and Mortuaries: Four (4) spaces for each parlor or one (1) space for each fifty (50) square feet of floor area plus one (1) space for each fleet vehicle, whichever is greater
- H. Use - Furniture Stores, Appliance Stores, Household Equipment and Furniture Repair Shops: One (1) space for each four hundred (400) square feet of floor area
- I. Use - Hospitals: One (1) space for each bed, excluding bassinet, plus one (1) space for each two (2) employees
- J. Use - Hotels, Motels, Lodging Houses, and Boarding Homes: One (1) space for each living unit - plus one space for each two (2) employees
- K. Use - Automobile Service Stations: One (1) space for each eight hundred (800) square feet of floor area, plus one (1) space for each four (4) employees
- L. Use - Manufacturing, Fabricating, Processing and Bottling Plants, Research and Testing Laboratories: One (1) space for each two (2) employees on maximum shift
- M. Use - Medical and Dental Clinics: One (1) space for each two hundred (200) square feet of floor area plus one (1) space for each employee
- N. Use - Restaurants, Beer Parlors, Taverns, and Night Clubs: One (1) space for each two (2) patrons of maximum seating capacity plus one (1) space for each two (2) employees
- O. Use - Self Service Laundry or Dry Cleaning Stores: One (1) space for each two (2) washing and/or dry cleaning machines
- P. Use - Elementary and Junior High Schools, Private or Public: One (1) space for each employee normally engaged in or about the building or grounds, plus one (1) space for each thirty- (30) students enrolled
- Q. Use - Senior High School and Institutions of Higher Learning, Private or Public: One (1) space for each employee in or about the building or grounds, plus one (1) space for each four (4) students
- R. Use - Supermarket, Self- Service Food and Discount Stores: One (1) space for each two hundred (200) square feet of floor area, plus one (1) space for each two (2) employees
- S. Use - Wholesale Establishments and Warehouses: One (1) space for each two hundred (200) square feet of floor area, plus one (1) space for each two (2) employees
- T. Use - Drive - in Retail Service Establishments: One (1) space for each fifteen (15) square feet of building space

### **5.3.8 - Exception:**

The parking requirements for all uses proposed on a lot shall be cumulative, unless the Planning Commission shall find that the parking requirements of a particular land use occur at different hours from those of other contiguous land uses, such that particular land use parking areas can be advantageously used during non-conflicting hours by the other contiguous land use, in which event the required parking spaces for such particular land use may be reduced by the Planning Commission to a minimum of the greatest number of spaces required for any of such contiguous land uses.

## **SECTION 5.4 - OFF-STREET LOADING AND UNLOADING REQUIREMENTS**

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

### **5.4.1 - Plans:**

Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted to the Zoning Inspector for review at the time of application for a zoning compliance permit.

### **5.4.2 - Off -Street Loading Area Design:**

- A. Each off - street loading and unloading space shall not be less than ten (10) feet in width and fifty five (55) feet in length, with not less than fifteen (15) feet in height clearance.
- B. Any loading/unloading space shall not be closer than fifty (50) feet to any other lot located in any residential district unless wholly within a completely enclosed building or unless enclosed on all sides by a wall, fence or compact planting not less than six (6) feet in height.
- C. All off - street loading and unloading facilities that make it necessary to back out directly into a public road shall be prohibited.

### **5.4.3 - Off - Street Loading Area Space Requirements:**

- A. In the case of mixed uses on one lot or parcel, the total requirements for off -street loading and unloading loading facilities shall be the sum of the various uses computed separately.
- B. All retail sales facilities having over five thousand (5000) square feet of gross floor area shall provide at least one (1) off - street loading - unloading space, and for every additional twenty thousand (20,000) square feet of gross floor space or fraction thereof, one (1) additional loading - unloading space.
- C. All industrial and wholesale commercial land uses shall provide one (1) loading space for each ten thousand (10,000) square feet of floor space, with a minimum of not less than two (2) loading spaces.

## **SECTION 5.5 - CONDITIONAL USES**

The formulation and enactment of this ordinance is the division of the Village of Concord into districts in each of which may be permitted specific uses which are mutually compatible. Conditional uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locations which require individual review and restriction in order to avoid incompatibility with the environment of the site, the character of the surrounding area, public services and facilities and adjacent uses of land. The purpose of this section is to establish equitable procedures and criteria which shall be applied in determination of requests to establish conditional uses. The standards for approval and requirements provided for under the provisions of this section shall be in addition to those required elsewhere which are applicable to the conditional use under consideration.

### **5.5.1 - Authority to Grant Permits:**

The Planning Commission is hereinafter provided authority to recommend to the Village Council denial or approval subject to conditions as provided in subsection 5.5.6. The Village Council shall have the authority to approve, deny or set conditions as specified in Section 5.5.6.

### **5.5.2 - Application and Fee:**

Application for any conditional use permit permissible under the provisions of this ordinance shall be made to the Planning Commission through the Village Clerk by filing an official conditional use permit application form, submitting a site plan in accordance with Section 5.7, and payment of the required fee as established by resolution of the Village Council, except that no fee shall be required of any governmental body or agency. No part of such fee shall be returnable to the applicant.

### **5.5.3 - Data Information and Site Plan Application Requirements:**

An application for a conditional use permit shall include the applicant's name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved, and a site plan as specified in and in accordance with Section 5.7.

**5.5.4 - Public Hearings:**

A. After a preliminary review of the site plan and an application for a conditional use permit, the Planning Commission shall hold a hearing on the site plan and conditional use request. Notice of the hearing shall be given as directed in section 8.4.

**5.5.5 - Required Standards and Findings for Making Determinations:**

The Planning Commission shall review the particular circumstances of the conditional use request under consideration in accordance with the requirements of Section 5.7 - Site Plan Review and Approval and shall recommend approval of a conditional use request to the Village Council only upon approval of the site plan and finding of compliance with standards as included in subsection 5.7.5 and the standards for specific uses as specified in subsection 5.5.10.

**5.5.6 - Determination and Imposition of Conditions:**

Preliminary review of an application and site plan requesting a conditional use permit shall be made by the Planning Commission in accordance with the procedures and standards specified in this ordinance. If a submitted application and site plan do not meet the requirements of the ordinance, they shall not be recommended to the Village Council for approval. However, if the applicant agrees to make changes to the site plan and application in order to bring them into compliance with the ordinance, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating said changes.

**Amended 8/8/2006**

If the facts in the case do not establish competent material and substantial evidence that the standards set forth in this ordinance will apply to the proposed conditional use, the Planning Commission shall not recommend to the Village Council that said Village Council should grant a conditional use permit. The Planning Commission may recommend the imposition of conditions with the approval of a conditional use permit application and site plan which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this or other applicable ordinances and regulations. Such conditions, if imposed by the Village Council, shall be considered an integral part of the conditional use permit and approved site plan and shall be enforced by the Zoning Administrator.

These conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

#### **5. 5. 7 - Approval, Granting of Permit:**

Upon holding a public hearing and the finding that the requirements of subsections 5.5.2 through 5.5.6 of this ordinance have been satisfactorily met by the applicant, the Planning Commission shall, within thirty (30) days recommend approval, approval with conditions, or denial to the Village Council.

Approval and issuance of a conditional use permit by the Village Council shall signify prior recommendation of the application and site plan, therefore including any modification and any conditions imposed where necessary to comply with this ordinance. The site plan, as approved, and any statements of conditions and modifications shall become part of the conditional use permit and shall be enforceable as such.

The decision to approve or deny a request for a conditional use permit shall be retained as a part of the record of action on the request and shall incorporate a statement of conclusions which specify: the basis for the decision, any changes to the originally submitted application and site plan necessary to insure compliance with the ordinance, and any conditions imposed with approval. Once a conditional use permit is issued, all site development and use of land on the property affected shall be consistent with the approved special land use permit, unless a change conforming to ordinance requirements receives the mutual agreement of the landowner and the Village Council upon recommendation of the Planning Commission and is documented as such.

When the Village Council gives final approval, a conditional use permit shall be issued to the applicant. The Village Council shall forward a copy of the permit to the applicant, Clerk, Zoning Administrator, and Planning Commission. The Zoning Administrator shall not issue a zoning compliance permit until he has received a copy of the conditional use permit approved by the Village Council.

**5.5.8 - Performance Guarantee:**

In authorizing a conditional use permit, the Village Council may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond be furnished by the developer to insure compliance with an approved site plan and conditional use permit requirements. Such guarantee shall be deposited with the Village Clerk at the time of issuance of the conditional use permit. In fixing the amount of such performance guarantee, the Village Council shall limit it to reasonable improvements required to meet the standards of this ordinance and to protect the natural resources or the health, safety and welfare of the residents of the Village and future users or inhabitants of the proposed project or project area including, but not limited to roadways, lighting, utilities, sidewalks, screening, and drainage. The term "improvements" does not include the entire project which is the subject of zoning approval nor to improvements for which a performance guarantee has previously been deposited. The Village Council and the project developer shall establish an agreeable procedure for the rebate of any cash deposits required under this section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. Said agreement shall be written as an element of the conditions surrounding the approval of the conditional permit.

**5.5.9 - Voiding of Conditional Use Permit:**

Any conditional use permit granted under this ordinance shall become null and void and fees forfeited unless construction and/or use is commenced within two hundred ten (210) days and completed within five hundred seventy five (575) days of the date of issuance.

A violation of any requirement, condition or safeguard shall be considered a violation of this ordinance and grounds for the Village Council to terminate and cancel such conditional use permit.

**5. 5. 10 - Additional Development Requirements for Certain Uses:**

A conditional use permit shall not be issued for the uses specified in this subsection unless complying with the site development requirements as herein specified. The Planning Commission may impose additional conditions and safeguards when deemed necessary by that body.

**A. Quarries:**

The removal of soil, sand, gravel, stone and other earth materials shall be subject to the following conditions:

1. There shall be not more than one (1) entrance way from a public road to said lot for each five hundred (500) feet of front lot line.
2. Removal, processing, transportation, and activities relating to storage such as stockpiling shall not take place before sunrise or after sunset.

3. No digging or excavating on said lot shall take place closer than one hundred (100) feet to any lot line.
4. All roads, driveways, parking lots, and loading and unloading areas on said lot within one hundred (100) feet of any lot line shall be paved, watered or treated with materials approved by the Department of Environmental Quality so as to limit adjoining lots and public roads the nuisance caused by wind borne dust.
5. Any odors, smoke, fumes or dust generated on said lot by digging, excavating, processing, stockpiling or transportation operation and borne or able to be borne by the wind shall be confined within the lot lines of said lot.
6. Removal, processing or storage shall not be conducted so as to cause pollution by any material of any surface or subsurface, water course or body outside the lines of the lot on which such use shall be located.
7. Removal, processing or storage shall not be conducted so as to cause or threaten to cause the erosion by water of any land outside of said lot or of any land on said lot so that earth materials are carried outside of the lines of said lot, removal shall not be conducted as to alter the drainage pattern of surface or subsurface waters on adjacent property, and in the event that such removal, processing or storage shall cease to be conducted, it shall be the continuing responsibility of the owner or operator thereof to assure that no erosion or alteration of drainage patterns as specified in this paragraph shall take place after the date of the cessation of operation.
8. All fixed equipment and machinery shall be located at least one hundred (100) feet from any lot line and five hundred (500) feet from any residential zoning district, but in the event the zoning classification of any land within five hundred (500) feet of such equipment or machinery shall be changed to residential subsequent to the operation of such equipment or machinery, the operation of such equipment or machinery may continue henceforth, but in no case less than one hundred (100) feet from any lot area.
9. There shall be erected a fence not less than six (6) feet in height around the periphery of the development. Fences shall be adequate to prevent trespass, and shall be placed no closer than fifty (50) feet from the top edge of any slope.
10. All areas within any single development shall be rehabilitated progressively as they are worked out or abandoned to a condition of being entirely lacking in hazards, inconspicuous, and blended with the general surrounding ground form so as to appear reasonably natural.
11. The operator shall file with the Planning Commission and the Zoning Administrator a detailed plan for restoration of the development area, which shall include the anticipated future use of the restored land, the proposed final topography indicated by contour lines of not greater interval than five (5) feet, steps which shall be taken to conserve topsoil, proposed and final landscaping, and the location of future roads, drives, drainage course, and/or other improvements contemplated. Said plans shall be subject to review and modification from time to time by the Planning Commission. The anticipated cost of carrying out the plans of restoration shall be included with said plans.



12. The operator shall file with the Village of Concord a performance bond, payable to the Village of Concord and conditioned on the faithful performance of all requirements contained in the approved restoration plan. The Village Council shall fix the amount of the required bond which will reflect the anticipated cost of restoration. The bond shall be released upon written certification of the Zoning Administrator that the restoration is complete and in compliance with the restoration plan.

13. The permit or each renewal thereof shall be for a period of not more than five (5) years and shall be renewable only upon reapplication, a re-determination by the Planning Commission and filing of a performance bond, said re-determination to be made in accordance with the requirements of this ordinance for the issuance of a conditional use permit.

**B. Salvage Yards:**

In addition to and as an integral part of development, the following provisions shall apply:

1. It is recognized by this ordinance that the location of such materials in an open area included in this ordinance's definition of "salvage yard" will cause a reduction of the value of adjoining property. To the end that the character of the district, shall be maintained and property values conserved, a solid fence or wall at least seven (7) feet in height, and not less than the height of the materials on the lot on which a junk yard shall be operated, shall be located on said lot, no closer to the lot lines than the yard requirements for buildings permitted in this district. All gates, doors, and access ways through said fence or wall shall be of solid material. In no event shall any materials included in this ordinance's definition of "junk yard" be located on the lot on which a junk yard shall be operated in the area between the lines of said lot and the solid fence or wall located on said lot.

2. All traffic ingress or egress shall be on major streets, and there shall not be more than one (1) entranceway to the lot on which a junk yard shall be operated from each public road on which said lot abuts.

3. All roads, driveways, parking lots, and loading and unloading areas within any yard of a junk yard shall be paved, watered or treated with materials approved by the Department Environmental Quality of so as to limit adjoining lots and public roads the nuisance caused by wind - borne dust.

**C. Manufactured Home Subdivision:**

1. All manufactured homes to be erected as permanent residences in manufactured home subdivisions shall meet the requirements of Section 2.2.31 and shall be approved by the Zoning Administrator prior to erection on the lots.

2. Each manufactured home approved for erection on a manufactured home subdivision lot shall be mounted on a solid concrete apron no less than twelve (12) feet in width, sixty (60) feet in length and four (4) inches in thickness or a suitable foundation.

3. Lot areas where a manufactured home is to be erected, altered, or used as a single - family dwelling shall contain not less than ten thousand (10, 000) square feet of lot area.

4. The minimum lot width shall be sixty (60) feet.
5. The maximum lot coverage shall not exceed thirty (30) percent.
6. Each lot in a manufactured home subdivision shall have a front yard of not less than thirty five (35) feet.
7. Each lot in a manufactured home subdivision shall have two (2) side yards and the least width of either yard shall not be less than ten (10) feet, but the sum of the two (2) side yards shall not be less than twenty five (25) feet.
8. Each lot in a manufactured home subdivision shall have a rear yard of not less than twenty (20) feet.
9. No building or structure or part thereof, shall be erected to a height exceeding thirty five (35) feet.
10. All manufactured homes to be erected and used in manufactured home subdivision shall contain a gross floor area of not less than twelve hundred (1200) square feet.

**D. Planned-Unit Development:**

The purpose of this section is to permit flexibility for residential, commercial and industrial development where large tracts of land are planned with integrated and harmonious design and where the overall design of such units is so outstanding as to warrant modification by the Planning Commission of the regulations. Any planned - unit development to be eligible under this provision must comply with the following requirements:

1. The tract of land to be developed shall have a minimum area of not less than ten (10) acres.
2. The owner of the property shall submit to the Planning Commission a plan for the use and development of the total tract of land as a planned - unit development in accordance with the provisions of Section 5.7 - Site Plan Review and Approval. In addition to the site plan data specified in Section 5.7, the application shall contain such other pertinent information as may be necessary to make a determination that the contemplated arrangement or use may make it desirable to apply regulations and requirements differing from those ordinarily applicable under this ordinance.

