

The Village of Kent City

COUNTY OF KENT, MICHIGAN

ZONING ORDINANCE

Adopted by the Village Council on September 28, 1998

(Including all amendments adopted through May 13, 2021)

Village of Kent City
County of Kent, Michigan

ZONING ORDINANCE

Adopted by the Village of Kent City Village Council

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VILLAGE OF KENT CITY
ZONING ORDINANCE
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CHAPTER 1
TITLE, PURPOSE AND INTERPRETATION

SECTION 1.01. **TITLE.** This Ordinance shall be known and may be cited as the Kent City Zoning Ordinance.

SECTION 1.02. **PURPOSE.** This Ordinance has the purpose and is intended to promote the public health, safety and general welfare; to encourage the use of land in accordance with the character and adaptability of the land and also to limit the improper use of land; to conserve natural resources and energy to meet the needs of the public for food, fiber and other natural resources, places of residence, recreation, industry, trade, service and other uses of land; to ensure that uses of land shall be situated in appropriate locations and relationships; to avoid the overcrowding of population; to provide adequate light and air; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for transportation uses, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources and other property interests.

SECTION 1.03. **THE EFFECT OF ZONING.** Except as stated in this Ordinance, no land, building, structure or premises within the Village shall be used or occupied, and no building, structure or part thereof shall be erected, razed, moved, placed, reconstructed, extended, enlarged or altered.

SECTION 1.04. **SCOPE.**

- (a) The provisions of this Ordinance shall be in addition to all other ordinances and regulations in effect within the Village. This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other ordinances or regulations, except as specifically stated herein, nor shall this Ordinance repeal or affect private restrictions or restrictive covenants, all of which shall continue to have whatever effect may be imparted to them by law.

- (b) Where this Ordinance imposes greater restrictions, limitations or requirements upon the use of lands, buildings and structures than are imposed or required by other laws, ordinance, regulations, private restrictions or restrictive covenants, the provisions of this Ordinance shall control.

SECTION 1.05. **LEGAL BASIS.** This Ordinance is adopted pursuant to the terms of the Michigan Zoning Enabling Act, Act 110 of the Public Acts of Michigan of 2006, as it may be amended from time to time.

CHAPTER 2 DEFINITIONS

SECTION 2.01. RULES OF CONSTRUCTION. The following rules of construction shall apply to the interpretation of this Ordinance.

- (a) If in a particular circumstance, the meaning of a word, phrase, section or other portion of this Ordinance is unclear, then the person, board or commission charged with interpreting or applying the Ordinance shall construe the provision so as to carry out the intent and purpose of the Ordinance, if such intent and purpose can be discerned from other provisions of the Ordinance or from applicable law.
- (b) All words and phrases shall be construed and understood according to the common and preferred use of the language; technical words and technical or specialized phrases, such as may have acquired a peculiar and appropriate meaning and the law shall, however, be construed and understood according to such peculiar and appropriate meaning.
- (c) Unless the context clearly requires otherwise, every word or phrase denoting the singular may extend to the plural, and every word or phrase denoting the plural may extend to the singular.
- (d) The word “shall” is mandatory and not discretionary. The word “may” is permissive.
- (e) The particular shall control the general.
- (f) The word “person” includes an individual, a corporation, a partnership, an association, a limited liability company, an agent or any other similar person or entity.
- (g) Words and phrases not defined herein shall have the meaning customarily attributed to them.
- (h) A “building” or “structure” includes any part thereof, unless the context indicates otherwise.
- (i) In computing a period of days, the first day is excluded and the last day is included.

SECTION 2.02. DEFINITIONS – A THROUGH E.

- (a) Accessory Building, Structure or Use A building, structure, or use on the same parcel of land with, and of a nature which is customarily incidental and subordinate to, the principal building, structure, or use.
- (b) Bed and Breakfast Establishment A private residence that offers overnight accommodations to lodgers in the innkeeper's (owner or operator) principal residence and serves breakfasts at no extra cost to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed and breakfast establishment for fewer than thirty (30) consecutive days.
- (c) Building Any enclosed structure having a roof supported by columns, walls, or other support used for the purpose of housing or storing of persons, animals, or property, or carrying out of business activities, or similar uses.
- (d) Building Height The vertical distance measured from the lowest point of elevation of the surface of the ground or finished material anywhere around the perimeter of a building, to the highest point of the roof surface.
- (e) Drive-in or Drive-through Facilities Any facility used to serve patrons of a business while in their motor vehicles, either exclusively or in addition to service within a building or structure.
- (f) Dwelling, Multiple Family A building designed for occupancy by three or more families living independently of each other.
- (g) Dwelling, Single-family A detached building designed exclusively for and occupied exclusively by one family.
- (h) Dwelling, Two-family A building used for occupancy by two families living independently of each other.
- (i) Dwelling Unit A building, or portion of a building, designed for use and occupancy by one family for living and sleeping purposes, with housekeeping facilities.

- (j) Essential Public Buildings or structures owned and operated by public Service Structures or utilities or municipal departments and used for gas, Buildings electrical, steam, fuel, water or sewage treatment or disposal, electrical substations, sewage lift stations which are not located entirely underground, and similar structures or buildings necessary to furnish adequate service within the Village, but not including Essential Public Service Equipment.
- (k) Essential Public Wires, mains, drains, sewers, pipes, valves, pumps, Service Equipment conduits, cables, fire alarm and police call boxes, traffic signals, fire hydrants, post office boxes, street lights, or similar equipment, but not including Essential Public Service Structures or Buildings.

SECTION 2.03. DEFINITIONS – F THROUGH L.

- (a) Family
 - (1) An individual or group of two or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
 - (2) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing, nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, organization, group of students, or other individuals whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.
- (b) Family Day Care Homes
 - A private residence in which less than seven minor children are given care and supervision for periods less than 24 hours per day, operated by a person who permanently resides as a member of the household, which is registered with the Michigan Department of Social Services.
- (c) Floor Area, Gross
 - The sum of the total horizontal areas of all floors of the building in question, measured from the interior faces of exterior walls.

- (d) Home Occupation An occupation or profession customarily or traditionally carried on in the home, or, where permitted, in an accessory building, and that is incidental and secondary to the use of the home as a dwelling place.
- (e) Loading Space Off-street space intended for the temporary parking of a vehicle while loading and unloading materials.
- (f) Lot A parcel of land which is separately described on a deed or other instrument recorded in the office of the Register of Deeds, whether by metes and bounds description, as part of a platted subdivision, condominium unit intended for individual ownership and use, or otherwise.
- (g) Lot Area The total horizontal area defined by a flat plane intersecting vertical extensions of the lot corners so that area created by contour is not included.
- (h) Lot Depth The horizontal distance between the front and rear lot lines of interior and corner lots, or the two front lines of a through lot, measured along the median line between the side lot lines.
- (i) Lot Lines The lines bounding a lot as defined herein:
- (1) Front lot line. In the case of an interior lot, the line separating the lot from the adjacent public or private street or access easement. Through and corner lots shall be considered to have two front lot lines, consisting of the lines separating said lot from each of the streets abutting the lot. In the case of a waterfront lot, the front lot line is the lot line on the waterfront.
 - (2) Rear lot line. That lot line opposite and most distant from the front lot line. In the case of a triangular lot, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line or wholly within the lot. A through lot has no rear lot line.
 - (3) Side lot line. The lot lines connecting the front and rear lot lines of an interior lot line or connecting the front lot lines of a through lot; and the one lot line connecting the front and designated rear lot line of a corner lot.

- (j) Lot of Record A parcel of land which is separately described on a plat, condominium document, or metes and bounds description, recorded in the office of the County Register of Deeds as of a specified date.
- (k) Lot Width The horizontal straight line distance between the side lot lines of an interior lot or through lot, or designated side and opposite front lot line of a corner lot, measured at the minimum required front yard setback.

SECTION 2.04. DEFINITIONS – M THROUGH R.

- (a) Mobile Home A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure, excluding, however, a vehicle designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle moved on or drawn by another vehicle. Also referred to as a “manufactured home” in this Ordinance.
- (b) Mobile Home Park A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, non-recreational basis and which offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home. Also referred to as a “manufactured housing community” in this Ordinance.
- (c) Motel/Hotel A building or group of buildings on the same lot, containing sleeping or dwelling units, in which lodging is provided for compensation on a transient basis.
- (d) Non-conforming Building A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, but not conforming to the current provisions of the Zoning Ordinance.
- (e) Non-conforming Use A use or activity lawfully existing on the effective date of this Ordinance or amendments thereto but not conforming with the current provisions of the Zoning Ordinance.

- (f) Off-street Parking Lot A facility providing parking spaces, along with adequate drives, maneuvering areas, and aisles, for the parking of more than three vehicles, other than in connection with a single-family dwelling.
- (g) Principal Building The building in which the principal use is located.
- (h) Principal Use The primary use to which the premises are devoted.
- (i) Recreational Vehicle Vehicles used primarily for recreational purposes, including but not limited to camper trailers, pop-up campers, boats, snowmobiles, personal watercraft, motorcycles, dune buggies, and trailers used to transport them, and similar vehicles.
- (j) Residential District The R-1, R1-A, R-2 and R-3 Districts, or any of them, shall be residential districts.

SECTION 2.05. DEFINITIONS – S THROUGH Z.