The plan shall contain such proposed covenants, easements, and other provisions relating to the bulk, location, and density of structures, accessory uses thereto, and public facilities as may be necessary for the welfare of the planned - unit development and not inconsistent with the best interests of the entire Village of Concord.

3. The average density of structures of the tract shall not be greater than the density requirements in the district in which the planned - unit development is located.
4. The use of land shall be in conformance with the permitted uses of the district in which the proposed planned unit development is to be located.

5. The proposed development shall be served by adequate public facilities and service, such as highways, streets, police and fire protection, drainage, structures, and refuse disposal. These facilities may be provided by a governmental or private organization.

The applicant may be required to dedicate land for street and park purposes by appropriate covenants, to restricting areas perpetually for the duration of the Planned - Development as open space for common use. The development as authorized shall be subject to all conditions so imposed, and shall be exempt from other provisions of this ordinance only to the extent specified in the authorization.

6. The proposed unit shall be of such size, composition, and arrangement that its construction, marketing, and operation is feasible as a complete unit, without dependence on any subsequent unit or development.

7. The common open space, common properties, individual properties, and all other elements of the planned - unit development shall be planned so that they will achieve a unified environmental scheme, with open spaces and all other elements in appropriate locations, suitably related to each other, the site, and surrounding land.

**E. Accessory uses or structures within front setback must meet the following restrictions:**

1. Any use or structure within the required front setback shall not obstruct the view of traffic from adjacent lots.

2. Any use or structure within the required front setback shall not obstruct the view of signs of adjacent businesses.

3. No portion of the highway right-of-way shall be used for any purpose.

4. Physical barriers such as ditches, curbs, post and cable or any other permanent barrier not exceeding twenty four inches (24") above ground shall be installed to prevent parking within the highway right - of - way.

5. Site plan review in accordance with Section 5.7 shall be completed and approved.

6. If a structure is to be within ten (10) feet of the property line, a certified survey of the property shall be included with the site plan, and survey monuments shall be set along the property lines that are within ten (10) feet of the structure.

## **SECTION 5.6-WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS:**

- A. New Towers and Antennas. All new towers or antennas in the Village of Concord shall be subject to these regulations, except as provided in Sections 5.6.2 through 5.6.4, inclusive.
- B. Amateur Radio Station Operators/Receive Only Antennas. This section shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- C. Pre-existing Towers or Antennas. Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Sections 5.6.1 F and 5.6.1 G.
- D. AM Array. An AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

### **5.6.1 - General Requirements.**

- A. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- B. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- C. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Village of Concord or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the Village of Concord; provided, however, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- D. Aesthetics. Towers and antennas shall meet the following requirements:
- E. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

F. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

G. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

H. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

I. State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

J. Building Codes & Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Village of Concord concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

K. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Village of Concord irrespective of municipal and township jurisdictional boundaries.

L. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

M. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Village of Concord have been obtained and shall file a copy of all required franchises with the Zoning Administrator.

N. **Public Notice.** For purposes of this ordinance, any conditional use permit, variance request, or appeal of an administratively approved use or conditional use shall require public notice as directed in section 8.4.

O. **Signs.** No signs shall be allowed on an antenna or tower.

P. **Buildings and Support Equipment.** Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 5.6.5.

Q. **Multiple Antenna/Tower Plan.** The Village of Concord encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process

#### **5.6.2 - Permitted Uses.**

A. **General.** The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or a conditional use permit.

1. **Permitted Uses.** The following uses are specifically permitted:

a Antennas or towers located on property owned, leased, or otherwise controlled by the Village of Concord, provided a license or lease authorizing such antenna or tower has been approved by the Village of Concord.

#### **5.6.3 -Administratively Approved Uses.**

A. **General.** The following provisions shall govern the issuance of administrative approvals for towers and antennas.

1. The Zoning Administrator may administratively approve the uses listed in this Section.

2. Each applicant for administrative approval shall apply to the Zoning Administrator and provide the information set forth in Sections 5.6.4 B1 and 5.6.4 B3 and a nonrefundable fee as established by resolution of the Village Council to reimburse the Village of Concord for the costs of reviewing the application.

3. The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with Sections 5.6.1, 5.6.4 B4 and 5.6.4 B5

4. The Zoning Administrator shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the Zoning Administrator fails to take action on the application within said sixty (60) days, then the application shall be deemed to be approved.

**Amended 8/8/2006**

5. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage shared use, administratively waive any zoning district setback requirements in Section 5.6.4 B4 or separation distances between towers in Section 5.6.4 B5 by up to fifty percent (50%).

6. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage the use of monopole, administratively allow the reconstruction of an existing tower to monopole construction.

7. If an administrative approval is denied, the applicant shall file an application for a conditional use permit pursuant to Section 5.6.4 prior to filing any appeal that may be available under the Zoning Ordinance.

B. List of Administratively Approved Uses. The following uses may be approved by the Zoning Administrator after conducting an administrative review:

1. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any Rural Non - Farm or Highway Service Commercial zoning district.

2. Locating antennas on existing structures or towers consistent with the terms of subsection (a) and (b) below.

a. Antennas on existing structure. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided:

1) The antenna does not extend more than thirty (30) feet above the highest point of the structure;

2) The antenna complies with all applicable FCC and FAA regulations;

3) The antenna complies with all applicable building codes.

b Antennas on existing tower. An antenna which is proposed to be attached to an existing tower may be approved by the Zoning Administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:

1) A tower, which is modified or reconstructed to accommodate the co-location of an additional antenna, shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.

2) Height

a. An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the co-location of an additional antenna.

b. The height change referred to in subsection 2) (a) may only occur one time per communication tower.

c. The additional height referred to in subsection 2) (a) shall not require an additional distance separation as set forth in Section 5.6.4. The tower's pre-modification height shall be used to calculate such distance separations.

1) On-site location

(a) A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved on-site within fifty (50) feet of its' existing location.

(b) After the tower is rebuilt to accommodate co-location, only one tower may remain on the site.

(c) A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to section 5.6.4 B5. The relocation of a tower hereunder shall in no way be deemed to cause a violation of Section 5.6.4 B5.

(d) The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in Section 5.6.4 B5 shall only be permitted when approved by the Zoning Administrator.



c. New towers. Locating any new tower in a zoning district other than Rural Non Farm and Highway Service Commercial, is allowed provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant, the Zoning Administrator concludes the tower is in conformity with the goals set forth in Section 1.3 and the requirements of Section 5.6.1, the tower meets the setback requirements in Section 5.6.4 B4 and separation distances in Section 5.6.4 B5, and the tower meets the following height and usage criteria:

- 1) for a single user, up to ninety (90) feet in height.
- 2) for two users, up to one hundred twenty (120) feet in height; and
- 3) for three or more users, up to one hundred fifty (150) feet in height.

d. Locating any alternative tower structure in a zoning district other than Rural Non Farm and Highway Service Commercial that in the judgment of the Zoning Administrator is in conformity with the goals set forth in Section 1.3 of this ordinance.

e. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

#### **5.6.4 Conditional Use Permits.**

A. General. The following provisions shall govern the issuance of conditional use permits for towers or antennas by the Council:

1. If the tower or antenna is not a permitted use under Section 5.6.2 or permitted to be approved administratively pursuant to Section 5.6.3, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
2. Applications for special use permits under this Section shall be subject to the procedures and requirements of Section 5.5, except as modified in this Section.
3. In granting a special use permit, the Council may impose conditions to the extent the Council concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
4. A licensed professional engineer shall certify any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical.

5. An applicant for a special use permit shall submit the information described in this Section and a non-refundable fee as established by resolution of the Council of the Village of Concord to reimburse the Village of Concord for the costs of reviewing the application.

**B. Towers.**

1. Information required. In addition to any information required for applications for special use permits pursuant to Section 5.5, applicants for a special use permit for a tower shall submit the following information:

- a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in Section 5.6.4 B5, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator to be necessary to assess compliance with this ordinance.
- b. Legal description of the parent tract and leased parcel (if applicable).
- c. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
- d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 5.6.1 C shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
- e. A landscape plan showing specific landscape materials.
- f. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
- g. A description of compliance with Sections 5.6.1 C, D, E, F, G, J, L, and M, 5.6.4 B4 , 5.6.4 B5 and all applicable federal, state or local laws.
- h. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.
- i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Village of Concord.

j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

k. A description of the feasible location(s) of future towers or antennas within the Village based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

2. **Factors Considered in Granting Special Use Permits for Towers.** In addition to any standards for consideration of conditional use permit applications pursuant to Section 5.5, the Council shall consider the following factors in determining whether to issue a conditional use permit, although the Council may waive or reduce the burden on the applicant of one or more of these criteria if the Council concludes that the goals are better served thereby:

a. Height of the proposed tower;

b. Proximity of the tower to residential structures and residential district boundaries;

c. Nature of uses on adjacent and nearby properties;

d. Surrounding topography;

e. Surrounding tree coverage and foliage;

f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

g. Proposed ingress and egress; and

h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 5.6.4 B3.

3. **Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters /receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

4. Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Council may reduce the standard setback requirements if the goals of this ordinance would be better served thereby:

- a. Towers must be set back a distance equal to at least the requirements of the zoning district in which located.
- b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

5. Separation. The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Council may reduce the standard separation requirements if the goals would be better served thereby

- a. Separation from off-site uses/designated areas.
- b. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses.

c. Separation requirements for towers shall comply with the minimum standards as follows:

- 1) Single-family or duplex residential units. - 200 feet
- 2) Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which has not expired. - 200 feet
- 3) Vacant unplatted residentially zoned lands. - 100 feet
- 4) Non-residentially zoned lands or non-residential uses. - None; only setbacks apply

d. Separation distances between towers.

- 1) Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be 1000 feet.

6. Security fencing. Towers shall be enclosed by security fencing not less than (6) six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may waive such requirements as it deems appropriate.

7. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of this ordinance would be better served thereby.

a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

c. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

### **5.6.5 Buildings or Other Equipment Storage.**

A. Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:

1. The cabinet or structure shall not contain more than 100 square feet of gross floor area or be more than 8 feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over 100 square feet of gross floor area or 8 feet in height, shall be located on the ground and shall not be located on the roof of the structure.
2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 5% percent of the roof area
3. Equipment storage buildings or cabinets shall comply with all applicable building codes.

B. Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In residential districts, the equipment cabinet or structure may be located:
  - a In a front or side yard provided the cabinet or structure is no greater than 3 feet in height or 50 square feet of gross floor area and the cabinet/structure is located a minimum of 10 feet from all lot lines. An evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches shall screen the cabinet/structure.
  - b in a rear yard, provided the cabinet or structure is no greater than 8 feet in height or 200 square feet in gross floor area. An evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches shall screen the cabinet/structure.
2. In commercial or industrial districts the equipment cabinet or structure shall be no greater than 8 feet in height or 400 square feet in gross floor area. An evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches shall screen the structure or cabinet. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence 8 feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.

C. Antennas Located on Towers. The related unmanned equipment structure shall not contain more than 100 square feet of gross floor area or be more than 8 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

D. Modification of Building Size Requirements. The requirements of Sections 5.6.5 A through C may be modified by the Zoning Administrator in the case of administratively approved uses or by the Planning Commission in the case of uses permitted by special use to encourage collocation.

#### **5.6.6 Removal of Abandoned Antennas and Towers.**

A. Abandonment. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Village of Concord notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) day shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

B. Bonds. The owner of a telecommunication facility or tower shall post a bond with the Village in an amount to cover the reasonably estimated costs and expenses of dismantling and removing the telecommunication facility or tower in the event that the same is abandoned, and the owner fails to dismantle and/or remove the same within one hundred eighty (180) days. Said bond shall be with a reputable insurance or guarantee company. The amount of the bond shall be established by the Village Council, and may be adjusted from time to time on an annual basis to reflect changing costs and expenses of dismantling and moving the telecommunication tower.

C. Transfer Of Ownership: These regulations and standards shall apply to successor owner(s) of the telecommunication facilities if title or ownership of the telecommunication facility is transferred to any other person, partnership, corporation or entity.

#### **5.6.7 Nonconforming Uses.**

A. Not Expansion of Nonconforming Use. Towers that are constructed and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

B. Pre-existing towers. Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such pre-existing towers. New construction other than routine maintenance on a pre-existing tower shall comply with the requirements of this ordinance.

B. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding Section 5.6.6, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in Sections 5.6.4 B4 and 5.6.4 B5. The type, height, and location of the tower on-site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 5.6.6.

## **SECTION 5.7 - SITE PLAN REVIEW AND APPROVAL**

It is recognized by this ordinance that there is a value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets, that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses, and that there are benefits to the public in conserving natural resources. Toward this end, this ordinance requires site plan review by the Planning Commission for certain buildings and structures that can be expected to have a significant impact on natural resources, traffic patterns, and adjacent land usage.

### **5.7.1 - Buildings, Structures and Uses Requiring Site Plan:**

The Zoning Administrator shall not issue a zoning compliance permit for the construction of the buildings and structures identified in this section unless a site plan has been reviewed and approved by the Planning Commission and such approval is in effect.

- A. Any conditional use
- B. A multiple family building containing six (6) or more dwelling units
- C. More than one multiple family building on a lot, parcel or tract of land, or on a combination of lots under one ownership
- D. Any use which entails the generation, transportation or sale of hazardous materials
- E. An office in any Residential District
- F. Any gasoline service station abutting a Residential District

### **5.7.2 - Application and Fee for Site Plan Review:**

Any person may file a request for a site plan review by the Planning Commission by filing with the Clerk the completed application upon the forms furnished by the Clerk and payment of a fee established by resolution of the Village Council. Fees applicable to site plan reviews for planned unit developments and conditional uses are waived in lieu of fees established by resolution of the Village Council for these purposes. As an integral part of said application, the applicant shall file at least four (4) copies of a site plan.



### **5.7.3 - Planning Commission Review of Site Plan:**

Upon receipt of such application from the Clerk, The Planning Commission shall undertake a study of the same and shall, within thirty (30) days, approve or disapprove such site plan, advising the applicant in writing of the recommendation, including any changes or modifications in the proposed site plan as are needed to achieve conformity to the standards specified in this ordinance.

### **5.7.4 - Required Data for Site Plan:**

Every site plan submitted shall be in accordance with the following requirements:

A. Every site plan submitted, except site plans required for uses as prescribed in subsection 5.7.4 C of this ordinance shall be drawn to a readable scale and shall include the following:

1. The name of the applicant, scale used, a north arrow, the date prepared, and the name and address of the preparer, if other than the applicant;
2. All property boundaries and dimensions thereof and the location and use of all existing and proposed structures;
3. The location of all existing and proposed streets, parking lots, driveways, utilities and other improvements to be constructed or used as a part of the project; and
4. The current zoning classifications on the subject property and all adjacent property.

B. Site plans submitted for the following uses shall be subject to the requirements of subsection 5.7.4. C.

1. Conditional Uses:

- a. Recreational vehicle and travel trailer parks;
  - b. Sanitary landfills;
  - c. Amusement parks;
  - d. Planned unit residential and commercial developments;
  - e. Automobile service stations;
  - f. Hotels or motels;
  - g. Drive - in businesses;
  - h. Automobile repair garages;
  - i. Salvage yard;
  - j. Bulk oil storage.
2. A multiple family building containing six (6) or more dwelling units
  3. More than one multiple family building on a lot, parcel, tract of land, or on a combination of lots under one ownership
  4. An office in any Residential District

5. Any gasoline service station abutting a Residential District
  6. Any use which entails the generation, transportation or sale of hazardous materials
- C. Site plans submitted for the uses prescribed in subsection 5.7.4.B shall be submitted in accordance with the following requirements:
1. The site plan shall be of scale not to be greater than one (1) inch equals twenty (20) feet or less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Planning Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity.
  2. The property shall be identified by lot lines and location (including dimensions, angles and size) and correlated with the legal description of said property. Such plan shall further include the name and address of the property owner, developer, and designer.
  3. The site plan shall show the scale, north point, boundary dimensions, topography (at least two (2) foot contour intervals), and natural features, such as woods, lots, streams, rivers, lakes, drains, and similar features.
  4. The site plan shall show existing man - made features, such as buildings, structures, high tension towers, pipelines, and existing utilities, such as water and sewer lines, excavations, bridges, culverts, drains, and easements, and shall identify adjacent properties and their existing uses.
  5. The site plan shall show the location, proposed finished floor and grade line elevations, size of proposed principal and accessory buildings, their relation to one another and to any existing structure on the site, the height of all buildings, and square footage of floor space. Site plans for residential development shall include a density schedule showing the number of dwelling units per net acre, including a dwelling schedule showing the unit type and number of each unit types.
  6. The site plan shall show the proposed streets, driveways, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site, the location, size and number of parking spaces in the off - street parking area, and the identification of service lanes and service parking.
  7. The site plan shall show the proposed location, use, and size of open spaces, and the location of any landscaping, fences, or walls on the site. Any proposed alterations to the topography and other natural features shall be indicated. The site plan shall further show any proposed location of connections to existing utilities and proposed extensions thereof.