- (a) Street A public, dedicated right-of-way or a private road or easement which affords principal access to more than one lot.
- (b) Structure Anything constructed or erected in or upon the ground, including but not limited to: buildings, accessory buildings, accessory structures, sheds, gazebos, radio and television towers, decks, and platforms. This definition does not include fences and walls.
- (c) Vehicle Service Stations Buildings and premises where the principal use is supplying and dispensing at retail of motor fuels, lubricants, batteries, tires, or other motor vehicle accessories.
- (d) Yards The open spaces on the same lot located between a building and a lot line, as defined herein. The term “required yard” shall refer to that portion of the yard lying within the minimum required setback.
 - (1) Front Yard: The space extending the full width of the lot, the depth of which is the furthest horizontal distance between the front lot line and the building line of the main building.

(2) Rear Yard: The space extending the full width of the lot, the depth of which is the furthest horizontal distance between the rear lot line and the nearest building line of the principal building. In the case of a corner lot, the rear yard may be opposite either street frontage.

(3) Side Yard: The space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the furthest horizontal distance from the side lot line to the nearest building line of the principal building.

CHAPTER 3
ZONING DISTRICTS AND ZONING MAP

SECTION 3.01. ZONING DISTRICTS. For purposes of this Zoning Ordinance, the Village of Kent City is hereby divided into the following Zoning Districts:

- R-1 Single Family Residential District
- R1-A Single Family Residential District
- R-2 Medium Density Residential District
- R-3 Manufactured Housing Community District
- C-1 Neighborhood Business District
- C-2 Highway Business District
- I-1 Light Industrial District

SECTION 3.02. ZONING MAP. The locations and boundaries of the zoning districts are hereby established as shown on a map, as amended from time to time, entitled “Zoning Map of the Village of Kent City, Kent County, Michigan,” which is hereby made a part of this Ordinance. When amendments are made in the zoning map, they shall be accomplished by means of an amendment in this section of the Zoning Ordinance. Where uncertainty exists as to the boundaries of any zoning district as shown on the zoning map, the following rules of construction and interpretation shall apply:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following Village boundaries shall be construed as following Village boundaries.
- (d) Boundaries indicated as approximately following the centerline of creeks, streams or rivers shall be construed as following such creeks, streams or rivers, or in the event of change in the location of creeks, streams or rivers, shall be construed as moving with the creek, stream or river.
- (e) Boundaries indicated as approximately following property lines, section lines or other lines of government survey shall be construed as following such property lines, sections lines or other lines of government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.

SECTION 3.03. LANDS NOT INCLUDED WITHIN A DISTRICT. In any case where, for whatever reason, lands have not been included within a zoning district on the zoning map, such lands shall be deemed to be included in the R-1 Single Family Residential District.

SECTION 3.04. OFFICIAL ZONING MAP. The official zoning map of the Village shall be maintained in the Village offices. Whenever an amendment in the zoning map is duly

adopted by Village ordinance, such amendment shall be shown on the zoning map, following the effective date of any such amendment.

CHAPTER 4 GENERAL PROVISIONS

SECTION 4.01. SCOPE. These general provisions shall apply to all zoning districts unless stated otherwise.

SECTION 4.02. EFFECT OF ZONING. Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.

SECTION 4.03. EFFECT OF OTHER REGULATIONS. The regulations of this Ordinance shall be in addition to any other regulations in effect in the Village. All building, subdividing and uses within any district shall satisfy all building, planning, platting, zoning and other applicable regulations.

SECTION 4.04. RESTORATION OF UNSAFE BUILDINGS. Subject to the provisions of the Nonconforming Uses Chapter, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

SECTION 4.05. REQUIRED AREA OR SPACE. A lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase its noncompliance with such minimum requirements.

SECTION 4.06. EXISTING LAWFUL USES. Any building, structure or use, lawfully in existence upon the effective date of this ordinance, may be continued except as stated and subject to the provisions of the nonconforming uses and structures chapter.

SECTION 4.07. UNLAWFUL BUILDINGS AND USES. Any building, use or lot which has been unlawfully constructed, occupied or created prior to the date of adoption of this Ordinance shall continue to be unlawful, unless expressly permitted by this Ordinance. Such unlawful buildings, uses or lots shall not be considered to be nonconforming buildings, uses or lots under the terms of this Ordinance.

SECTION 4.08. HEIGHT EXCEPTIONS. The maximum height requirements of buildings and structures may be exceeded by parapet walls, chimneys, silos, stacks, monuments, cupolas, mechanical appurtenances, television and radio antennas attached to buildings, fire towers, grain elevators and elevated water towers.

SECTION 4.09. REQUIRED YARDS OR LOTS.

- (a) All lots, yards, parking areas or other spaces created after the effective date of this ordinance, or any relevant amendment thereof, shall comply with the minimum requirements of the zoning district in which they are located.

- (b) Computations for minimum lot area and minimum lot width shall not include lands used for private easements that are granted to other properties for the purpose of establishing and maintaining private streets.
- (c) Required yard setbacks shall be measured from the lot lines, except for lots which derive access from a private street, or which have an easement for a private street on the property, in which case the setbacks shall be measured from the easement line.

SECTION 4.10. **PRINCIPAL USE OR PRINCIPAL BUILDING.** In all districts not more than one principal use or main building shall be placed on a lot, except for groups of related commercial or industrial buildings or multiple family dwellings, contained within a single, unified complex or grouping, sharing parking, access and other site features.

SECTION 4.11. **DOUBLE FRONTAGE LOTS.** Buildings on lots having frontage on two intersecting or non-intersecting streets shall comply with all front yard setback requirements on both such streets. Further, all other requirements in this ordinance pertaining to the use of front yards shall apply to the yards fronting on both streets of a double frontage lot, including but not limited to the recreational vehicle parking requirements of Section 4.27.

SECTION 4.12. **MINIMUM LOT FRONTAGE.**

- (a) A building or structure shall be erected only on a lot or parcel which abuts or has frontage on a public street or approved private road or other approved access easement in accordance with the lot width requirements for the zoning district in which it is located.
- (b) Any lot or parcel created after the effective date of this ordinance shall front upon a public street or approved private road, and it shall have the minimum lot width required by this ordinance.
- (c) Irregular lots, flag lots or T-shaped lots and which do not abut a cul-de-sac street, shall have a minimum width of 50 feet at the abutting right-of-way line of the public street or approved private road; such minimum width shall not be diminished between the street or road right-of-way line and the building setback line.
- (d) In the case of lots abutting cul-de-sac streets, the minimum required lot width shall be measured at the minimum required front setback distance for buildings and structures. Such cul-de-sac lots shall have a minimum lot width of 50 feet at the front lot line. A lot shall be considered to be a cul-de-sac lot if the lot has more than one-half of its required frontage on the cul-de-sac. The cul-de-sac shall be deemed to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.

SECTION 4.13. **ESSENTIAL SERVICES.** The erection, construction, alteration or maintenance by public utilities or governmental units of overhead or underground gas, electrical, communication, steam, water, sanitary sewer or storm sewer, distribution, transmission or

collection systems and other similar equipment and structures in connection therewith, and which are reasonably necessary for the furnishing of adequate service, are permitted in any zoning district. The erection and use of buildings for such purposes shall take place only if approved by the Planning Commission as a special land use.

SECTION 4.14. ACCESSORY USES. In any zoning district, accessory uses, incidental to a permitted use or other approved use, shall be permitted when located on the same lot or parcel of land; provided that such accessory uses in a residential district shall not involve the conduct of any business, trade or industry.

SECTION 4.15. ACCESSORY BUILDINGS.

- (a) In any district, except as noted elsewhere, an accessory building may be erected detached from the permitted use building, or it may be erected as an integral part of the permitted use building. Accessory buildings or garages shall be considered as an integral part of the permitted use building when the distance between structures is solidly covered by a breezeway, portico, covered colonnade, or similar architectural device.
- (b) When erected as an integral part of the permitted use building, an accessory building shall comply in all respects with the requirements of this Ordinance applicable to the permitted use building.
- (c) No accessory building shall be constructed or occupied on a lot before the principal building or use on the lot is constructed or occupied.
- (d) A detached accessory building may not be located in a front yard. A detached accessory building may be located in a rear or side yard; provided, however, no portion of the detached accessory building shall be located nearer than five (5) feet to any side lot line or rear lot line, nor nearer than ten (10) feet to any portion of the principal building, including porches and decks. An accessory building larger than four hundred (400) square feet in area shall be located at least ten (10) feet away from any side or rear lot line.
- (e) A detached accessory building located in a side yard shall not occupy more than 30% of any required side yard space, nor shall a detached accessory building located in a rear yard occupy more than 30% of any required rear yard space.
- (f) No accessory building, including private garages, shall be used for residential purposes or living quarters.

SECTION 4.16. CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE, VIBRATION AND ODORS. Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the lot on which the use is located.

SECTION 4.17. ALTERATIONS OF GRADE. The natural grade upon which a building is to be constructed shall not be altered in a manner such that the top of the plates on the front

wall foundation of the building is more than 24 inches above the natural grade, nor shall any grade be altered in a manner such as to cause adverse effects upon neighboring lands.