### **5.7.5 - Standards for Site Plan Review:**

In reviewing the site plan, the Planning Commission shall ascertain whether the proposed site plan is consistent with all regulations of this ordinance and state and federal statutes. Further, in consideration of each site plan, the Planning Commission shall find that provisions of subsections 5.7.3 and 5.7.4 of this ordinance, as well as the provisions of the zoning district in which said buildings, structures, and uses as indicated in the proposed site plan have been satisfactorily met by the applicant. Decisions rejecting, approving conditionally, approving a site plan shall be based upon requirements and standards contained in the zoning ordinance. A site plan shall be approved if it contains the information required in subsection 5.7.4 and is in compliance with the Zoning Ordinance, the conditions imposed pursuant to the ordinance, other applicable ordinances, and state and federal statutes.

In addition, each of the following standards shall apply:

- A. The use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
- B. The use shall not inappropriately change the essential character of the surrounding area.
- C. The use shall not interfere with the general enjoyment of adjacent property.
- D. The use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
- E. The use shall not be hazardous to adjacent property or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes, glare or dust.
- F. The use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed use shall be able to continually provide adequately for the services and facilities deemed essential to the use under consideration.
- G. The use shall not place demands on public services and facilities in excess of current capacity.
- H. The use shall be consistent with the intent and purpose of this ordinance.

#### **5.7.6 - Approval of Site Plan:**

Upon the Planning Commission approval of a site plan, the applicant shall file with the Clerk four (4) copies thereof. Within ten (10) days the Clerk shall transmit to the Zoning Administrator one (1) copy with the Clerk's certificate affixed thereto, certifying that said approved site plan conforms to the provisions of this ordinance as determined. If the site plan is denied by the Planning Commission, notification of such denial shall be given to the applicant within ten (10) days after such action. The Zoning Administrator shall not issue a zoning compliance permit or a building permit until he has received a certified approved site plan.

The site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a revision is completed in accordance with subsection 5.7.8.

#### **5.7.7 - Expiration of Site Plan Certificate:**

The site plan certificate shall expire three hundred sixty five (365) days after the date of issuance thereof, unless within such time the Zoning Administrator has issued a zoning compliance permit for any proposed work authorized under said site plan certificate.

#### **5.7.8 - Amendment, Revision of Site Plan:**

A site plan and site plan certificate issued thereon may be amended by the Planning Commission upon the request of the applicant. Such amendment shall be made upon application, and in accordance with the procedure provided in Section 5.7 of this ordinance. Any fees paid in connection with such application may be waived or refunded at the discretion of the Planning Commission.

Where within the districts established by this ordinance or by amendments, there exists lots, structures, and uses of and structures which were lawful before this ordinance was adopted or amended and which would be prohibited, regulated or restricted under the terms of this ordinance or future amendment, it is the intent of this ordinance to permit these non-conformities to continue until they are discontinued, damaged or removed, but not to encourage their survival. These non-conformities are declared by this ordinance to be incompatible with the lots, structures, and uses permitted by this ordinance in certain districts. It is further the intent of this ordinance that such non - conformities shall not be enlarged, expanded or extended except as provided herein; nor be used as ground for adding other lots, structures or uses prohibited elsewhere in the same district.

## SECTION 5.8 - PERFORMANCE STANDARDS

### 5.8.1 - Requirements:

No lot, building or structure in any district shall be used in any manner so as to create a dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Uses in all districts, where permitted, shall comply with the following performance requirements:

#### A. Noise:

Noise which is objectionable due to volume, frequency or beat shall be muffled or otherwise controlled to prevent production of sound in excess of the following standards:

At no point on the boundary of a residence, business or industry within the Village of Concord shall the sound pressure level of any operation of any person, firm or corporation, exceed the decibel levels in the designated octave bands shown below for the Zoning Districts indicated, as measured using test equipment per American National Standards Institute Standards 91.1 - 1960, 91.4 - 1961, S1.11 - 1966 and 91.12 - 1967 and SAE J - 184.

Maximum Sound Pressure Levels (dB) Along Lot Lines (Daytime, Steady Noise)

Octave Band Center Frequency (Hz)	Residential & Commercial	Industrial
31.5	72	79
63	71	78
125	65	72
250	57	64
500	51	58
1000	45	52
2000	39	46
4000	34	41
8000	32	39

A - Scale levels  
(for Monitoring Purposes)

55 dB (A)

62 dB (A)

Where noise levels below the above mentioned fifty - five (55) dB (A) and sixty - two (62) dB (A) are measured, the octave band test is to be applied. Maximum nighttime sound pressure levels (10 p.m. to 7 a.m.) are to be seven (7) (dB) lower than values shown for daytime steady noise levels.

#### B. Vibrations:

No vibration shall be permitted which is discernible without instruments on any adjoining lot or property.

**C. Smoke:**

Smoke shall not be emitted with a density greater than No.1 on the Ringleman Chart as issued by the U.S. Bureau of Mines except for blow - off periods of ten (10) minutes duration of one (1) per hour when a density of not more than No. 2 is permitted.

**D. Odor:**

No malodorous gas or matter shall be permitted which is offensive or so as to produce a public nuisance or hazard on any adjoining lot or property.

**E. Air Pollution:**

No pollution of air by fly - ash, dust, vapors or other substances shall be permitted which is harmful to health, animals, vegetation or other property or which can cause excessive soiling.

**F. Glare:**

No direct or reflected glare shall be permitted which is visible from any property or from any public street, road highway.

**G. Erosion:**

No erosion, by either wind or water shall be permitted which will carry objectionable substances on to neighborhood properties, lakes, ponds, rivers or streams.

**5.8.2 - Plans:**

The applications for a zoning compliance permit for use subject to performance requirements shall be accompanied by a description of the machinery, process and products, and specifications for the mechanisms and techniques to be used in meeting the performance standards.

**5.8.3 - Administration:**

The Zoning Administrator may refer the application to one or more expert consultants qualified to advise whether a proposed use will conform to the performance standards. The costs of such services shall be borne by the applicant and a copy of any report shall be furnished to the applicant and the Village of Concord.

**SECTION 5.9 - STORAGE OF MATERIALS**

The location or storage of abandoned, discarded, unused, unusable or inoperative vehicles, appliances, furniture, equipment or material shall be regulated as follows:

A. On any lot in any residential or commercial district, the owner or tenant, but not for hire or for business, shall locate and store such materials within a completely enclosed building.

B. On any lot in any industrial district, the owner or tenant, whether or not for hire or for business, shall locate and store such materials within a completely enclosed building or within an area surrounded by a solid fence or wall at least seven (7) feet in height and not less in height than the materials located or stored therein, and not closer to the lot lines than the minimum yard requirements for buildings permitted in said districts.

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

**SECTION 5.10 - MOBILE HOMES, RECREATIONAL VEHICLES AND TRAVEL TRAILER PARKS**

A. No mobile home shall be used other than as a single - family dwelling, except a mobile home may be used as a temporary field office provided it is certified as such by the Zoning Administrator.

B. The Zoning Administrator shall have authority to grant a permit for the temporary occupancy of mobile homes on any lot in a residential district subject to the following conditions:

1. During the period of construction of a new permanent dwelling, but not to exceed a period of twelve (12) consecutive months, the owner of such permanent dwelling premises, and members of such owner's immediate family, shall be permitted to occupy as a temporary residence one mobile home situated at such construction site, provided that such owner intends to occupy as a residence such dwelling upon completion of its construction.

Such mobile home shall not be located between the established setback line and the public right -of - way line of such premises.

2. The mobile home shall contain sleeping accommodations, a flush toilet, and a tub or shower bath adequate to serve the occupants thereof.

3. The sanitary facilities of the mobile home for the disposal of sewage and waste shall be properly connected to the central sewage system available at such premises.

C. No recreational vehicle or travel trailer shall be used as a dwelling except for a period not to exceed two (2) weeks and in a duly licensed recreational vehicle or travel trailer park or as a temporary dwelling for a period not to exceed one (1) week provided such recreational vehicle or travel trailer is situated on a parcel of land upon which is located a dwelling with water and sanitary facilities accessible to the recreational vehicle or travel trailer occupants and certified by the Zoning Administrator.

## **SECTION 5.11 - VISIBILITY AT INTERSECTIONS**

On any corner lot in any zoning district requiring front and side yards, no fence, wall, hedge, screen, sign, structure, vegetation or planting shall be allowed to impede vision between a height of three (3) feet and eight (8) feet above the centerline grades within the triangular area formed by the intersecting street right-of-way lines and a straight line adjoining the two (2) street lines at points which are thirty (30) feet distant from the point of intersection, measured along the street right - of - way line. (See appendix B-8 through B-14)

## **SECTION 5.12 - ACCESS TO PUBLIC STREETS**

A. In all districts, every use, building or structure established after the effective date of this ordinance shall be on a lot or parcel which adjoins a public street except as provided in C below.

B. Private streets are prohibited.

C. A 20 foot minimum easement across a lot with public street access may be used to provide public street access for one buildable lot that would otherwise be land - locked.

## **SECTION 5.13 - FLOOD PLAINS**

In all areas of special flood hazards, the following standards are required:

### **5.13. 1 - Anchoring:**

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over - the - top and frame ties to ground anchors. Special requirements shall be that:

1. Over - the - top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than fifty (50) feet long requiring one additional tie per side;

2. Frame ties provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than fifty (50) feet long requiring four additional ties per side;

3. All components of the anchoring system must be capable of carrying a force of four thousand eight hundred (4, 800) pounds; and

4. Any additions to the mobile home must be similarly anchored.



### **5.13.2 - Construction Materials and Methods:**

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with appendix C of the 2000 Michigan Building Code.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

### **5.13.3 - Utilities:**

- A. All new replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
- C. On - site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

### **5.13.4 - Subdivision Proposals:**

- A. All subdivision proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- D. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

### **5.13.5 - Specific Standards:**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in section 3.4 or in section 6.3.1 the following standards are required

- A. Residential Construction: New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- B. Non - residential Construction: New construction and substantial improvement of any commercial, industrial or other non - residential structure shall either have the lowest floor, including basement elevated to the level of the base flood elevation; or

1. Is flood - proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy: or
3. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 6.4.1 d (3).

**C. Manufactured Homes:**

1. Manufactured homes shall be anchored in accordance with Section 5.13.1.
2. For new manufactured home parks and manufactured home subdivisions, for expansions to existing manufactured home parks and manufactured home subdivisions, for existing manufactured home parks and manufactured home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced, and for mobile homes not placed in a manufactured home park or manufactured home subdivision, the following requirements apply :
  - a. stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
  - b. adequate surface drainage and access for a hauler are provided; and
  - c. in the instance of elevation on pilings, that;
    - 1) lots are large enough to permit steps,
    - 2) piling foundations are placed in stable soil no more than ten (10) feet apart, and reinforcement is provided for pilings more than six (6) feet above the ground level.
3. No manufactured home shall be placed in a floodway, except in an existing manufactured home park or an existing manufactured home subdivision.

**5.13.6 - Floodways:**

Located within areas of special flood hazard established in section 3.4 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. All encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge are prohibited.

B. If section 5.13.6 A is satisfied, all new construction and substantial improvement shall comply with all applicable flood hazard reduction provisions of section 5. 13 general standards for flood hazard reduction.

C. The placement of any mobile home except in an existing mobile home park or existing mobile home subdivision is prohibited.

#### **SECTION 5.14 - HOME OCCUPATION**

A home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes. All of the following additional conditions shall be observed:

A. A home occupation must be conducted in its entirety within a dwelling unit that is the bonafide residence of the practitioner of the occupation.

B. Home occupations shall be conducted solely by persons residing at the residence.

C. All business activity and storage must take place within the interior of the dwelling.

D. No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.

E. The home occupation shall not generate a volume or character of pedestrian or vehicular traffic beyond that normally generated by homes in the residential neighborhood.

F. Only off - street parking facilities which are normal for residential use and located on the premises may be used.

G. No vehicles used in the conduct of the occupation may be parked or otherwise kept at the premises, other than as are normal for use for domestic or household purposes.

H. One non - illuminated nameplate no larger than three (3) square feet is permitted to identify the home occupation. The nameplate shall be attached to the building. No other identification is permitted.

I. No article shall be sold or offered for sale on the premises except such as is produced within the dwelling building or is provided incidental to the service or profession conducted within the dwelling.

J. No highly explosive or combustible material shall be used or stored on the premises. No activity shall be allowed that interferes with radio or television transmission, nor shall there be any offensive noise, vibration, smoke, dust, odor, heat or glare noticeable at or beyond the property line.

K. No more than twenty (20%) percent of the gross floor area or three hundred (300) square feet can be used for a home occupation.

L. The conduct of the home occupation shall not violate any of the Village's ordinances concerning nuisance, fire or health, or any other Village, County, State or other applicable laws or regulations.

#### **SECTION 5.15 - FENCES**

Fences are subject to the following conditions.

- A. Fences shall not exceed eight (8) feet in height, measured from the surface of the ground and shall be one (1) foot from street property lines.
- B. In residential districts, fences shall not exceed four (4) feet in height when extended beyond the front of the dwelling.
- C. Fences which constitute a safety hazard shall not be permitted.
- D. Fences which block view at corners or driveway entrances shall not be permitted.
- E. Fences shall not block-traveled roads, trails or streams unless approved by the Zoning Administrator prior to erection.

#### **SECTION 5.16 - TEMPORARY USE**

- A. Circuses, carnivals or other transient enterprises may be permitted in any district, upon approval by the Board of Appeals based upon finding that the location of such an activity will not adversely affect adjoining properties, nor adversely affect public health, safety, morals, and the general welfare.
- B. Temporary Sales (garage sales, yard sales and other such sales) may be permitted in any district provided that no such sales activity shall extend beyond seven (7) days in any thirty (30) day period.

#### **SECTION 5.17 - ESSENTIAL SERVICES**

Essential services as defined in Article II as authorized and regulated by law, shall be permitted in all districts. It is the intention herein to exempt such services for the application of this ordinance.

Nothing in this section shall be construed to permit the erection, construction, or enlargement of any building, tower or maintenance depot for provision of an essential service except as otherwise permitted in this ordinance.

## **SECTION 5.18 - CURB CUTS AND DRIVEWAYS**

Curb cuts and driveways may be located only upon approval by the Zoning Administrator and such other county and state authorities as required by law; provided however, such approval shall not be given where such curb cuts and driveways shall unnecessarily increase traffic hazards.

- A. Residential driveways shall not exceed twenty four (24) feet in width and shall not be located closer than five (5) feet from property lines.
- B. Commercial driveways shall not exceed fifty four (54) feet in width and shall not cause any traffic problems.

## **SECTION 5.19 - SWIMMING POOLS**

Swimming pools in all districts are subject to the following conditions:

- A. Swimming pools shall conform to the side yard and rear yard requirements of the district in which they are located, and shall not be located within any portion of a prescribed front yard
- B. Swimming pools of more than twenty four (24) inches in depth shall conform to Section 3109 of the 2000 Michigan Building Code:

## **SECTION 5.20 - NONCONFORMING USES OF LAND:**

Where, on the date of adoption or amendment of this ordinance, a lawful use of land exists that is no longer permissible under the provisions of this ordinance, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. Nonconforming use of land shall not be enlarged, expanded or extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this ordinance, and no accessory use or structure shall be established therewith.
- B. Nonconforming use of land shall not be moved in whole or in part to any other portion of such land not occupied on the effective date of adoption or amendment of this ordinance.
- C. If such nonconforming use of land ceases for any reason for a period of more than one hundred eighty (180) consecutive days, the subsequent use of such land shall conform to the regulations and provisions set by this ordinance for the district in which such land is located.