SECTION 4.18. EXCAVATIONS OR HOLES. The construction, maintenance or existence within the Village of any unprotected, unbarricaded, open or dangerous excavations, holes or pits, which may constitute a danger or menace to the public health, safety or welfare, is hereby prohibited; provided, however, that this section shall not prevent any excavation under a permit issued by the Building Inspector where such excavations are properly protected and warning signs posted; and, provided further, that this section shall not apply to ditches or other alterations of the land created or established by authority of the Village or by other governmental agency having jurisdiction.

SECTION 4.19. MOVING OF BUILDINGS. The moving of a building to a new location shall be considered as the erection of a new building, and all provisions and requirements relating to the erection of a new building shall apply.

SECTION 4.20. RAZING OR RELOCATION OF BUILDINGS.

- (a) No building shall be razed or relocated until a permit has been obtained from the Zoning Administrator, authorizing such razing or relocations; provided, however, that this section shall not apply to the razing or relocation of prefabricated buildings.
- (b) In issuing a permit for the razing or relocation of a building, the Zoning Administrator may require a performance bond in an amount of at least \$5,000 for a building of up to 2,000 square feet in area, and in an amount calculated at the rate of \$2,500 per 1,000 square feet, for a building of more than 2,000 square feet in area. For the purpose of calculating the amount of the performance bond, the area of the building shall be the floor area thereof that is to be razed or relocated.
- (c) Any required performance bond shall be conditioned upon the applicant completing the razing or relocation within the period specified in the permit, but not to exceed six (6) months. The bond shall also be conditioned upon the applicant complying with such regulations relating to health and safety as the Zoning Administrator may prescribe, including the required filling of excavations and the proper termination of utility connections.
- (d) The terms of this section shall not apply to detached accessory buildings of an area less than 200 square feet.

SECTION 4.21. SWIMMING POOLS AND OUTDOOR HOT TUBS.

- (a) Outdoor pools used for swimming or bathing and outdoor hot tubs shall comply with the requirements of this section; provided, however, these regulations shall not be applicable to any such pool or hot tub less than twenty-four (24) inches deep or having a surface area less than two hundred and fifty (250) square feet, except where such pools or hot tubs are permanently equipped with a water recirculating system or involve structural materials.

- (b) A swimming pool, outdoor hot tub or appurtenances thereto shall not be constructed, installed, enlarged or altered until a permit has been obtained from the Zoning Administrator.
- (c) The outside edge of the pool or outdoor hot tub wall shall not be located closer than ten (10) feet from any rear or side property line; provided, however, that if any part of the pool or hot tub walls are more than two (2) feet above the surrounding grade level, such pool or hot tub shall be placed or erected not less than ten (10) feet from any lot line. No pool or outdoor hot tub shall be located under any electrical wiring or in a front yard.
- (d) Each pool and outdoor hot tub shall be fully enclosed by a fence or wall with a height of at least four (4) feet. All gates must be self-latching, so that the pool or outdoor hot tub shall not be easily accessible.
- (e) All swimming pool and outdoor hot tub installations shall comply with the State Construction Code and all standard codes referred to therein.

SECTION 4.22. COMMERCIAL AND INDUSTRIAL WASTE DISPOSAL.

- (a) All commercial and industrial outdoor waste disposal facilities, including dumpsters for commercial and industrial uses, shall be enclosed on at least three sides by a fence or wall adequate to conceal such facilities from adjacent or nearby lands.
- (b) On lands in the C-1 and I-1 Districts, all materials or wastes which might cause fumes, odors or dust which constitute a fire hazard or which may be edible by rodents or insects shall be stored outdoors only in closed containers and screened from the street or adjacent property.
- (c) In the C-1 and I-1 Districts, no materials or wastes shall be deposited or allowed to remain on the premises in such form or manner that they may be moved off the premises by the action of wind, rain or other natural causes.
- (d) In the C-1 and I-1 Districts, materials or wastes shall not be allowed to accumulate on the premises in such manner or to such extent as to be unsightly, constitute a fire hazard, or contribute to unsafe or unsanitary conditions.

SECTION 4.23. CLEAR VISION CORNERS. On any corner, no fence, building or structure shall be erected, placed or maintained, nor shall any landscaping be planted or maintained in such a manner as to materially impede the vision of vehicle drivers within the adjacent street rights of way.

SECTION 4.24. KEEPING OF PETS AND OTHER SMALL ANIMALS AND FOWL.

- (a) Not more than three (3) adult dogs and not more than three (3) adult cats shall be kept or housed in any dwelling or dwelling unit or on any lands in a residential zone.

- (b) No chickens, turkeys, ducks or geese shall be kept, housed or maintained on any lands in the Village; provided, however, that this provision shall not apply to birds or small fowl that are customarily kept in a cage inside a dwelling.
- (c) Pets and other animals shall not be kept, housed or maintained within any buildings or structures or upon any lands in such a manner or to such extent that there are serious adverse effects upon adjacent lands or other lands by reason of noise, objectionable odors, contagion, insects or other adverse or objectionable effects.

SECTION 4.25. KEEPING OF FARM ANIMALS. The keeping of farm animals shall be considered an accessory use in the R-1 District, but only upon compliance with all of the following requirements:

- (a) For purposes of this section, farm animals shall be limited to horses, mules, donkeys and other equine animals; cows, goats and other bovine animals; sheep; buffalos, llamas and other domesticated grazing animals. In this section, all of such animals are collectively referred to as farm animals.
- (b) The keeping of farm animals in the R-1 District shall be limited as follows:
 - (1) There shall not be more than one farm animal for the first three acres of land, plus one additional farm animal for each additional acre.
 - (2) Buildings or other structures for the housing of farm animals shall be located not less than 100 feet from a dwelling on any other land.
 - (3) All farm animals shall be kept in an entirely fenced area, when they are kept out of doors. Any such fenced-in area shall be located not closer to a property line than the minimum required building setback area provided for the zone district in which the land is located; provided, however, that the land area located between any such fence and the property line of the lot or parcel of land shall be maintained in good condition and appearance, free from growth or accumulation of noxious or other weeds.
 - (4) No piles or accumulations of refuse or manure shall be permitted.
- (c) Farm animals shall not be kept, housed or maintained within any buildings or structures or upon any lands in such a manner or to such extent that there are serious effects upon adjacent lands or other lands by reason of noise, objectionable odors, contagion, insects or other adverse or objectionable effects.
- (d) Farm animals other than the animals stated in subsection (a) shall not be kept, housed or maintained on any lands in the Village.

SECTION 4.26. ABANDONED OR INOPERABLE VEHICLES.

- (a) No person shall abandon any vehicle within the Village and no person shall leave any vehicle at any place within the Village for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.
- (b) No person shall leave any partially dismantled, non-operating, wrecked or junked vehicle on any street or highway within the Village.
- (c) No person in charge or control of any property within the Village, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, non-operating, wrecked, junked or discarded vehicle to remain on such property longer than thirty (30) days; and no person shall leave any such vehicle on any property within the Village for a longer time than thirty (30) days, except that this section shall not apply with regard to a vehicle in an enclosed building or a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise.
- (d) The Zoning Administrator or the Village President is hereby authorized to remove or have removed any vehicle left at any place within the Village which reasonably appears to be in violation of this section, or to be lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of; provided, however, no vehicle shall be removed by the Village from private property without the property owner's consent or pursuant to court order.

SECTION 4.27. RECREATIONAL VEHICLE PARKING. Any owner or lessee of a recreational vehicle, as defined in this Ordinance, may park or store such vehicle on a lot in any Zoning District, subject to the following:

- (a) Such recreational vehicle shall be maintained in a clean, well kept state so as not to detract from the appearance of the surrounding area.
- (b) If such recreational vehicle is equipped with liquified gas containers, such containers shall meet the standards of either the Interstate Commerce Commission or the Federal Department of Transportation or the American Society of Mechanical Engineers, as such standards exist on the date of passage hereof.
- (c) At no time shall such parked recreational vehicle be occupied or used for living, sleeping or housekeeping purposes, except as provided in subparagraph (d) of this section.
- (d) It shall be lawful for only non-paying guests at a residence in a residential district to occupy one recreational vehicle, parked subject to the provisions of this Ordinance, for sleeping purposes only, for a period not exceeding seventy-two (72) consecutive hours. The total number of days during which a recreational vehicle may be occupied under this subsection shall not exceed fourteen (14) in any calendar year.

- (e) No person shall store or park more than six (6) recreational vehicles on their property outside of an enclosed structure; provided, however, that recreational vehicles shall not be parked in the front yard, except during the limited period of time stated in subsection (d) and except during active loading or unloading.
- (f) Notwithstanding the provisions above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.

SECTION 4.28. HOME OCCUPATIONS.

- (a) For purposes of this section, a home occupation is a gainful occupation traditionally or customarily carried on in the home or, when allowed as a special land use, in a building accessory to the home, as a use incidental to the use of the home as a dwelling place and conducted entirely within a residential building used as a dwelling, and also, if approved as a special land use, conducted in an accessory building.
- (b) All home occupations shall be subject to the following restrictions and regulations:
 - (1) Home occupations may be conducted only by a person resident in the home, except that not more than one (1) person may be employed who is not a resident of the home.
 - (2) The home occupation may employ only mechanical equipment which is similar in power and type to that use for household purposes and which does not cause radio or television interference.
 - (3) There shall be no exterior alteration in the residential character of the premises in connection with such home occupation and no more than twenty percent (20%) of the living area of the dwelling shall be devoted to such home occupation.
 - (4) A home occupation shall have no sign other than one stating the name of the occupant and the home occupation. All home occupation signs shall comply with the applicable provisions of Chapter 15 of this ordinance.
 - (5) All articles or materials used in connection with such home occupation shall be stored in the main and accessory buildings. No outside storage is permitted.
 - (6) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and for parking generated by the conduct of such home occupation shall be provided off the street and not within the required front yard.

SECTION 4.29. FENCES.

- (a) Fences and walls in any residential district shall not exceed eight (8) feet in height, measured from the natural grade to the upper-most portion of the fence, except that fences and walls in the front yard located within fifteen (15) feet of the front lot line shall not exceed four (4) feet in height.
- (b) Fences and walls shall not be erected within any public right-of-way or within one foot of any public sidewalk.
- (c) Fences and walls shall not be erected or maintained in any district in such a manner as to obstruct the vision of vehicle drivers.
- (d) No barbed wire or above-ground electrified fence, or wall with barbed wire or electrically charged wire attached to it shall be located in any residential district, but this subsection shall not apply to agricultural uses.

SECTION 4.30. MINIMUM REQUIREMENTS FOR DWELLINGS OUTSIDE MOBILE HOME PARKS. All dwelling units located outside of mobile home parks shall comply with the following requirements:

- (a) All dwellings shall provide a minimum height between the interior floor and ceiling of seven and one-half feet or if a mobile home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.
- (b) The minimum width of any single-family dwelling unit shall be 20 feet for at least 67% of its length, measured between the exterior part of the walls having the greatest length.
- (c) There shall be a foundation of concrete or block around the entire exterior perimeter of all dwellings. The foundation shall have a minimum depth of forty-two (42) inches below grade. The foundation shall provide a maximum exposed foundation above grade of sixteen (16) inches and a minimum exposed foundation above grade of eight (8) inches.
- (d) All dwellings without basements shall provide a crawl space below the entire floor of the dwelling four feet in depth, with a vapor barrier consisting of two inches of concrete on the floor of the crawl space. The crawl space shall also be provided with adequate drains to drain any accumulation of water in the crawl space. The building inspector may allow an alternative building plan to be utilized if consistent with the approved construction code of the Village.

- (e) All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the Village or, if a mobile home, shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction & Safety Standards."
- (f) The wheels, pulling mechanism, and tongue of any mobile home shall be removed prior to placement on a foundation.
- (g) All dwellings shall be connected to a sewer system and water supply system approved by the Village and the County Health Department.
- (h) All dwellings shall provide steps or porch areas, permanently attached to the foundation where there exists an elevation differential of more than one foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
- (i) All additions to dwellings shall meet all the requirements of this Ordinance.
- (j) All dwellings shall be generally compatible in design and appearance with other residences in the vicinity. The compatibility of design and appearance shall be determined in the first instance by the Building Inspector upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design and appearance of residential dwellings located outside of mobile home parks within 500 feet of the subject dwelling.
- (k) Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan adequate to illustrate compliance with the requirements of this Ordinance, shall be submitted to the Building Inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in this section.
- (l) All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction & Safety Standards" effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the Village.
- (m) A minimum of 100 square feet of enclosed storage space, excluding closets, shall be provided for each dwelling. Said enclosed storage space may consist of a basement, garage, shed or other structure approved by the Zoning Administrator.

SECTION 4.31. PRIVATE STREETS, DRIVEWAYS.

- (a) The Village has determined that it is in the best interest of the public health, safety and welfare to regulate the construction, improvement, extension, relocation and use of private streets, so as to assure the following matters:
 - (1) That private streets are designed with adequate width, surface and grade so as to assure safe passage and maneuverability of private and emergency vehicles.
 - (2) That private streets are constructed of suitable materials so as to ensure minimal maintenance and safe passage of vehicles.
 - (3) That private streets will be constructed so as to protect against or minimize soil erosion and to prevent damage to the land and other natural features of the Village.

- (b) For purposes of this section, and where applicable, elsewhere in this Ordinance, driveways and private streets shall be defined as follows:
 - (1) A driveway is an improved or unimproved path or road extending from a public or private street or right-of-way to not more than two buildings, dwellings or parcels of land, and which is intended to provide the primary means of access to not more than two buildings, dwellings, or parcels of land. Driveways are not subject to the private street requirements of this section.
 - (2) An existing private street is a private street which is used to provide access to existing buildings, existing dwellings or existing parcels of land, as of the effective date of this Ordinance.
 - (3) A private street is a path, trail, road, driveway or street which provides or is intended to provide the primary means of access to more than two buildings, dwellings or parcels of land. A private street may be established by easement, right-of-way agreement or other written instrument, or by prescription or other rights of use.

- (c) All private streets shall be designed and constructed in accordance with the following minimum design, construction, inspection, approval and maintenance requirements:
 - (1) The private street right-of-way shall be at least 66 feet in width.
 - (2) The area in which the private street is located shall have a minimum cleared width of 24 feet.
 - (3) A private street serving three or more lots or parcels of land shall be paved.

- (4) A private street shall be paved in accordance with the Kent County Road Commission specifications for local paved streets, including surface and base materials, method of construction and installation of concrete curbing along both sides of a street. Curbing shall comply with Kent County Road Commission standards for concrete curb and gutter (MDOT Det. F-4) or such comparable standard as may subsequently be approved by the County Road Commission.
 - (5) A private street that terminates at a dead end shall have a cul-de-sac with a minimum radius of 40 feet.
 - (6) No private street shall extend for a distance of more than 1,320 feet in length from the nearest public street right-of-way as measured along the centerline of the private street, unless direct access is provided thereto from another public street.
 - (7) The maximum longitudinal street grade shall not exceed 6%, provided the Village may allow up to a 10% grade provided the Village is satisfied that such increase in street grade will not adversely affect public safety or cause undue erosion.
- (d) All parcels utilizing a private street shall have frontage on the private street for a distance equal to or greater than the minimum lot width required for the district in which the parcel is located.
 - (e) All private streets shall have direct access to a public street.
 - (f) All private streets shall have a recorded permanent right-of-way or easement. The right-of-way or easement shall expressly permit public or private utilities to be installed within the right-of-way.
 - (g) The layout of the private street and the intersections of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is reasonably assured.
 - (h) All private streets shall be named and identified by use of appropriately located street name signs. Street names shall not duplicate any existing street name in Kent County, except in the case of the continuation of an existing street. All lots fronting on a private street shall have an address on the private street. A stop sign conforming to the requirements of the County Road Commission shall be provided at the exit point from the private street to the public street, if required by the County Road Commission.
 - (i) The provisions of this section shall not apply to existing private streets, except that if an existing private street is extended, so as to serve one or more additional buildings, dwellings or parcels of land, the extended portion of such private street shall comply with the provisions of this section. Such extended portion of an

existing private street shall include an additional turnaround area or cul-de-sac, as well as an additional length of private street.

- (j) All private roads shall be maintained, repaired, improved and snowplowed in such a manner and to such extent that the private road shall be safe and convenient for travel in all weather conditions and, in particular, such maintenance, repair and improvement shall be sufficient to assure that the private road shall be safe and convenient for the travel of emergency vehicles in all weather conditions.

SECTION 4.32. REGULATION OF ANTENNAS AND TOWERS. Freestanding radio, television or microwave antennas or towers (including satellite dish antennas) are permitted in all zoning districts provided the following provisions are satisfied:

- (a) The antenna shall be permanently secured to a stable foundation.
- (b) No portion of the antenna shall conduct or display any advertising, message or other graphic representation other than the manufacturer's name.
- (c) No freestanding antenna shall exceed a height of 30 feet above grade, or have any dimension exceeding 30 feet, including its mounting structure, except that freestanding antennas or towers exceeding such height or other dimension may be permitted by the Planning Commission as a special land use under Chapter 12.
- (d) An antenna or tower (including a satellite dish antenna) shall be located only in the rear yard or the side yard and shall not be closer to a property line than its height or the depth of the required rear or side yard setback, whichever is the greater.
- (e) An antenna may be mounted on the roof of a principal or accessory building, provided it shall not exceed a height of 10 feet, as measured from its foundation.
- (f) All antennas must be grounded to protect against damage from lightning.
- (g) An antenna or tower shall not be so located or constructed as to have a serious adverse effect on adjacent or nearby land uses.
- (h) Amateur radio antennas (being antennas operated for the purpose of receiving or transmitting communications by a radio station described in Section 153(q) of Title 47 of the U.S. Code) and operated under a license issued by the Federal Communications Commission shall be subject to the provisions of this section, but if the effect of any such provision upon the operation of an amateur radio antenna would be to preclude or prevent the operation of such an antenna, the provisions of this section shall not apply.

SECTION 4.33. TEMPORARY DWELLINGS. No cabin, garage, basement, tent, recreational vehicle, or other temporary structure shall be used in whole or in part for dwelling purposes in any district provided that such structure may be used for a temporary dwelling for a

period not to exceed six months upon application to and approval of a permit for such occupancy by the Zoning Administrator upon determination that the following conditions exist and are met:

- (a) The permanent dwelling of the resident applicant has become uninhabitable due to damage caused by fire, wind or other natural calamity or emergency.
- (b) Due to undue hardship, the applicant is unable to obtain another dwelling unit as a temporary residence.
- (c) The structure is constructed so as to meet the minimum requirements for the health, safety and welfare of the occupants and the surrounding neighborhood.