### **5. 20 .1 - Nonconforming Structures:**

Where, on the effective date of adoption or amendment of this ordinance, a lawful structure exists that could not be built under the regulations of this ordinance by reason of restrictions upon lot area, lot width, lot coverage, height, open spaces or other characteristics of such structure or its location upon a lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. No such structure shall be enlarged, expanded, extended or altered in a way which increases its nonconformance.
- B. Should any such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
- C. Should any such structure be moved for any reason, no matter what distance, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

### **5.20.2 - Nonconforming Uses of Structures:**

Where, on the date of adoption or amendment of this ordinance, a lawful use of a structure exists that is no longer permissible under the regulations of this ordinance, such use may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. Nonconforming use of a structure shall not be enlarged, expanded, extended or altered except in changing the use of such structure to a use permitted in the district in which such structure is located.
- B. When a nonconforming use of a structure is discontinued or abandoned for more than one hundred eighty (180) consecutive days, the structure shall not thereafter be used, except in conformance with the regulations of the district in which it is located.
- C. On any structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement on nonbearing walls, fixtures, wiring or plumbing to an extent not to exceed ten (10) percent of the then current replacement value of the structure, provided that the volume of such structure or the number of families housed therein as it existed on the date of adoption or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening of part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.
- D. Should any structure containing a nonconforming use be moved any distance for any reason, it shall thereafter conform to the regulations of the district to which it is moved.

E. Should any structure devoted in whole or in part to any nonconforming use be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall not be reconstructed and again be devoted to any use except in conformity with the regulations of the district in which it is located.

**5. 20. 3 - Change of Tenancy or Ownership:**

There may be a change of tenancy, ownership or management of an existing nonconforming use, building or structure, provided there is no change in the nature or character of such nonconforming use, building or structure.

**5. 20. 4 - Substandard, Nonconforming Lots of Record:**

In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single - family dwelling and customary accessory buildings or structures may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership as of the date of adoption of this ordinance. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot conform to the regulations for the district in which such lot is located. If two or more lots or combinations of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or part of the lots do not meet the requirements for width and area as established by this ordinance, the lands involved shall be considered to be an undivided parcel for the purpose of this ordinance, and no portion of said parcel or lot shall be used or sold which does not meet lot width and area requirements established by this ordinance, nor shall any division of the parcel or lot be made which leaves remaining any parcel or lot with width or area below the requirements stated in this ordinance.

## **SECTION 5. 21 - LAND DIVISION (Reference appendix D-1)**

Land in the municipality shall not be divided without prior review of the Zoning Administrator and approval of the Village Assessor in accordance with this ordinance and the Michigan Land Division Act, provided that the following shall be exempted from this requirement:

- A. A parcel proposed for subdivision through a recorded plat pursuant to the Village Subdivision Control Ordinance and the Michigan Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Village Subdivision Control Ordinance and the State Land Division Act
- C. An exempt split as defined in this Ordinance.

### **SECTION 5. 21. 1 - APPLICATION FOR LAND DIVISION APPROVAL**

An applicant shall file all of the following with the Village Clerk for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

- A. A completed application on such form as may be provided by the Village;
- B. Proof of fee ownership of the land proposed to be divided;
- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, the applicant may waive the 30 day statutory requirement for a decision on the application until such survey map and legal description are filed with the village, and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form, including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the Zoning Administrator prior to a final application.

The Zoning Administrator may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions shall be required at all times.



- A. Proof that all standards of the Michigan Land Division Act and this ordinance have been met.
- B. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish that the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the Michigan Land Division Act.
- C. Proof that all taxes due and payable, installments of special assessments pertaining to the land proposed to be divided are paid in full.
- D. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- E. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section 5.21.4, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of non-buildable wetlands. Flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, and maximum allowed area coverage of buildings and structures on the site.
- F. The fee as may be established by resolution of the Village Council for land division reviews pursuant to this ordinance to cover the costs of review of the application and administration of this ordinance and the Michigan Land Division Act.

**SECTION 5.21.2 - PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION**

- A. Upon receipt of a complete land division application package, the Village Clerk shall forthwith submit the same to the Village Zoning Administrator for review. The Zoning Administrator shall forward the completed application with recommendations to approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or deny the land division applied for to the Village Council. The Council shall, within 30 days after receipt of the application, notify the applicant of the decisions and the reasons for any denial. If the application package does not conform to the ordinance requirements and the Michigan Land Division Act, the Zoning Administrator shall return the same to the applicant for completion and re-filing.
- B. Any person or entity aggrieved by the decision of the Zoning Administrator may, within 30 days of said decision, appeal the decision to the Board of Appeals, which shall consider and resolve such appeal by a majority vote at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant, where other than the applicant) of the time and date of said meeting and appellate hearing.
- C. A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the Village Clerk.

D. The Village Assessor and Zoning Administrator shall maintain an official record of all approved and accomplished land divisions or transfers.

### **SECTION 5. 21. 3 - STANDARDS FOR APPROVAL OF LAND DIVISIONS**

A proposed land division shall be approved if the following criteria are met;

A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot, yard and area requirements of the zoning district, including, but not limited to, minimum lot frontage/width, minimum road frontage, minimum lot area, minimum lot width to depth ratio, and maximum lot coverage and minimum set-backs for existing buildings or structures.

B. The proposed land division(s) complies with all requirements of the Michigan Land Division Act and this ordinance.

C. All parcels created and remaining have existing adequate accessibility, or an area available therefore, to a public road for public utilities and emergency and other vehicles not less than the requirements of the major thoroughfare plan, road ordinance or this ordinance. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create 4 or more parcels.

D. The ratio of depth to width of any parcel created by the division does not exceed a four-to-one ratio, exclusive of access roads, easements, or non-buildable parcels created under Section 5.21.4 and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right of way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

The permissible minimum width shall be as defined in the zoning district requirements

### **SECTION 5. 21. 4 - ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS**

Notwithstanding disqualification from approval, a proposed land division that does not fully comply with the applicable lot, yard, and accessibility and area requirements may be approved in any of the following circumstances:

A. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the Village, designating the parcel as "not buildable." Any such parcel shall also be designated as "not buildable" in the Village records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the lot and or area requirements and shall not be developed with any above-ground structure exceeding four feet in height.

B. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has, previously granted a variance from the lot, yard ratio, frontage and/or area requirements with which the parcel failed to comply.

C. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this ordinance, any applicable ordinance, or the Michigan Land Division Act.

#### **SECTION 5.21.5 - CONSEQUENCES OF NONCOMPLIANCE**

Any parcel created in noncompliance with this ordinance shall not be eligible for any building permits or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this ordinance shall subject the violator to the penalties and enforcement actions as may otherwise be provided by law.

## **ARTICLE VI**

### **ADMINISTRATION OF THE ORDINANCE SECTION 6.1 - PURPOSE**

It is the purpose of this Article to provide the procedure for administration of this ordinance, issuance of permits, inspection of properties, collection of fees, handling of violations, and enforcement of the provisions of this ordinance and any amendments thereto.

### **SECTION 6.2 - ADMINISTRATION**

Except when herein otherwise stated, the provisions of this ordinance shall be administered by the Zoning Administrator or by such deputies of his department as the Village Council may designate to enforce the provisions of this ordinance.

### **SECTION 6.3 - DUTIES OF ZONING ADMINISTRATOR**

The Zoning Administrator shall have the power to grant zoning compliance permits, certificates of occupancy, and make inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance. It shall be unlawful for the Zoning Administrator to approve plans, or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this ordinance, nor shall the Zoning Administrator vary or change any terms of this ordinance.

If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, he shall notify in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of any lot or structures, removal of illegal structures, additions, alterations or structural changes, discontinuance of any illegal work being done, or take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

The Zoning Administrator shall submit to the Planning Commission and the Village Council, quarterly reports fully explaining the type and nature of uses permitted by right, the nature and extent of violations of this ordinance, and the type and nature of non-conforming uses, buildings, and structures. The Zoning Administrator shall maintain a record of all zoning compliance permits and certificates of occupancy.

The Zoning Administrator shall review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, he shall assure that the encroachment provisions of Section 5.13.6A are met.

**6.3.1 - Use of Other Base Flood Data:**

When base flood elevation data has not been provided in accordance with Section 3.4, the Zoning Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer Sections 5.13.5 (A) and 5.13.5 (B).

**6.3.2 - Information to be obtained and maintained:**

A. Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, whether or not the structure contains a basement.

B. For all new substantially improved flood-proofed structures:

1. Verify and record the actual elevation in relation to RM1 and RM 2 Section 3.4;
2. Maintain the flood-proofing certifications required section 6.4.1 d (3); and
3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

**6.3.3 - Alteration of Watercourses:**

A. Notify adjacent communities and the State coordinating agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

B. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

**6.3.4 - Interpretation of FIRM Boundaries:**

Make interpretations where needed, as to the exact location of the boundaries of areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 7.5.7.

## **SECTION 6.4 - ZONING COMPLIANCE PERMITS**

### **6.4.1 - Issuance of Zoning Compliance Permits:**

No building or structure or part thereof, shall hereafter be located, erected, constructed, reconstructed, altered, converted, enlarged, moved, nor shall any change be made in the use of any building, structure or land, nor shall any building which has been unoccupied for a period of six (6) months or more be occupied or reoccupied without a Zoning Compliance Permit having been obtained from the Village Clerk for such building, structure or land. A Zoning Compliance Application shall be completed and submitted to the Zoning Administrator.

The Zoning Administrator shall require that all applications for Zoning Compliance Permits be accompanied by plans and specifications, including a plot plan in duplicate, drawn to scale showing the following information:

- A. The actual dimensions and shape of the lot to be built upon;
- B. The exact size and location of existing structures of the lot, if any;
- C. The location and dimensions of the proposed structure or alteration; and
- D. All permit requests for areas within the designated Flood Plain shall include:
  - 1. Elevation in relation to RN 1 & RN 2 per Section 3.4, of the lowest floor, including basement of all structures;
  - 2. Elevation in relation to RN 1 & RN 2 per Section 3.4, to which any structure has been flood-proofed;
  - 3. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 5.13; and
  - 4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

One copy of the plans shall be returned to the applicant by the Zoning Administrator after such copy has been approved or denied, and attested to by the Zoning Administrator's signature on such copy. The Zoning Administrator shall retain the original copy, similarly marked for his files. Whenever the buildings, structures, and uses as set forth in the application are in conformity with the provisions of this ordinance, the Zoning Administrator shall issue the applicant's zoning compliance permit within ten (10) days of the filing thereof. Where action of the Board of Appeals or the Planning Commission is required in any case, as set forth in this Ordinance, the Zoning Administrator shall issue such permit promptly following such action.

#### **6.4.2 - Voiding of Zoning Compliance Permit:**

Any zoning compliance permit granted under this ordinance shall become null and void and fees forfeited unless construction and/or use is completed within five hundred forty five (545) days of the date of issuance. A zoning compliance permit shall be renewable upon reapplication and upon payment of the fee, subject however, to the provisions of all ordinances in effect at the time of renewal.

### **SECTION 6.5 - CERTIFICATE OF OCCUPANCY, FINAL INSPECTION**

#### **6.5.1 - Issuance of Certificate of Occupancy:**

No building or structure or part thereof, shall be occupied by or for any use for which a zoning compliance permit is required by this ordinance, unless and until a certificate of occupancy shall have been issued for such use. The holder of a zoning compliance permit for the construction, erection or moving of any building, structure or part thereof for the establishment of a use, shall make application to the Zoning Administrator immediately upon the completion of the work authorized by the zoning compliance permit for a final inspection. A certificate of occupancy shall be issued by the Zoning Administrator within five (5) days after receipt of such application, if it is found that the building or structure or part thereof, is in accordance with the provisions of this ordinance.

#### **6.5.2 - Voiding of Certificate of Occupancy:**

Any certificate of occupancy granted under this ordinance shall become null and void if such use, buildings or structure for which said certificate was issued are found by the Zoning Administrator to be in violation of this ordinance. The Zoning Administrator finding such violation shall immediately notify the Village Council of said violation and void the certificate of occupancy.

### **SECTION 6.6 - FEES, CHARGES, AND EXPENSES**

The Village Council shall establish a schedule of fees, charges, and expenses, and a collection procedure for zoning compliance permits, certificates of occupancy, appeals, and other matters pertaining to the ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the Village Council. No permit, certificate, conditional use on approval or variance shall be issued unless and until such costs, charges, fees or expenses listed in this ordinance have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals, unless and until preliminary charges and fees have been paid in full.

**SECTION 6.7 – VIOLATIONS AND PENALTIES: - NUISANCE PER SE: - ABATEMENT**

Uses of land, dwellings, buildings, and structures (including tents and trailer coaches) erected, altered, razed or converted in violation of any provision of this ordinance are hereby declared to be a nuisance per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, trailer coach or land shall be adjudged guilty of maintaining a nuisance per se. Anyone violating the provisions of this ordinance shall, upon conviction thereof, be subject to a fine of not more than five hundred (\$500.00) dollars and the costs of prosecution thereof, by imprisonment in the County Jail for a period not to exceed thirty (30) days or both. Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this ordinance.

**6.7.1 - Contractors, Architects, Sub - Contractors and Builders:**

It shall be the duty of all architects, contractors, builders, and other persons having charge of erecting, altering, changing or remodeling of any buildings or structures, before beginning or undertaking any such work, to see that proper permits and bonds, if required, have been obtained and that such work does not conflict with, and is not in violation of the terms of this ordinance. Any such architect, builder, contractor or other person doing or performing any such work or erecting, repairing, altering, changing, remodeling or moving without such a permit or bond having been issued, or in violation of or in conflict with the terms of this ordinance, shall be deemed guilty of a violation hereof in the same manner and to the same extent as the owner of the premises of the person, or persons for whom such buildings are so erected, repaired, altered, changed or remodeled in violation hereof and shall be subject to the same penalties for such violation.



## **BOARD OF APPEALS**

### **SECTION 7.1 - BOARD OF APPEALS ESTABLISHED**

There is hereby established a Board of Appeals, which shall perform its duties and exercise its powers as provided in the *Michigan Zoning Enabling, PA 110 of the 2006 Public Acts of Michigan*, as amended, in such a way that the objectives of this ordinance shall be observed, the public health and safety secured, and substantial justice done.

### **SECTION 7.2 - DUTIES OF THE BOARD OF APPEALS**

The Board of Appeals shall hear and decide only on such matters as the Board of Appeals is specifically authorized to pass on as provided in this ordinance. The Board of Appeals shall not have the power to alter or change the zoning districts classification of any property, nor to make any changes in the terms of this ordinance; but does have the power to authorize a variance as defined in this ordinance, to act on those matters where this ordinance may require an interpretation, and to issue a temporary use permit when authorized by this ordinance.

#### **7.2.1 - Flood Plain:**

Where the application under appeal is in the designated Flood Plain, the appeals board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, including:

- A. the danger that materials may be swept onto other lands to the injury of other;
- B. the danger of life and property due to flooding or erosion damage;
- C. the susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;
- D. the importance of the services provided by the proposed facility to the community;
- E. the necessity to the facility of a waterfront location, where applicable;
- F. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- G. the compatibility of the proposed use with existing and anticipated development;

- H. the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
- I. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- J. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- K. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

#### **7.2.2 - Variance Conditions:**

Upon consideration of the factors of section 7.2.1 and the purpose of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

#### **7.2.3 - Federal Insurance Administration:**

The Zoning Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

### **SECTION 7.3 -VARIANCE**

Upon filling of an appeal, the Board of Appeals may authorize a variance from the strict applications of the provisions of this ordinance where, by reason of exceptional narrowness, shallowness, shape or contour of a specific tract of land at the time of enactment of this ordinance, or by reason of exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional undue hardship upon the owner of such property. No variance shall be granted to permit the establishment within a district of any use which is excluded or for which a conditional use permit is required.