SECTION 4.34. MECHANICAL WORK. Mechanical work on trucks over one (1) ton or more, or race cars, stock cars or otherwise, owned by the occupant of a dwelling, or on any vehicles not owned by an occupant of the premises is prohibited in residential zones. Any permitted work on vehicles must be performed entirely within a building, and no parts or vehicles not in a legally operable condition shall be stored outside.

SECTION 4.35. MECHANICAL APPURTENANCES. Mechanical appurtenances, such as blowers, ventilating fans and air conditioning units, must be adjacent to the principal building and shall be placed not closer than twenty (20) feet to adjoining properties.

SECTION 4.36. LANDSCAPING SETBACK. In residential zones, hedges, shrubs and other plants (but not including trees) that are located within fifteen (15) feet of the front lot line, or other lot line adjoining a public street or approved private road and that are higher than three (3) feet above the natural grade, are prohibited.

SECTION 4.37. MAXIMUM LOT WIDTH TO DEPTH RATIO.

- (a) In all zoning districts, a building shall not be constructed or occupied on a lot or parcel if the depth of the lot or parcel exceeds four times its width.
- (b) The Planning Commission may permit the creation of a lot or parcel to be used for the construction of a building which does not comply with this section, through the granting of a special land use under the terms of Chapter 11. In determining whether to grant such special land use, the Planning Commission shall find that the greater depth is necessitated by conditions of the land, such as topography or road access, and that the creation or use of the lot or parcel will not conflict with other Village ordinances.

SECTION 4.38. TRASH, LITTER OR JUNK. It shall be unlawful for any person to accumulate, place, store, or allow or permit the accumulation, placement or storage of trash, litter or junk on premises in the Village, except not to exceed eight days storage in watertight storage receptacles designed for the temporary accumulation of trash. Waste receptacles shall not be left unattended in the front yard longer than a period of 48 hours, unless they are kept or enclosed in a permanent structure designed to prevent disturbance of such receptacles by animals or severe weather conditions.

SECTION 4.39. REGULATION OF ADULT USES.

- (a) It is recognized that there are some land uses which, because of their very nature, have serious objectionable characteristics. This is particularly true when several such uses may be concentrated in proximity to other such uses or to residentially-zoned lands, thereby having a detrimental effect upon adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding areas. The regulations set forth in this section are for the purpose of preventing a concentration of objectionable uses within any one area, and to prevent the deterioration or blighting of nearby residential areas or neighborhoods. These regulations do not legitimize activities which are prohibited in other provisions of this Ordinance.
- (b) The regulations in this section are also for the purpose of prohibiting nudity (as defined herein) in or upon any premises licensed for the sale of alcoholic liquor. This section is adopted to protect the public health, safety and welfare pursuant to the authority granted by U. S. and state law, including, without limitation, the regulations of the Michigan Liquor Control Commission, which expressly recognize the authority of local governmental units to prohibit nudity in liquor-licensed establishments. The Village Council hereby finds that prohibiting nudity in liquor-licensed establishments serves the legitimate governmental interest of the Village by preventing disturbances, criminal or other unlawful activity, and other undesirable activity that would more likely occur within or near such establishments if nudity were permitted on the same premises where alcoholic liquor is served.
- (c) The land uses that are subject to these regulations are the following:
 - (1) Adult retail stores;
 - (2) Adult theaters;
 - (3) Cabarets;
 - (4) Massage parlors; and
 - (5) Liquor licensed establishments.
- (d) As used in this section, the following terms shall have the indicated meanings:
 - (1) **Adult Retail Store.** An establishment having as a substantial or significant portion of its stock in trade which is for sale, lease, and/or display, books, magazines or other periodicals and/or videos which are distinguished or characterized by their emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined in this Ordinance, for sale to or viewing by patrons therein.

- (2) Adult Theater. Any establishment used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein for observation by patrons therein. The presentation of such material includes all methods of presentation, whether to groups or to individuals, including, but not limited to: motion pictures, still photos, slide projections, television, cable television and/or the playing of video recordings.
 - (3) Adult Use. A building or other enclosure used for an Adult Retail Store, Adult Theater, Cabaret or Massage Parlor.
 - (4) Cabaret. An establishment for entertainment which features topless dancers, strippers, male or female impersonators, or similar entertainers who exhibit “specified anatomical areas” or who exhibit “specified sexual activities” as defined herein for observation by patrons.
 - (5) Licensee. A person or entity having a license to sell alcoholic liquor, beer, wine or any of them, and the owners, officers, agents, and employees of such person or entity.
 - (6) Massage Parlor. Any establishment where massages are administered for pay, including, but not limited to, massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barbershops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder.
 - (7) Nudity. A state of undress so as to expose to the view of another person any of the following body parts, either directly or indirectly, including, but not limited to, exposure with less than a fully opaque covering all or part of the pubic region; all or part of the buttocks; all or part of the genitals; or any portion of the female breast below the top of the areola. A woman’s breast-feeding of an infant does not constitute nudity.
 - (8) Specified Anatomical Areas. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - (9) Specified Sexual Activities. Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; or the fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- (e) Nudity is prohibited in liquor licensed establishments, as stated in this subsection.

- (1) A licensee shall not permit or allow any person in a state of nudity to be in or upon premises that are licensed or subject to licensing by the Michigan Liquor Control Commission.
 - (2) A licensee shall not hire, employ, or procure a person to appear in a state of nudity in or upon premises licensed or subject to licensing by the Michigan Liquor Control Commission.
 - (3) No person shall appear in a state of nudity in or upon premises licensed or subject to licensing by the Michigan Liquor Control Commission.
 - (4) A licensee shall not permit or allow in or upon premises licensed or subject to licensing by the Michigan Liquor Control Commission the showing of films, television, slides, or other photographic, or other electronic reproductions which depict views or scenes wherein any person appears in a state of nudity. This prohibition shall not apply to any public broadcast television transmission from a federally licensed television station.
- (f) Adult uses shall comply with all of the following requirements:
- (1) An adult use shall not be located within a one thousand (1,000) foot radius of any other adult use.
 - (2) An adult use shall not be located within a one thousand (1,000) foot radius from any church, park, school, community center, public building, playground or school bus stop.
 - (3) An adult use shall not be located within five hundred (500) feet of any residentially-zoned land. If two (2) or more adult uses are conducted as one business, then said business shall be located a minimum of seven hundred fifty (750) feet from any residentially-zoned land.
 - (4) Any person massaging any customer or other person must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a school of massage therapy that is certified by the State of Michigan, or have such other similar qualifications as are approved by the Planning Commission. All massage clinics or establishments are subject to inspection from time to time by the building inspector and shall be required to file an annual report to the Village, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment.
 - (5) Establishments where adult uses are located shall not be enlarged or expanded in any manner or to any extent unless approved by the Planning Commission as a special land use under Chapter 12.

SECTION 4.40. WIND ENERGY CONVERSION SYSTEMS. A Wind Energy Conversion System (“WECS”), including all necessary substations, accessory buildings and operation and maintenance offices, shall comply with all of the terms and conditions of this section.

- (a) **Definitions.** For the purposes of this section, the following terms and phrases shall be defined as provided below:
- (1) **Wind Energy Conversion System (“WECS”).** A wind turbine generator or other device or devices designed to extract energy from the wind and supply it in the form of electrical energy that is suitable for use by the local electrical transmission utility, or that is used to provide electricity on the site or property on which the WECS is located. A WECS shall also include a MET tower, which is a tower containing instrumentation such as anemometers that is used to assess wind resources.
 - (2) **Horizontal Axis Wind Turbine (HAWT).** A WECS designed with a rotor mounted on a horizontal axis of rotation. The rotor thus sweeps through a vertical plane perpendicular to the motion of the wind.
 - (3) **Rotor.** An element of a wind turbine which acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
 - (4) **Nacelle.** The structure designed to “yaw” (turn) into the wind that is mounted on top of the tower and houses the rotor support shaft, mechanical and electrical components, and generator.
 - (5) **Tower.** The structure, above grade, that supports the nacelle, rotor assembly, and other components.
 - (6) **Tower Foundation.** The tower support structure, below grade, that supports the weight of the WECS tower.
 - (7) **Blade Clearance.** In reference to a horizontal axis rotor, the distance from grade to the lowest point of the rotor’s swept arc.
 - (8) **Tower Height.** The height from grade to the highest vertical point of the swept rotor arc. In the case of a WECS with a horizontal axis rotor, the total height includes the distance from grade to the rotor axis of rotation within the nacelle plus one-half the swept rotor diameter.
 - (9) **Sub-station.** An electrical construction designed to collect and modify electrical energy produced by the WECS for the purpose of supplying it to the local electrical utility.
- (b) **Application.** Applications for a WECS shall include the following:

- (1) A site plan, which, in addition to the site plan requirements of Chapter 13, shall include the following:
 - a. The proposed location, size, height and type of all WECS, including MET towers, and the setback distance between the proposed towers and applicable property lines, the nearest residential units and residentially-zoned properties.
 - b. The location of all existing structures and buildings within 300 feet of the parcel subject to the special land use request.
 - c. The proposed location of all access roads, underground and overhead cabling and utilities.
 - d. The physical size and electrical nameplate capacity of the proposed WECS, including the total height and the swept rotor diameter.
 - e. Proposed screening, buffering and tower lighting, if required.
 - f. A visual representation of the WECS including scale elevations or photographs.
- (2) A copy of the applicant's proof of ownership or control of the land, including any lease with the landowner(s) for the WECS. Any such lease must include a provision requiring the applicant to remove all equipment and restore the site upon cessation of WECS operations.
- (3) The manufacturer's specifications indicating:
 - a. The rated nameplate output, in kilowatts or megawatts, of the wind turbines included in the WECS.
 - b. Safety features and sound characteristics.
 - c. Type of material used in foundation, tower, blade, and rotor construction.
- (4) A noise impact study which includes information on the noise levels to be generated by the use, measured in dB(A) at the property line, the tower site or such other location as directed by the Planning Commission.
- (5) Proof that the applicant has obtained or applied for approval from all county, state or federal agencies having jurisdiction over the proposed use, or any aspect thereof.
- (6) An environmental impact study, shadow flicker study and/or avian and wildlife impact study may be required by the Planning Commission. The applicant shall take appropriate measures to mitigate or eliminate adverse

effects identified in such studies, including assurance that shadow flicker shall not have a significant adverse effect upon any adjacent property or any occupied building or residence.

- (7) A decommissioning plan which includes the anticipated life of the project, the estimated decommissioning costs net of salvage value in current dollars, the method for ensuring that funds will be available for decommissioning and restoration and the anticipated manner in which the project will be decommissioned and the site restored.

(c) **Requirements.** A WECS, including MET towers, shall comply with the following requirements:

- (1) **Review and Approval Procedures.** A WECS that is 50 feet in height or greater must receive special land use approval from the Planning Commission in compliance with Chapter 12 of this ordinance. A WECS that is less than 50 feet in height shall obtain site plan review pursuant to Chapter 13, but shall not require special land use approval if it complies with the requirements of this Section 4.40(c) and with the following requirements:

- a. The diameter of the rotor does not exceed 30 feet.
- b. The wind turbine generator is to provide energy only to the property where the tower is located, not to any other lands.
- c. An individual tower complying with this subsection may, on an intermittent basis, supply excess power to the grid; provided, however, the individual tower shall not in any calendar year supply a net surplus of power to the grid.
- d. If the WECS is installed on a building or structure, the diameter of the rotor shall not be greater than twenty (20) feet and the WECS height shall be less than 50 feet in height as measured from grade. The WECS must be safely and permanently secured to the building or structure.

- (2) **Setbacks.** WECS towers shall comply with the minimum required building setbacks for the district in which the WECS tower is located or a minimum setback equal to one and one half (1.5) times the height of the highest WECS, whichever is greater. Notwithstanding the foregoing, a MET tower shall be set back no less than a distance equal to the height of the MET tower.

For the purposes of determining whether a proposed WECS or MET tower complies with the setback requirements of a district, the dimensions of the entire lot or parcel of land shall control, even though the WECS may be located on smaller leased parcels within such lot or parcel.

- (3) **Setback Modifications.** Setbacks may be reduced or increased from the minimum setback requirements of this section, in the discretion of the Planning Commission. Pursuant to this provision, the Planning Commission shall consider the technical needs of the applicant for a modification of setbacks, the feasibility of alternate locations, the proximity of existing dwellings, and the potential for adverse impacts that noise, shadows and other features may have on adjacent uses.
- (4) **Noise.** A WECS regulated under the terms of this section shall be designed, located and operated so as to cause no serious adverse effect on other lands or other land uses by reason of noise. A WECS shall not exceed 55dB(A) at the property line closest to the WECS. Exceptions for neighboring property may be permitted if the written consent of the property owners is provided. The sound pressure level may be exceeded during short-term events such as utility outages or severe wind storms.

Constant velocity turbines shall be required; provided, however, that if variable speed turbines are proposed, the applicant shall submit additional data concerning noise generated when the revolutions per minute of such turbines exceed 24 rpm's, and the Planning Commission may decline to approve any such variable speed turbines.

- (5) **Lighting.** WECS towers shall not be illuminated by artificial means and shall not display strobe lights unless required by the Federal Aviation Administration or other state or federal authority having jurisdiction. The minimum FAA lighting standards shall not be exceeded and all lighting shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Towers that are lighted shall be avoided unless no feasible alternative is available.
- (6) **Shadow Flicker.** Any WECS shall be designed, located and installed so that shadow flicker does not have a significant adverse effect upon adjacent property, upon any occupied building or residence and shall be designed, located and operated so as to cause no serious effect on other lands or land uses by reason of the impact of its shadow.
- (7) **Impact on View; Towers in Front Yard.** Towers shall only be placed, to the extent possible, at locations that do not dominate the view from existing streets or detract from the neighborhood aesthetics. Locations on hilltops or in front yards are to be avoided. A tower shall not be located in any front yard unless it is set back at least 200 feet from the front lot line.
- (8) **Tower Height.** Any WECS, including the foundation, the tower, the rotor and all other components shall have a total height not exceeding 199 feet, as measured from the ground at the base of the tower to the tip of the blade of the rotor, when the blade is in a vertical position; provided, however,

the Planning Commission may modify the total height to permit a lighted tower that exceeds 199 feet upon a showing that the tower will be harmonious with adjacent, neighboring land uses and will not have a substantial adverse effect on such adjacent or nearby lands or land uses.

- (9) **Compliance with Law.** All WECS and the construction, installation, operation, maintenance and repair thereof shall comply with all federal, state and local laws, ordinances and regulations, including the Michigan Tall Structures Act and all airport zoning requirements.
- (10) **FAA Standards.** All structures shall comply with applicable standards and regulations of the Federal Aviation Administration and any other state or federal agency having jurisdiction.
- (11) **Building Codes and Maintenance.** All structures constructed shall comply with the standards contained in applicable state and local building codes and shall be regularly maintained in good, safe working order. The structures and all material incorporated into the structures shall be specified in construction documents submitted to the Village. The construction documents shall be signed and sealed by a registered engineer certified in the State of Michigan. All materials and equipment shall have appropriate UL certifications and other trade certifications. The applicant shall maintain a maintenance log that the Village can review upon request.
- (12) **Tower Foundation.** All towers shall be permanently secured to a stable foundation.
- (13) **Tower Grounding.** All towers shall be grounded to protect against damage from lightning.
- (14) **Tower Appearance.** All wind turbines and towers shall be finished in a single, non-reflective matte finished color which minimizes the visual impact of the wind farm.
- (15) **Blade Clearance.** The minimum vertical blade tip clearance from grade shall be 20 feet for a wind turbine employing a horizontal axis rotor (HAWT).
- (16) **Tower Construction.** A freestanding tubular monopole tower shall be required for any tower that is more than 50 feet in height. An anti-climbing device or design shall be used on all towers, regardless of their height.
- (17) **Tower Graphics.** No portion of any tower or blades shall display any name, symbol, words, letters, advertising message, graphic representation or other written or pictorial matter. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification.

- (18) **Power Lines.** All power lines from a WECS and connecting to a sub-station or grid, shall be underground, unless otherwise permitted by the Planning Commission.
 - (19) **Safety.** All electrical and mechanical components of the system shall be securely locked. Spent lubricants and cooling fluids shall be promptly and safely removed from the premises. Signage on the access roads shall warn visitors of the danger of falling ice.
 - (20) **Electromagnetic Interference.** No WECS shall be installed in any location where its proximity with existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected parties that will restore reception to the level present before operation of the WECS. No WECS shall be installed in any location within the line of site of an existing microwave communication link where its operation is likely to produce electromagnetic interference in the link operation unless the interference is insignificant.
- (d) **Discretionary Conditions.** The Planning Commission, in its reasonable discretion, may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any WECS regulated by the terms of this section. Such other terms and conditions may include, though are not limited to, the following:
- (1) The screening or buffering of structures (other than towers) with landscaping, berms, walls or any combination thereof. Fencing may be required by the Planning Commission to secure the site and tower.
 - (2) The prohibition on the construction or occupancy of dwellings on the lands where the WECS is located, within the separation distances specified by this section.
 - (3) The preservation of existing trees and other existing vegetation not required to be removed for installation of the WECS.
 - (4) The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS tower or accessory buildings or structures.
 - (5) The providing of a performance bond or letter of credit, in favor of the Village, and conditioned upon the timely and faithful performance of all required conditions of the special land use or site plan approval, including but not limited to the timely and complete removal of a WECS, or any individual tower, wind turbine generator, or other device or equipment regulated under the terms of the section, upon the failure of the same to be

removed when required. Such performance bond or letter of credit shall remain in effect during and after the operation of a WECS, until the cessation of operations and the removal of the same.