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

- A. A written application for a variance is submitted, demonstrating the following:
  - 1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;

2. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

3. That the special conditions and circumstances do not result from the actions of the applicant;

4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district; and

5. That no nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. The Board of Appeals determines that the requirements of the ordinance have been met by the applicant for a variance.

C. The Board of Appeals determines that the reasons set forth in the application justify the granting of the variance and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

D. The Board of Appeals determines that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards when made a part of the terms under which the variance is granted shall be deemed a violation of this ordinance.

F. Each variance granted under the provisions of this ordinance shall become null and void unless:

1. The construction authorized by such variance or permit has commenced within one hundred eighty (180) days after the granting of such variance and pursued diligently to completion, or.

2. The occupancy of land or buildings authorized by such variance has not taken place within one hundred eighty (180) days after the granting of such variance.

G. No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of three hundred sixty five (365) days from such denial, except on grounds of new evidence or proof of changed conditions found by the Board of Appeals to be valid.

#### H. Conditions for Variance in Flood Plain:

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one - half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a - b) in section 7.2.1 have been fully considered. As the lot size increases beyond the one - half (1/2) acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

a. a showing of good and sufficient cause;

b. a determination that failure to grant the variance would result in exceptional hardship ; and

c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public as identified in section 7.2.1, or conflict with existing local laws or ordinances.

6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

#### **SECTION 7.4 - INTERPRETATION OF ZONING ORDINANCE**

The Board of Appeals shall hear and decide appeals where it is alleged by the applicant there is an error in any order, requirement, permit decision or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this ordinance, including interpretation of the Zoning Map.

## **SECTION 7.5 - APPEALS TO THE BOARD OF APPEALS**

### **7.5.1 - Appeals, How Taken:**

Appeal from the ruling of the Zoning Administrator or the Village Council concerning the enforcement of the provisions of this ordinance may be made to the Board of Appeals within such time as shall be prescribed by the Board of Appeals by general rule, by the filing with the officer from whom the appeal is taken. This officer shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed was taken.

### **7.5.2 - Who May Appeal:**

Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board, agency or bureau of the Village.

### **7.5.3 - Fee for Appeal:**

A fee prescribed by the Village Council shall be paid to the Board of Appeals at the time of filing the notice of appeal, which the Board of Appeals shall pay over, within thirty (30) days after deciding any appeal, to the General Fund of the Village of Concord.

### **7.5.4 - Effect of Appeal; Restraining Order:**

An appeal stays all proceedings in furtherance of the action appealed unless the officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application of notice to the officer from whom the appeal is taken and on due cause shown.

### **7.5.5 - Notice of Hearing:**

When a request for an appeal has been filed in proper form with the Board of Appeals, the Board of Appeals' Secretary or Village Clerk shall fix a reasonable time for the hearing of the appeal and give due notice of the appeal as directed in section 8.4. The Board of Appeals shall decide the appeal within a reasonable time.

**Amended 8/8/2006**

**7.5.6 - Representation of Hearing:**

Upon a hearing, any party or parties may appear in person or by agent or attorney.

**7.5.7 - Decisions of the Board of Appeals and Appeals to the Circuit Court:**

The Board of Appeals shall decide upon all matters within a reasonable time and may reverse or affirm wholly or in part, or may modify the order, requirements, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Administrator or Village Council from whom the appeal is taken. The Board of Appeal's decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Board of Appeals in each particular case. Any persons having an interest affected by such resolution shall have the right to appeal to the Circuit Court for question of law and fact.

## **ARTICLE VIII**

### **AMENDMENT PROCEDURES**

#### **SECTION 8.1 - INITIATING AMENDMENTS AND FEE**

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

#### **SECTION 8.2 - AMENDMENT PROCEDURES**

The Planning Commission shall hold at least one public hearing to review the proposed amendment. The Village Clerk shall fix a reasonable time for the hearing and give due notice of the appeal as directed in section 8.4. The Planning Commission shall, after holding the required public hearing, submit a report of its findings to the Village Council. The Village Council may then adopt the ordinance and maps with or without amendments, or refer the matter back to the Planning Commission for further review.

**Amended 8/8/2006**

Following the adoption of a zoning ordinance and subsequent amendments by the Village Council, one notice of adoption shall be published in a newspaper of general circulation in the Village within fifteen (15) days after adoption. The notice shall include the following information:

- A. In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the Village Council of the Village of Concord;"
- B. In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment including the geographic area affected or the text of the amendment ;
- C. The effective date of the ordinance; and
- D. The place and time where a copy of the ordinance may be purchased or inspected. The filing and publication requirements in this section relating to Village zoning ordinances supersede charter provisions relating to the filing and publication of Village Ordinances.

### **SECTION 8.3 - CONFORMANCE TO A COURT DECREE**

Any amendment for the purpose of revising a provision thereof to the decree of a court of competent jurisdiction shall be adopted by the Village of Concord and the amendments published without referring the same to any other board or agency.

### **SECTION 8.4 - PUBLIC NOTIFICATION**

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

- A. Responsibility: When the provisions of this Ordinance or the 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 Concord and mailed or delivered as provided in this Section.
- B. Content: All mail, personal and newspaper notices for public hearings shall:
  - 1. Describe nature of the request: Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
  - 2. Location: Indicate 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 no 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 must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
  - 3. When and where the request will be considered: Indicate the date, time and place of the public hearing(s).

**Amended 8/8/2006**



4. **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.
5. **Handicap access:** Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

**C. Personal and Mailed Notice**

1. **General:** When the provisions of this Ordinance or state law require that personal or mailed notice be provided, 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 rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within three hundred (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 Concord. 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 one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (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 which have requested to receive notice pursuant to Section 8.5 Registration to Receive Notice by Mail.
- d. Other governmental units or infrastructure agencies within one mile of the property involved in the application.

2. **Notice by mail/affidavit:** 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.

**D. Timing of Notice:** Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

1. For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.

**SECTION 8.5 - REGISTRATION TO RECEIVE NOTICE BY MAIL**

- A. **General:** Any neighborhood organization, public utility company, railroad or any other person may register with the Village Clerk to receive written notice of all applications for development approval pursuant to Section 8.4.1.C.c., Personal and Mailed Notice, or written notice of all applications for development approval within the zoning district in which they are located. The Village Clerk shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.
- B. **Requirements:** The requesting party must provide the Village Clerk information on an official form to ensure notification can be made. All registered persons must re-register annually to continue to receive notification pursuant to this Section.

**Amended 8/8/2006**

## ARTICLE IX

### LEGAL STATUS

#### SECTION 9.1 - CONFLICT WITH OTHER LAWS

Conflicting laws of a more restrictive nature are not affected or repealed by this ordinance. The provisions of this ordinance shall be considered as minimum. Conflicting laws of a less restrictive nature or those conflicting in other ways than degrees of restriction are hereby repealed.

This ordinance is not intended to abrogate or annul any easement, covenant or other private agreement, provided that where any provision of this ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provision of this ordinance shall govern.

#### SECTION 9.2 - VALIDITY AND SEVERABILITY CLAUSE

If any court of competent jurisdiction shall declare any part of this ordinance to be invalid, such ruling shall not affect any other provisions of this ordinance not included in said ruling. If any court of competent jurisdiction shall declare invalid the application of any provision of this ordinance to a particular land, parcel, lot, district, use, building or structure, such ruling shall not affect the application of said provision to any other land, parcel, lot, district, use, building or structure not specifically included in such ruling.

#### SECTION 9.3 - PERIOD OF EFFECTIVENESS

This ordinance shall remain in full force and effect henceforth unless repealed.

#### SECTION 9.4 - REPEAL OF ORDINANCE

The "Zoning Ordinance of the Village of Concord, Michigan (Ordinance 136) adopted June 9, 1992" and the "Land Division Ordinance (Ordinance 155) adopted June 10, 1997" and all amendments thereto, are hereby repealed effective coincident with the effective date of this ordinance.

#### SECTION 9.5 - EFFECTIVE DATE

This ordinance was adopted by the Village Council of Concord, Jackson County, Michigan at a meeting held on February 25, 2003.

This ordinance shall become effective March 17, 2003.

  
\_\_\_\_\_  
Village President - Halsey D. Jenks

\_\_\_\_\_  
Village Clerk - Trisha Esham

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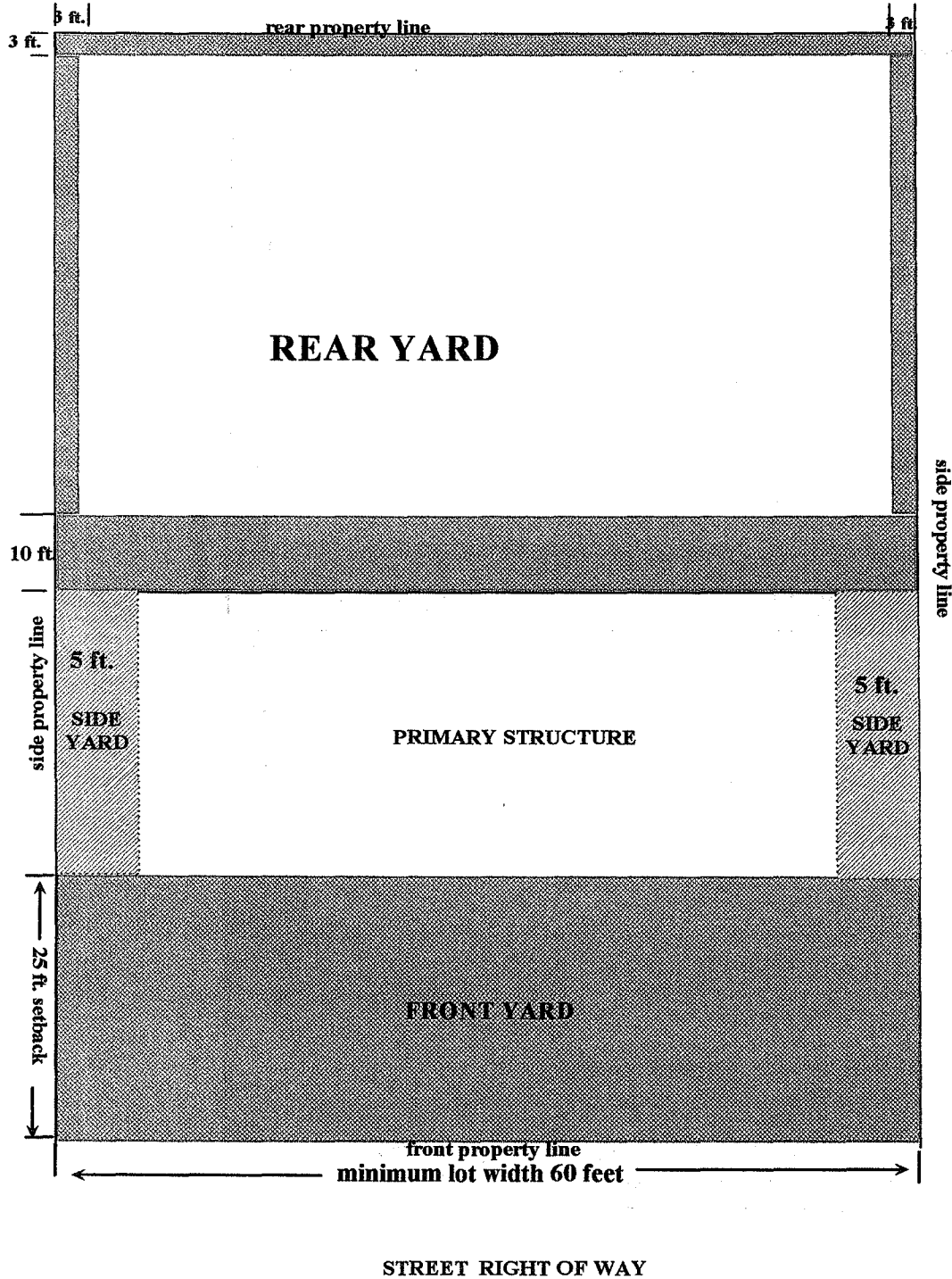
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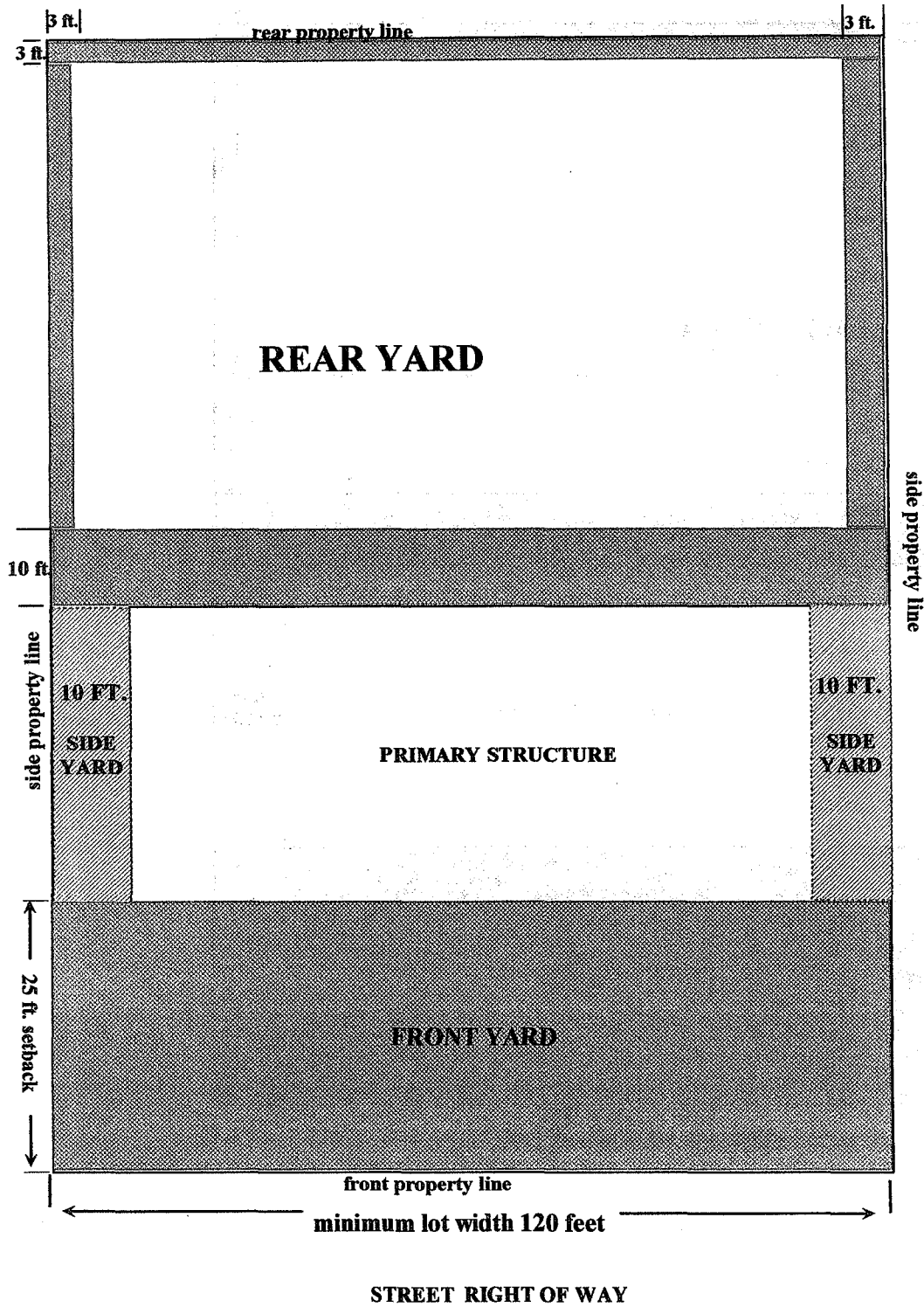
**LOT URBAN RESIDENTIAL 7500 sq. feet minimum**



**SEE SECTION 4.1.2**

- rear yard set back of 20 ft. applies to primary structure
- front yard is yard along street of address
- shaded areas indicate no construction areas