(e) **Removal.**

- (1) A WECS or other individual device, structure or equipment regulated under the terms of this section shall be removed not later than when the device or equipment is no longer operating or when it has been abandoned.
- (2) For purposes of this section, a WECS shall be deemed abandoned when it has not produced electrical energy for 12 consecutive months. Operation of the WECS for less than 168 hours shall not be considered production for purposes of this subsection.
- (3) The failure to timely remove a WECS or any device, structure or equipment regulated by the terms of this section shall be a violation of this Ordinance.
- (4) In the event that the owner or operator of a WECS fails to remove the same after the ceasing of operations or after abandonment thereof, the Village may proceed with all appropriate enforcement and remedial action, including but not limited to the obtaining of funds pursuant to the applicable performance bond or letter of credit, and the use of such funds to accomplish the removal of all non-operating or abandoned towers, wind turbine generators, accessory structures and other devices and equipment regulated hereunder.

(f) **Inspections.** Upon the provision of reasonable prior notice to the site operator, the Village Zoning Administrator and/or his or her designated representative may inspect any property for which special land use or site plan approval has been granted pursuant to this section to determine whether the site complies with the applicable requirements of law and the terms of the special land use approval.

(g) **Lattice Towers Prohibited.** Wind turbines utilizing a lattice tower structure shall be prohibited, unless the WECS is less than 50 feet in height and a suitable anti-climbing device is installed on such tower.

SECTION 4.41. YARD OR GARAGE SALES. Notwithstanding the provisions of Section 4.14, yard or garage sales are permitted in residential districts, but only when conducted in compliance with the terms of this section and the regulations of the applicable district.

(a) A yard or garage sale, for purposes of this section, is a periodic or occasional sale of household or related goods or items on the premises of a property in a residential district, and may be held either indoors or outdoors. Such sales shall include only goods, items or merchandise from the premises upon which the sale

is held, or from other residential premises. Such items included in a yard or garage sale shall be only used or discarded items, not new merchandise.

- (b) A yard or garage sale shall occur not more than four (4) times within any calendar year, for no more than a 96-hour period. The Zoning Administrator may authorize a special exception to the 96-hour period, permitting a period not to exceed seven (7) days. In authorizing such an exception, the Administrator may impose terms and conditions for the purpose of preventing or avoiding traffic hazards, nuisances or other adverse effects. Any sale authorized under this subpart for a longer period shall count as two sales under the provision authorizing no more than four (4) sales per calendar year.
- (c) Signs used to advertise a yard or garage sale shall comply with the sign provisions of this ordinance. Such signs shall be installed no more than five (5) days prior to the commencement of the sale and shall be removed immediately upon the conclusion of the sale.
- (d) A yard or garage sale shall be held and conducted only in such a manner that no traffic hazard, undue noise, litter or other adverse effect results.
- (e) Immediately upon the conclusion of a yard or garage sale that is held or conducted out of doors, whether in whole or in part, all unsold goods and items, and all tables and other equipment shall be removed.
- (f) A yard or garage sale is not a home occupation under the terms of this ordinance, and is not a permitted activity under the terms of the home occupation provisions hereof.

CHAPTER 5
R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

SECTION 5.01. DESCRIPTION AND PURPOSE. This Zoning District is intended for low density residential uses and accessory uses. Other, non-residential uses are also provided.

SECTION 5.02. PERMITTED USES. Land, buildings and structures in this Zoning District may be used for the following purposes only:

- (a) Single family dwellings.
- (b) Home occupations as regulated by Section 4.28, except those listed as special land uses in Section 5.03(c).
- (c) State licensed residential facilities and child care centers provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six (6) or less persons; but not including adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
- (d) Wind Energy Conversion Systems which are less than 50 feet in height and which comply with the requirements of Section 4.40.

SECTION 5.03. SPECIAL LAND USES. The following uses may be permitted as a Special Land Use subject to the requirements of Chapter 12.

- (a) Private and public schools, libraries, museums, and similar uses, when owned and operated by a governmental agency or nonprofit organization.
- (b) Parks, playgrounds, community centers, churches, governmental, administration, or service buildings which are owned and operated by a governmental agency or a nonprofit organization.
- (c) The following home occupations:
 - (1) An otherwise permitted home occupation that is conducted in an accessory building.
 - (2) Classes of instruction for more than six persons.
 - (3) Child day care for more than six children.
- (d) Bed and Breakfast establishments.
- (e) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve not more than six (6) persons but is not operated in a structure

constructed for residential purposes, or such a center or care home which is authorized to serve more than six (6) persons but not more than twelve (12) persons.

- (f) Wind Energy Conversion Systems which comply with Section 4.40.

SECTION 5.04. OTHER USES. The following other uses are permitted as provided in this ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 4.15.
- (b) Signs as regulated under Chapter 15.
- (c) Off-street parking and loading as regulated by Chapter 16.

SECTION 5.05. HEIGHT REGULATIONS. No residential building or structure shall exceed thirty-five (35) feet in height, as measured from the natural grade at the front of the building or structure to the highest point of the building or structure.

SECTION 5.06. AREA REGULATIONS. Buildings and structures and any enlargements thereof, shall comply with the following requirements.

- (a) Front Yard. Where all the frontage on the same side of a street between two intersecting streets is located in this District, and where a setback has been established by fifty percent (50%) of said frontage, then this established setback shall determine the required front yard. In all other cases, there shall be a front yard of not less than twenty-five (25) feet.
- (b) Side Yard. No side yard shall be less than ten (10) feet.
- (c) Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet.
- (d) Lot Area and Width. The minimum lot area and width shall be eight thousand, seven hundred twelve (8,712) square feet and sixty-six (66) feet, respectively.

SECTION 5.07. MINIMUM FLOOR AREA. Each dwelling shall have a minimum of one thousand (1,000) square feet of gross floor area, and a minimum of one thousand (1,000) square feet of ground coverage, excluding garages, porches and decks; provided, however, that each two-story dwelling shall have a minimum of one thousand three hundred fifty (1,350) square feet of gross floor area and a minimum of seven hundred (700) square feet of ground coverage, excluding garages, porches and decks.

CHAPTER 5A
R1-A SINGLE FAMILY RESIDENTIAL DISTRICT

SECTION 5A.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for low density residential uses and accessory uses. Other, non-residential uses are also provided.

SECTION 5A.02. PERMITTED USES. Land, buildings and structures in this Zoning District may be used for the following purposes only:

- (a) Single family dwellings.
- (b) Home occupations as regulated by Section 4.28, except those listed as special land uses in Section 5.03(c).
- (c) State licensed residential facilities and child care centers provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six (6) or less persons; but not including adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
- (d) Wind Energy Conversion Systems which are less than 50 feet in height and which comply with the requirements of Section 4.40.

SECTION 5A.03. SPECIAL LAND USES. The following uses may be permitted as a Special Land Use subject to the requirements of Chapter 12.

- (a) Private and public schools, libraries, museums, and similar uses, when owned and operated by a governmental agency or nonprofit organization.
- (b) Parks, playgrounds, community centers, churches, governmental, administration, or service buildings which are owned and operated by a governmental agency or a nonprofit organization.
- (c) The following home occupations:
 - (1) An otherwise permitted home occupation that is conducted in an accessory building.
 - (2) Classes of instruction for more than six persons.
 - (3) Child day care for more than six children.
- (d) Bed and Breakfast establishments.
- (e) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized

to serve not more than six (6) persons but is not operated in a structure constructed for residential purposes, or such a center or care home which is authorized to serve more than six (6) persons but not more than twelve (12) persons.

SECTION 5A.04. OTHER USES. The following other uses are permitted as provided in this ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 4.15.
- (b) Signs as regulated under Chapter 15.
- (c) Off-street parking and loading as regulated by Chapter 16.

SECTION 5A.05. HEIGHT REGULATIONS. No residential building or structure shall exceed thirty-five (35) feet in height, as measured from the natural grade at the front of the building or structure to the highest point of the building or structure.

SECTION 5A.06. AREA REGULATIONS. Buildings and structures and any enlargements thereof, shall comply with the following requirements.

- (d) Front Yard. Where all the frontage on the same side of a street between two intersecting streets is located in this District, and where a setback has been established by fifty percent (50%) of said frontage, then this established setback shall determine the required front yard. In all other cases, there shall be a front yard of not less than twenty five (25) feet.
- (e) Side Yard. No side yard shall be less than ten (10) feet.
- (f) Rear Yard. There shall be a rear yard of not less than twenty five (25) feet.
- (g) Lot Area and Width. The minimum lot area and width shall be fifteen thousand (15,000) square feet and one hundred (100) feet, respectively.

SECTION 5A.07. MINIMUM FLOOR AREA. Each dwelling shall have a minimum of one thousand two hundred (1,200) square feet of gross floor area, and a minimum of one thousand two hundred (1,200) square feet of ground coverage, excluding garages, porches and decks; provided, however, that each two-story dwelling shall have a minimum of one thousand five hundred (1,500) square feet of gross floor area and a minimum of eight hundred (800) square feet of ground coverage, excluding garages, porches and decks.

CHAPTER 6
R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

SECTION 6.01. DESCRIPTION AND PURPOSE. This Zoning District is intended for medium density one and two family and low density multi-family residential and related uses. Certain non-residential uses are also provided.

SECTION 6.02. PERMITTED USES. Land, buildings, and structures in this Zoning District may be used for the following purposes only:

- (a) Single-family dwellings.
- (b) Two-family dwellings.
- (c) Multiple-family dwellings.
- (d) Home occupations as regulated by Section 4.28, except those listed as special land uses in Section 6.03(c).
- (e) State licensed residential facilities and child care centers provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six (6) or less persons; but not including adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

SECTION 6.03. SPECIAL LAND USES. The following uses may be permitted as a Special Land Use subject to the applicable general and specific requirements and standards of Chapter 12.