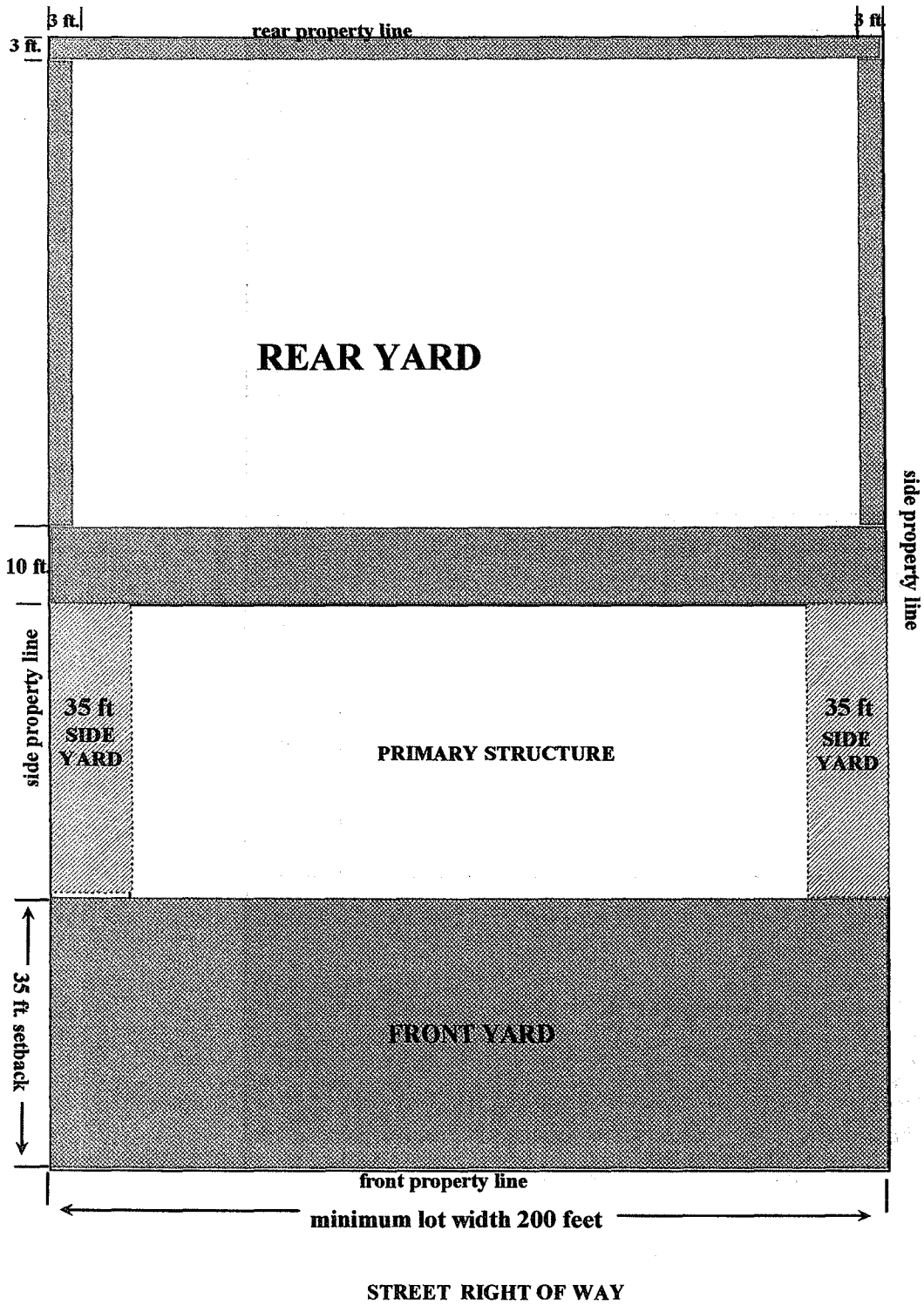
**LOT MULTIPLE FAMILY RESIDENTIAL 15,000 sq. feet minimum**



**SEE SECTION 4.1.3**

- rear yard set back of 25 ft. applies to primary structure
- front yard is yard along street of address
- shaded areas indicate no construction areas

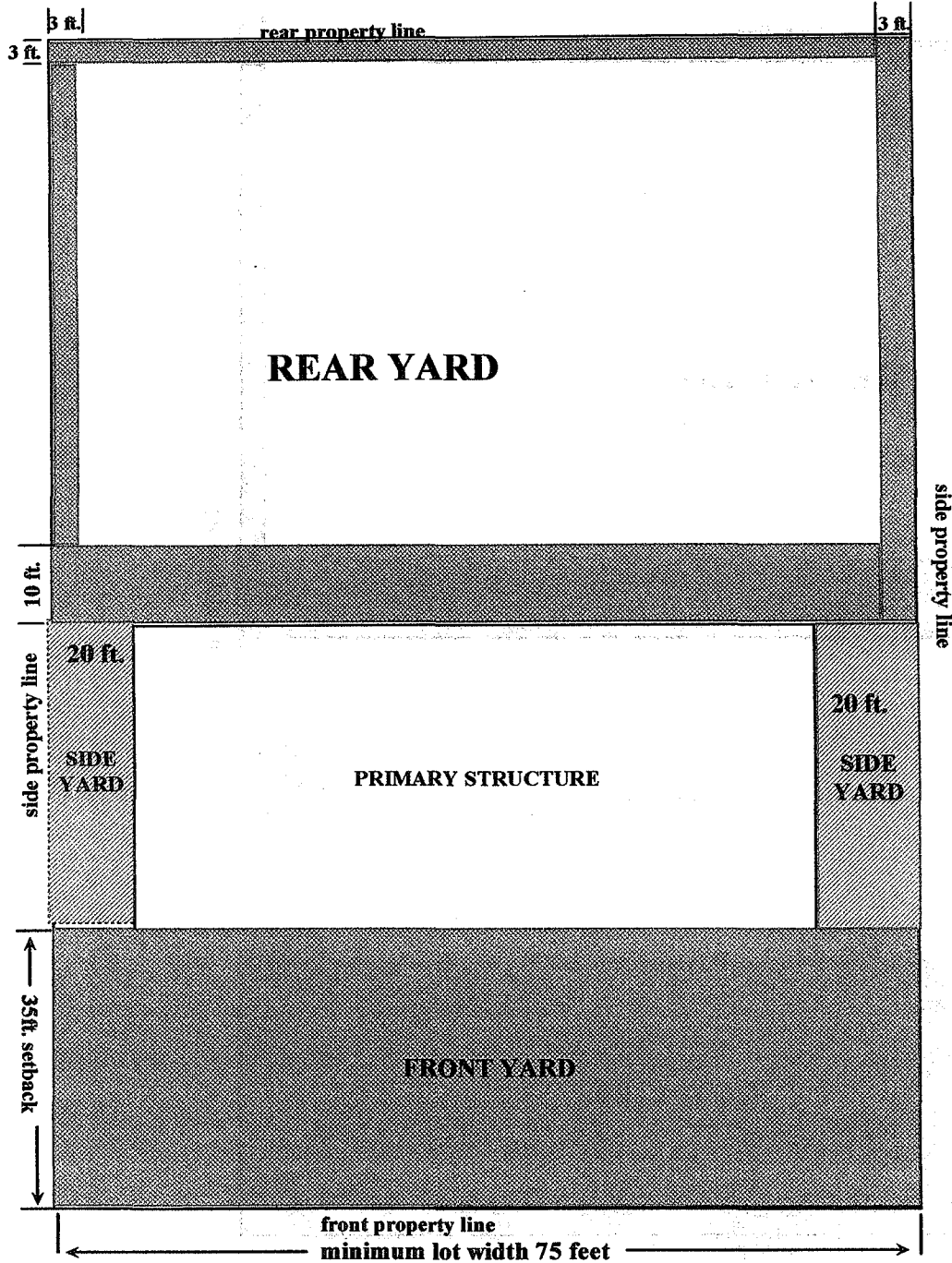
**LOT RURAL NON-FARM RESIDENTIAL 44,000 sq. feet minimum**



**SEE SECTION 4.1.4**

- rear yard set back of 60 ft. applies to primary structure
- front yard is yard along street of address
- shaded areas indicate no construction areas

**LOT GENERAL SERVICE COMMERCIAL 10,000 sq. feet minimum**



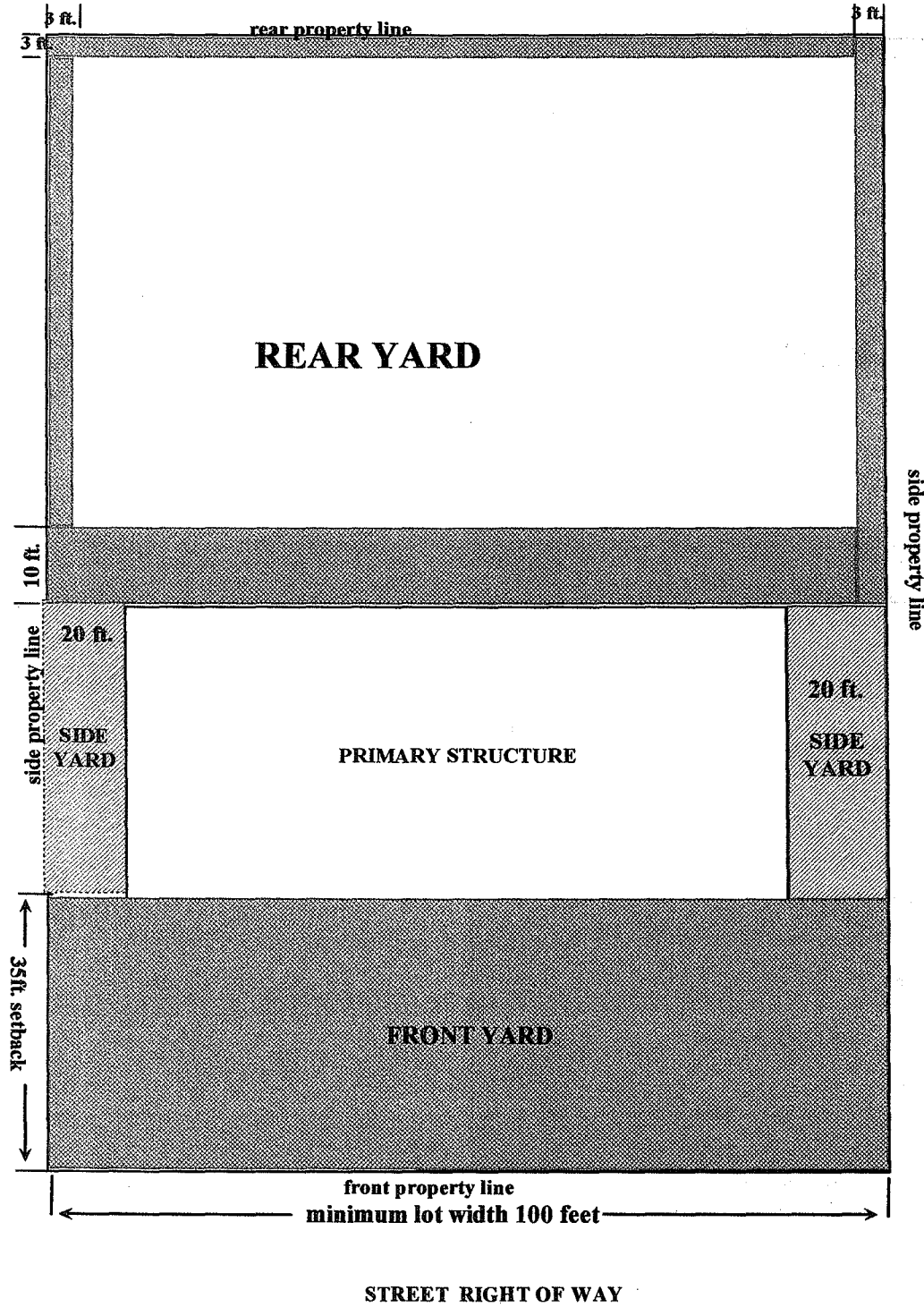
**STREET RIGHT OF WAY**

**SEE SECTION 4.2.1**

- rear yard set back of 35 ft. applies to primary structure
- front yard is yard along street of address
- shaded areas indicate no construction areas



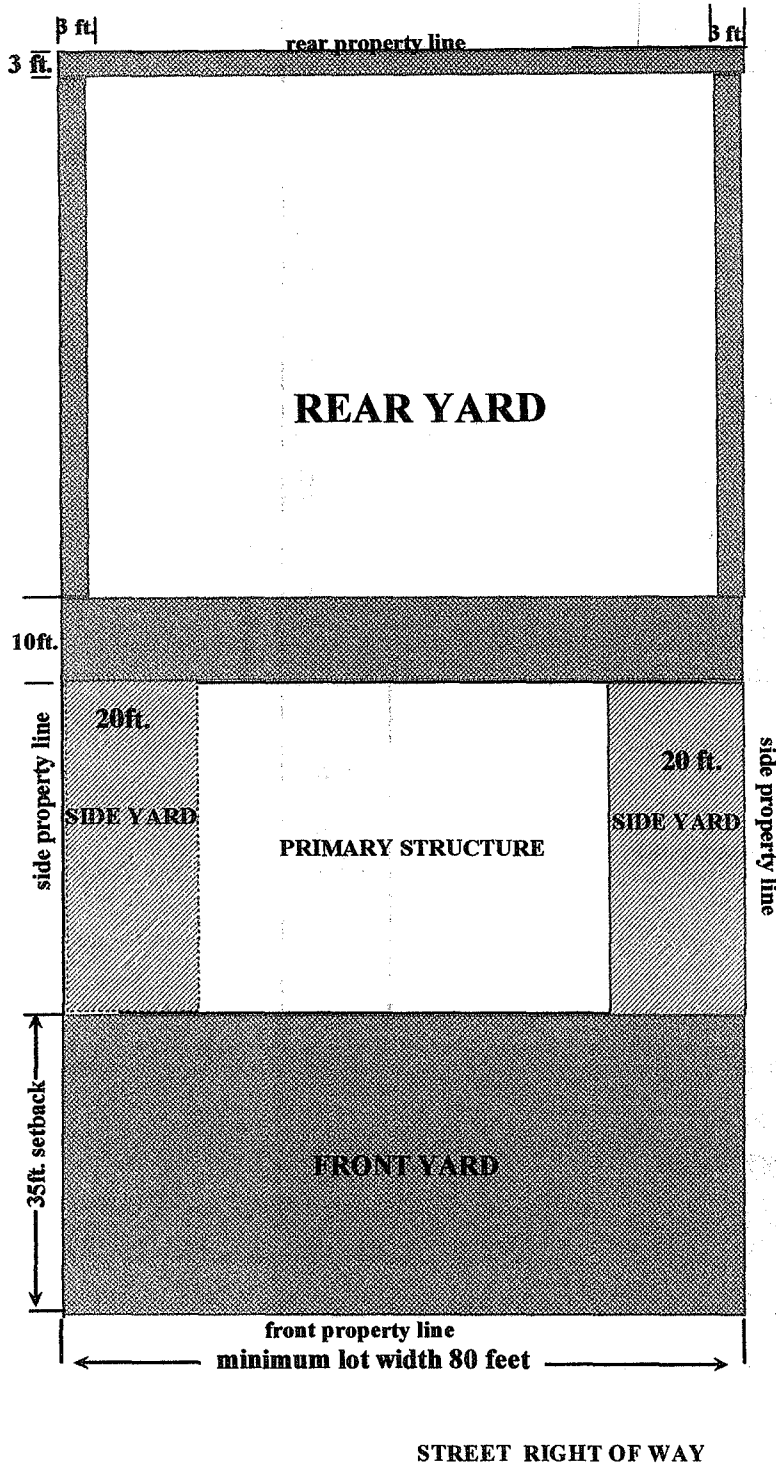
**LOT HIGHWAY SERVICE COMMERCIAL 15,000 sq. feet minimum**



**SEE SECTION 4.2.2**

- rear yard set back of 20 ft. applies to primary structure
- front yard is yard along street of address
- shaded areas indicate no construction areas

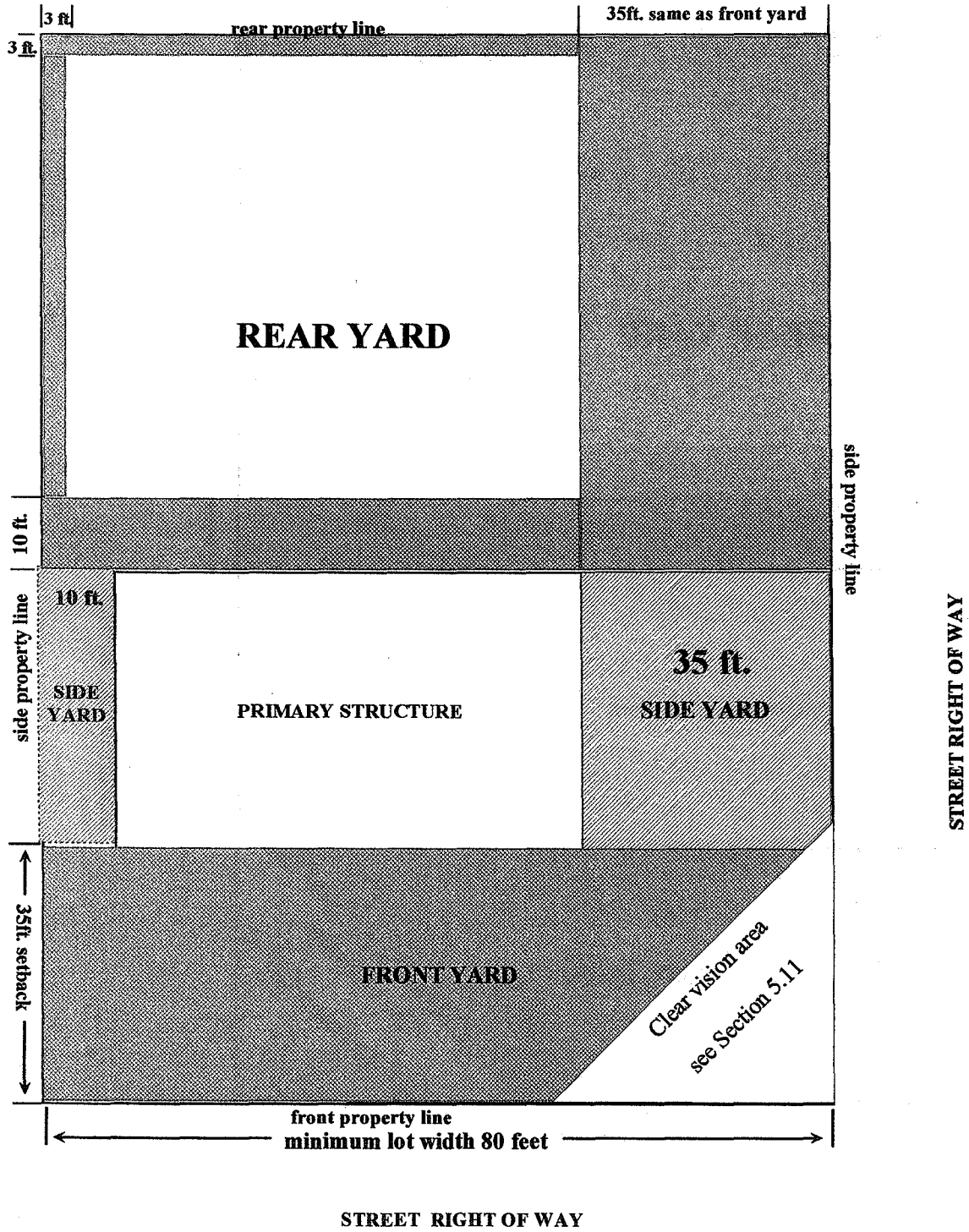
**LOT INDUSTRIAL 20,000 SQ. FEET MINIMUM**



**SEE SECTION 4.3.1**

rear yard set back of 35 ft. applies to primary structure  
front yard is yard along street of address  
shaded areas indicate no construction areas

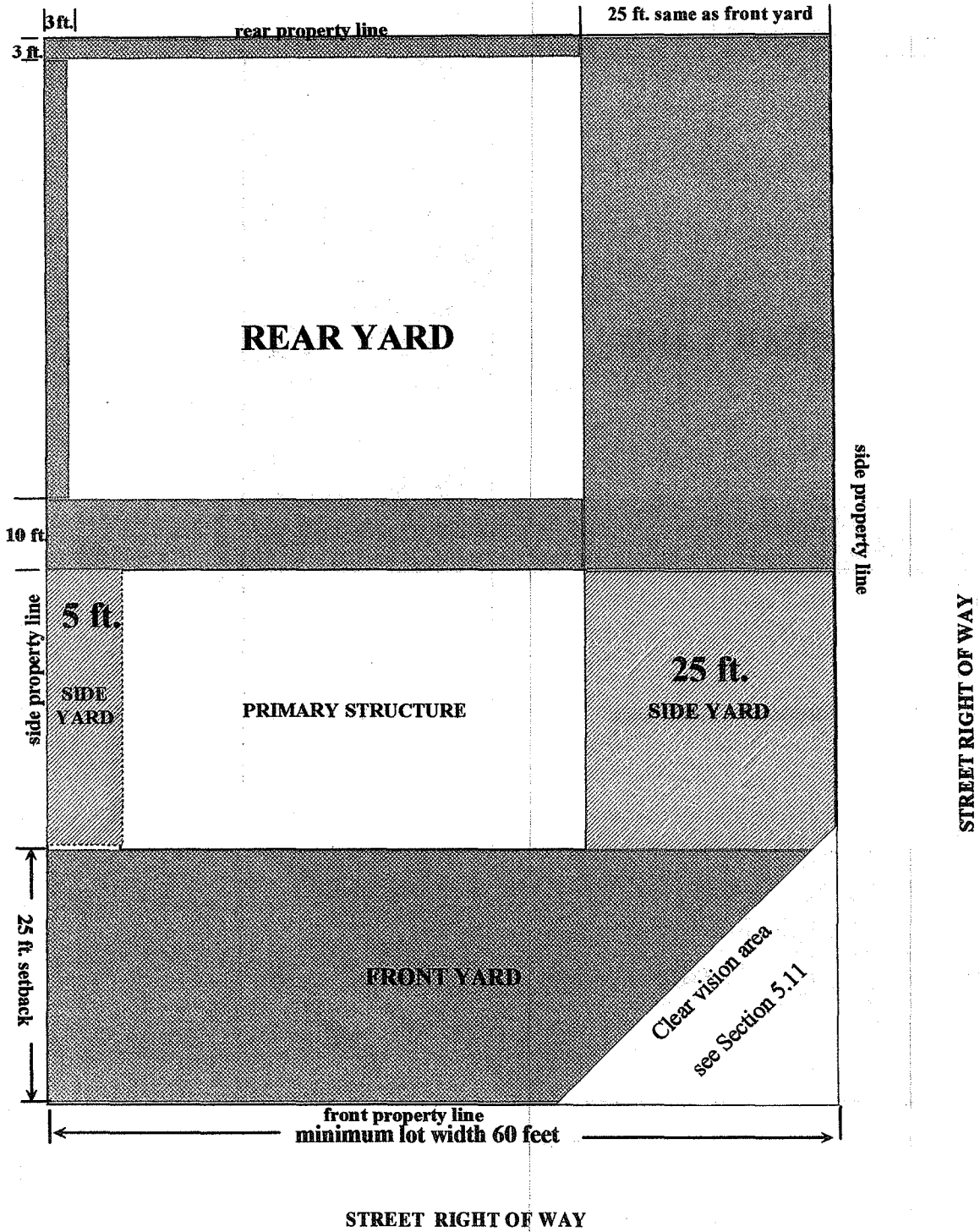
**CORNER LOT SUBURBAN RESIDENTIAL 10,000 sq. feet minimum**



**SEE SECTION 4.1.1**

rear yard set back of 20 ft. applies to primary structure  
front yard is yard along street of address  
shaded areas indicate no construction areas

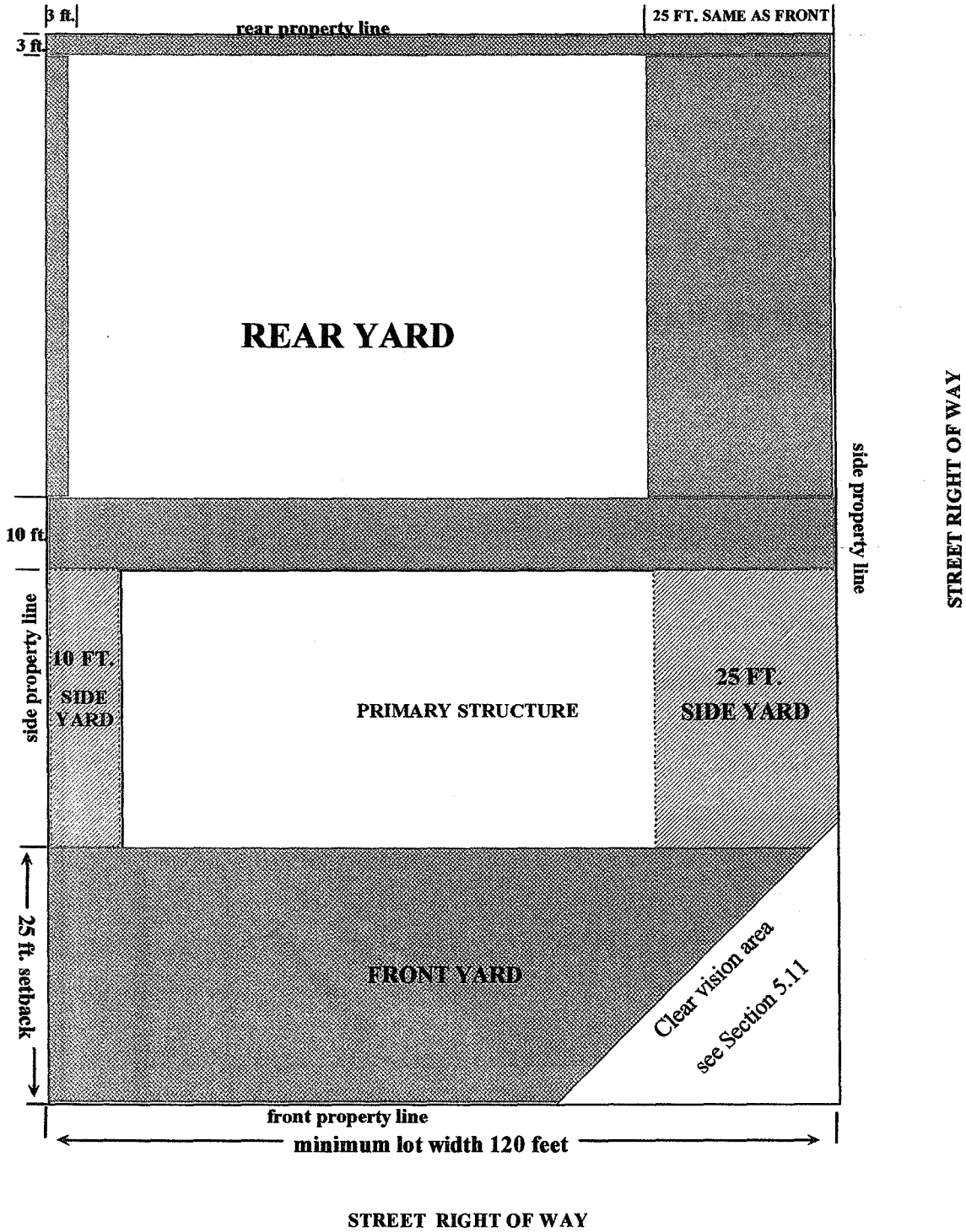
**CORNER LOT URBAN RESIDENTIAL 7500 sq. feet minimum**



**SEE SECTION 4.1.2**

rear yard set back of 20 ft. applies to primary structure  
front yard is yard along street of address  
shaded areas indicate no construction areas

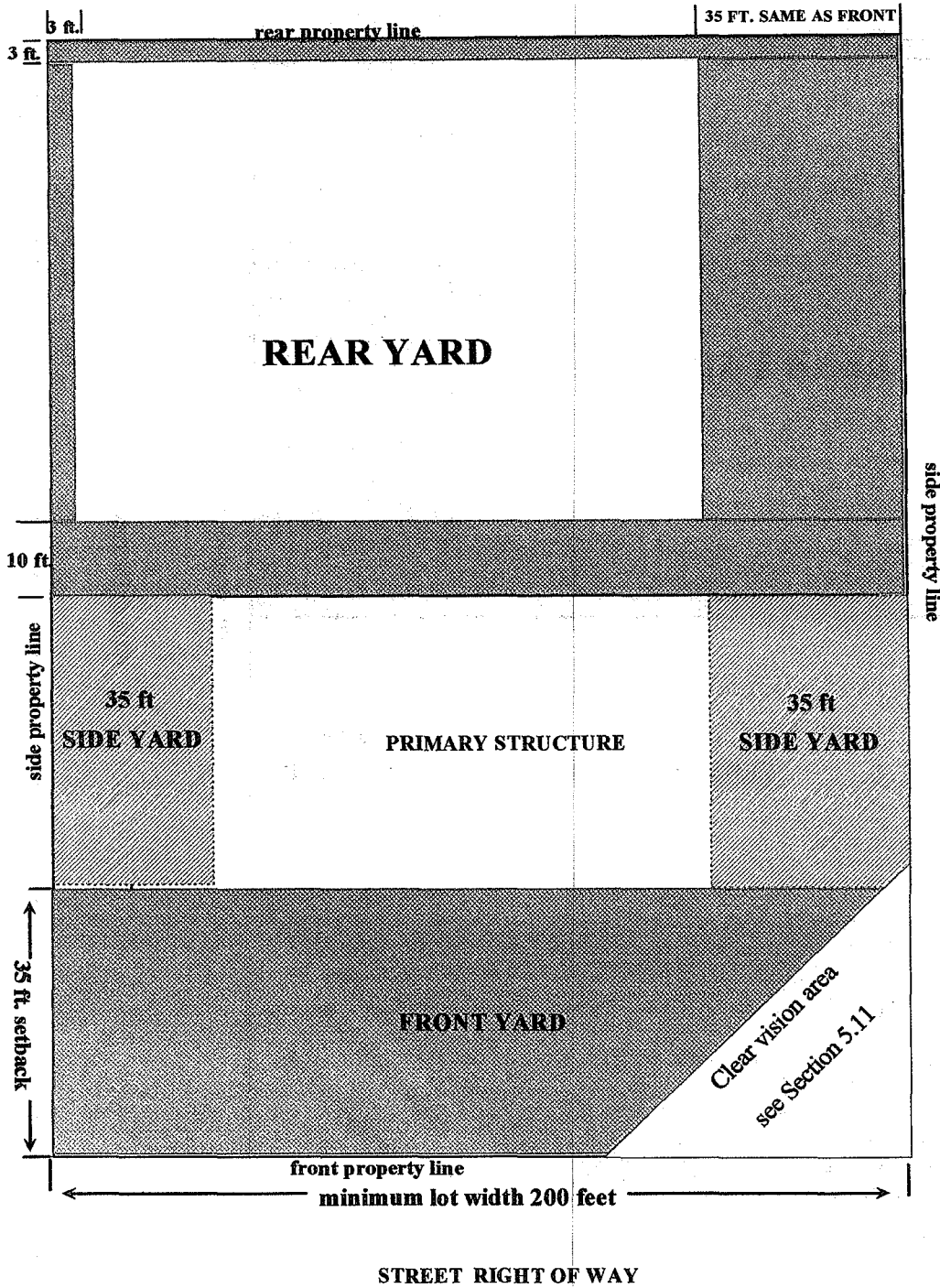
**CORNER LOT MULTIPLE FAMILY RESIDENTIAL 15,000 sq. feet minimum**



**SEE SECTION 4.1.3**

- rear yard set back of 25 ft. applies to primary structure
- front yard is yard along street of address
- shaded areas indicate no construction areas

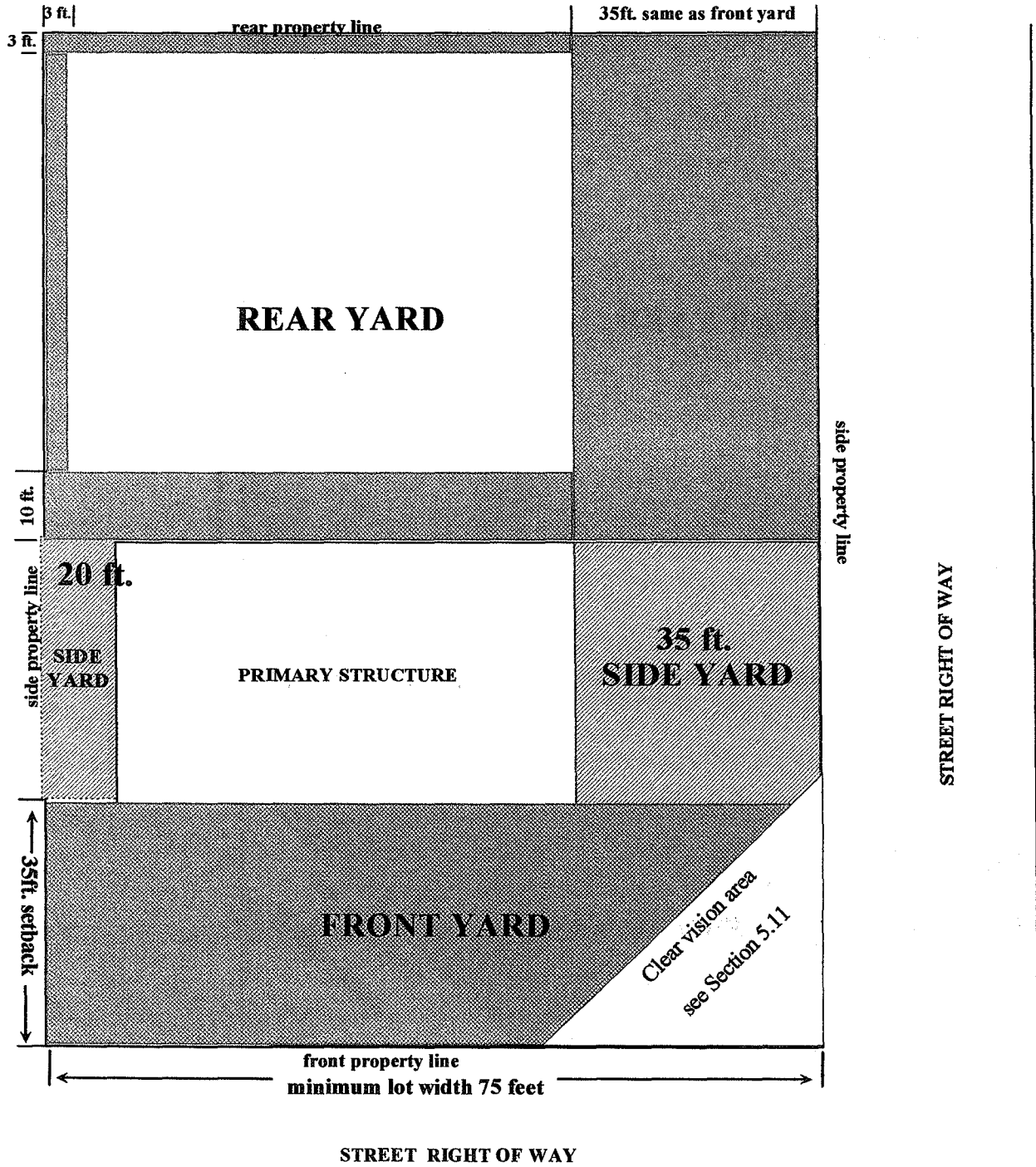
**CORNER LOT RURAL NON-FARM RESIDENTIAL 44,000 sq. feet minimum**



**SEE SECTION 4.1.4**

rear yard set back of 60 ft. applies to primary structure  
front yard is yard along street of address  
shaded areas indicate no construction areas

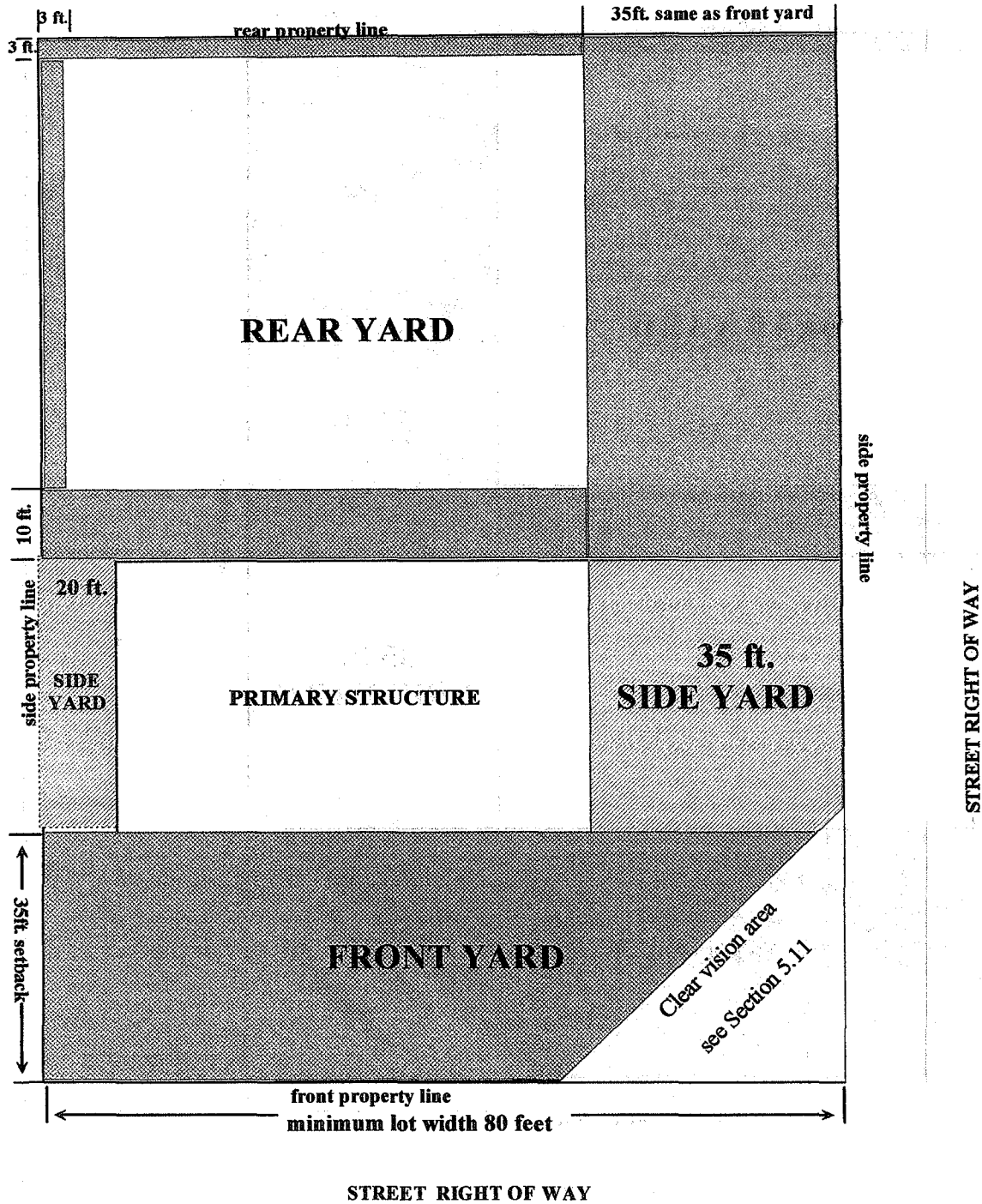
**CORNER LOT GENERAL SERVICE COMMERCIAL 10,000 sq. feet minimum**



**SEE SECTION 4.2.1**

- rear yard set back of 35 ft. applies to primary structure
- front yard is yard along street of address
- shaded areas indicate no construction areas

**CORNER LOT HIGHWAY SERVICE COMMERCIAL 15000 sq. feet minimum**

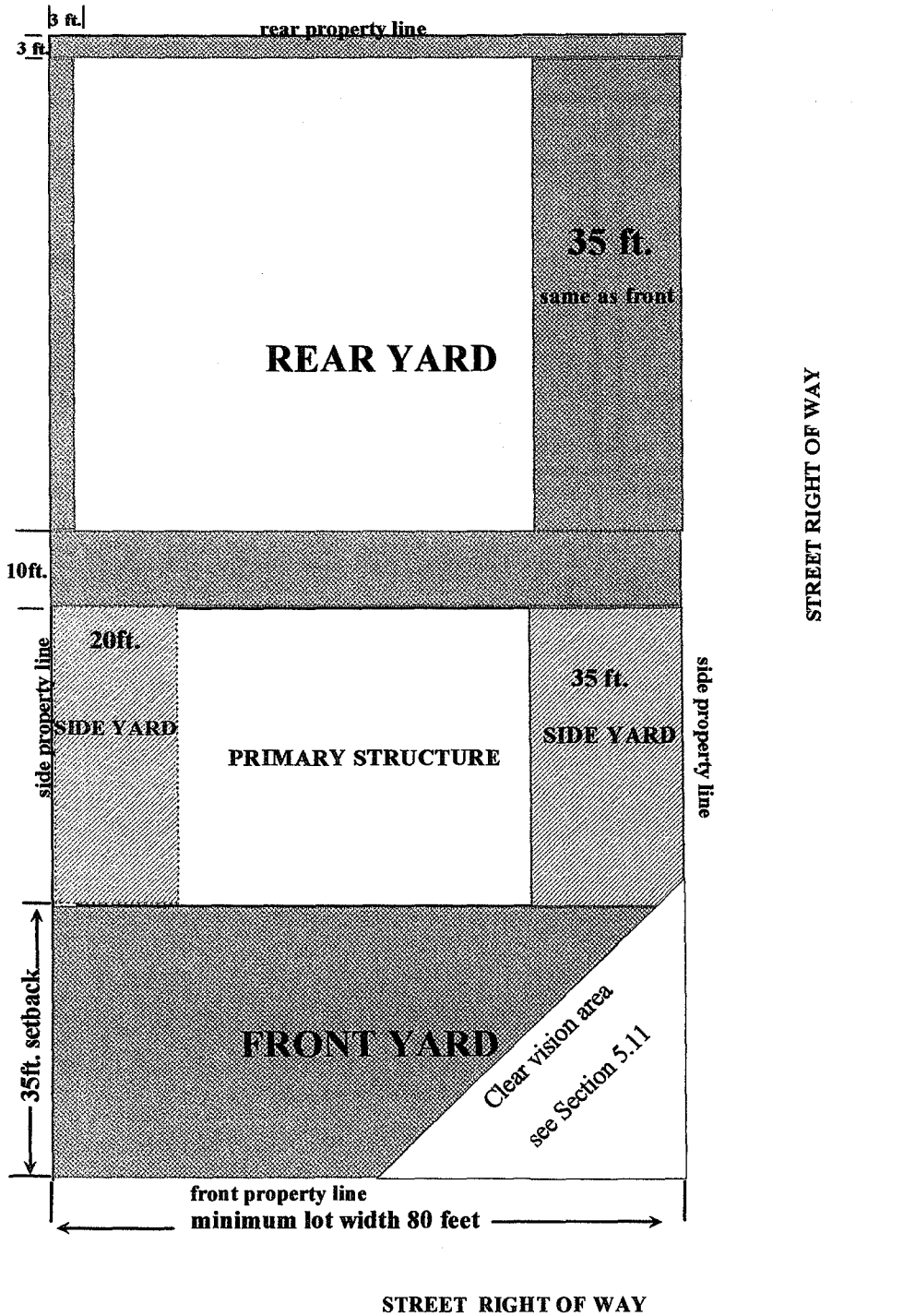


**SEE SECTION 4.2.2**

- rear yard set back of 20 ft. applies to primary structure
- front yard is yard along street of address
- shaded areas indicate no construction areas



**CORNER LOT INDUSTRIAL 20,000 SQ. FEET MINIMUM**



**SEE SECTION 4.3.1**

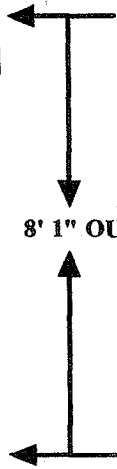
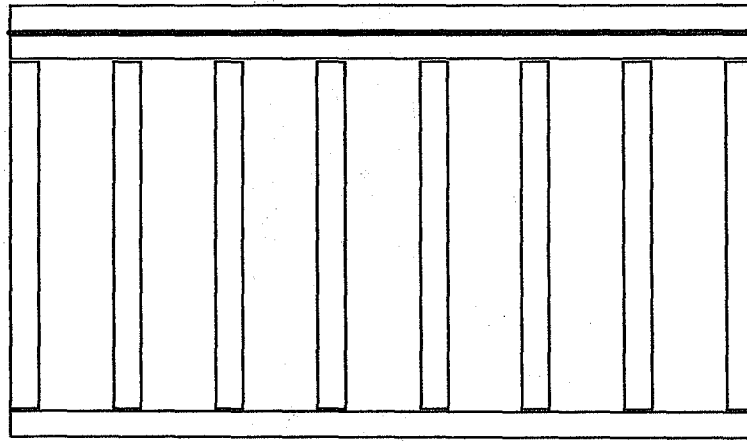
rear yard set back of 35 ft. applies to primary structure  
front yard is yard along street of address  
shaded areas indicate no construction areas

**EXPLANATION OF 8' 1" OUTSIDE WALL REQUIREMENT**

DOUBLE TOP PLATES

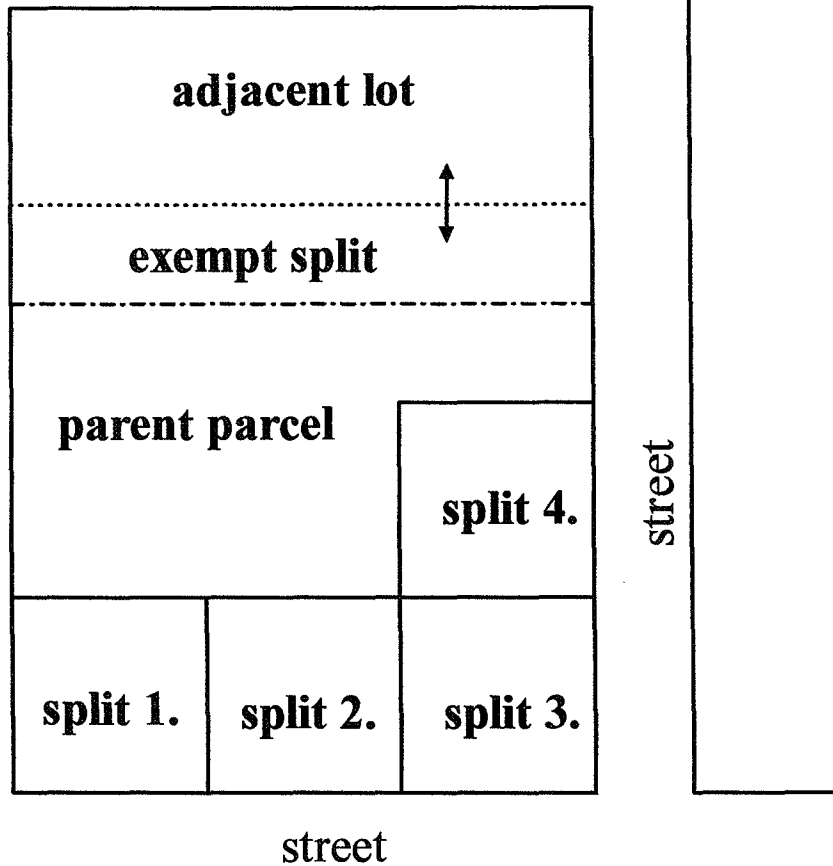
7' 9" WALL STUD

BOTTOM PLATE



**C-1**

## lot split example



All lots are required to meet all minimum requirements of zoning ordinance

a lot of record as of the enactment of the Michigan Land Split Act of 1997 may be split into (five) 5 new lots.

Splitting into more than (five) 5 lots requires subdividing

Splitting additional property by attachment to an adjacent lot of record which dose not create a new separate lot is also allowed