- (a) Private and public schools, libraries, museums, and similar uses, when owned and operated by a governmental agency or nonprofit organization.
- (b) Parks, playgrounds, community centers, churches, governmental, administration, or service buildings which are owned and operated by a governmental agency or a nonprofit organization.
- (c) The following home occupations:
 - (1) An otherwise permitted home occupation that is conducted in an accessory building.
 - (2) Classes of instruction for more than six persons.
 - (3) Child day care for more than six children.
- (d) Bed and breakfast establishments.

- (e) Nursing homes, homes for the aged, those state-licensed residential facilities with an approved capacity to serve more than twelve (12) persons and those facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities.
- (f) Offices for medical doctors, dentists, architects, engineers, attorneys and other professional persons.
- (g) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve not more than six (6) persons but is not operated in a structure constructed for residential purposes, or such a center or care home which is authorized to serve more than six (6) persons but not more than twelve (12) persons.

SECTION 6.04. OTHER USES. The following other uses are permitted as provided in this ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 4.15.
- (b) Signs as regulated under Chapter 15.
- (c) Off-street parking and loading as regulated by Chapter 16.

SECTION 6.05. HEIGHT REGULATIONS. No building or structure shall exceed thirty-five (35) feet in height, as measured from the natural grade at the front of the building or structure to the highest point of the building or structures; provided, however, that no multi-family dwelling shall have more than two stories.

SECTION 6.06. AREA REGULATIONS. Buildings and structures and any enlargements thereof, shall comply with the following requirements.

- (a) Front Yard. Where all the frontage on the same side of a street between two intersecting streets is located in this District, and where a setback has been established by fifty percent (50%) of said frontage, then this established setback shall determine the required front yard. In all other cases, there shall be a front yard of not less than twenty-five (25) feet.
- (b) Side Yard. There shall be total side yards as follows:
 - (1) For single and two family dwellings, no side yard shall be less than ten (10) feet.
 - (2) For multiple-family dwellings and all other permitted uses, each side yard shall be not less than twenty-five (25) feet.
- (c) Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet.

- (d) Lot Area and Width (One Family). The minimum lot area and minimum lot width for a one family dwelling shall be eight thousand seven hundred twelve (8,712) square feet and sixty-six (66) feet, respectively.
- (e) Lot Area and Width (Two Family). The minimum lot area and minimum lot width for a two family dwelling shall be seventeen thousand (17,000) square feet and one hundred twenty-five (125) feet, respectively.
- (f) Lot Area and Width (Multiple Family). The minimum lot area for a multiple family dwelling building shall be 4,500 square feet per dwelling unit. The minimum lot width shall be one hundred seventy-five (175) feet.

SECTION 6.07. MINIMUM FLOOR AREA. Each single family and two family dwelling shall have minimum gross floor area as is required for a dwelling unit in the R-1 District. Each multiple family dwelling shall have minimum gross floor area as follows: One bedroom unit, six hundred fifty (650) square feet per unit; two bedroom unit, seven hundred fifty (750) square feet per unit; three bedroom unit, nine hundred (900) square feet per unit; additional bedrooms shall require an additional one hundred (100) square feet of gross floor area for each additional bedroom.

SECTION 6.08. REQUIRED CONDITIONS.

- (a) If more than one building is located upon a single site, an open space of at least eighteen (18) feet shall separate buildings.
- (b) Ground level activities shall be adequately screened from adjacent residential districts, prior to occupancy, by decorative fencing, or by a berm or evergreen screening that shall have a height of not less than six feet within two years from installation.
- (c) An enclosed garbage and rubbish disposal facility shall be located on the multiple family dwelling site for each building, adequately screened from adjoining properties, and shall be maintained in a clean and orderly manner.
- (d) The multiple family dwellings and accessory buildings shall not occupy more than thirty-five percent (35%) of the area of the parcel of land on which the buildings are located.
- (e) Two-family dwellings shall, insofar as practicable, be designed to have the exterior appearance of a single-family dwelling, by appropriate placement of exterior doors, garages and driveways.
- (f) Multiple family dwellings shall be subject to site plan review under the terms of Chapter 10.

CHAPTER 7
R-3 MANUFACTURED HOUSING COMMUNITY DISTRICT

SECTION 7.01. **PURPOSE.** This district is intended to allow primarily for state-licensed manufactured housing communities in compliance with the rules and regulations of the Manufactured Housing Commission and the requirements of this Chapter so as to provide for additional variety of housing opportunities and choices.

SECTION 7.02. **PERMITTED USES.** Land, buildings and structures within the R-3 District may only be used for the following purposes only:

- (a) State-licensed manufactured housing communities in compliance with the rules and regulations of the Manufactured Housing Commission and Sections 7.05 through 7.07 of this Ordinance.
- (b) Family daycare homes.
- (c) State-licensed adult foster care homes.
- (d) Home occupations as regulated by Section 4.28.

SECTION 7.03. **SPECIAL LAND USES.** The following uses may be permitted as a special land use, subject to the requirements of Chapter 12:

- (a) Utility and public service buildings, without storage yards.

SECTION 7.04. **OTHER USES.** The following other uses are permitted, outside of a manufactured housing community, as provided in this Ordinance: Accessory buildings and other accessory uses as regulated under Section 4.15.

- (b) Signs as regulated under Chapter 15.
- (c) Off-street parking and loading as regulated by Chapter 16.

Accessory buildings, accessory uses, identification signs, and off-street parking and loading are permitted in a state-licensed manufactured housing community only if permitted by and as regulated by Sections 7.05 through 7.07 of this Ordinance.

SECTION 7.05. **MANUFACTURED HOUSING COMMUNITY REQUIREMENTS** All manufactured housing communities shall comply with the following design requirements:

- (a) Access and Roads.
 - (1) The community's internal roads shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement.
 - (2) Two access points shall be provided to a public thoroughfare to allow a secondary access for emergency vehicles. A boulevard entrance extending

to the first intersection of a community road shall be interpreted as satisfying this requirement.

- (3) All internal roads shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade in compliance with the standards of the American Association of State Highway and Transportation Officials (“AASHTO”).
- (4) An internal road that has no exit at one end shall terminate with an adequate turning area. Parking shall not be permitted within the turning area.
- (5) Safe-sight distance shall be provided at intersections.
- (6) An offset at an intersection or an intersection of more than two internal roads is prohibited.
- (7) The following types of internal roads shall have driving surfaces that are not less than the following widths:

(i)	One-way, no parking	16 feet
(ii)	Two-way, no parking	21 feet
(iii)	One-way, parallel parking, one side	23 feet
(iv)	One-way, parallel parking, two sides	33 feet
(v)	Two-way, parallel parking, one side	31 feet
(vi)	Two-way, parallel parking, two sides	41 feet
- (8) All entrances to communities that have 300 or more home sites shall be a minimum of 30 feet in width. The entrance shall consist of an ingress lane and a left and right egress turning lane at the point of intersection between a public road and the community’s internal road, and shall be constructed as follows:
 - (i) All turning lanes shall be a minimum of 10 feet in width and 60 feet in depth, measured from the edge of the pavement of the public road into the community.
 - (ii) The turning lane system shall be tapered into the community internal road system commencing at a minimum depth of 60 feet.
 - (iii) The ingress and right egress turning lanes of the ingress and egress road shall connect to the public road with a curved line that has a

minimum radius of 15 feet. The intersection of the public road and ingress and egress road shall not have squared corners.

- (9) An orderly street name system and unit numbering system shall be established by the community owner and the plan of such system approved by the Village Fire Department. Manufactured home space numbers shall be located uniformly on each space, housing unit or identification marker, throughout the community, and street names shall be adequately marked at all internal road intersections.
- (10) Appropriate traffic control signs shall be provided on all internal roads, and a regulation stop sign shall be installed at the point of intersection with a public road, unless a traffic control device is provided.

(b) Driveways.

- (1) Improved hard-surface driveways shall be provided on the site where necessary for convenient access to service entrances of buildings, and at delivery and collection points for fuel, refuse, and other materials.
- (1) The minimum width of driveways shall be 10 feet. The entrance to the driveway shall have the flare or radii, and horizontal alignment for safe and convenient ingress and egress.

(c) Resident Vehicle Parking.

- (1) All home sites shall be provided with two parking spaces.
- (2) If vehicle parking is provided on the home site, it shall be in compliance with both of the following provisions:
 - (i) The parking space shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade in compliance with the standards of AASHTO.
 - (ii) The parking spaces may be either in tandem or side by side. If spaces are in tandem, then the width shall not be less than 10 feet and the combined length shall not be less than 40 feet. If spaces are side by side, then the combined width of the two parking spaces shall not be less than 19 feet and the length shall be not less than 20 feet.
- (3) If the two resident vehicle parking spaces required by this section are provided off the home site, then the parking spaces shall be within 30 feet of the home site and each parking space shall have a clear parking width of 10 feet and a clear length of 20 feet.

- (4) If parking bays are provided for resident vehicle parking, they shall contain individual spaces that have a clear parking width of 10 feet and a clear length of 20 feet.

(d) Visitor Parking Facilities.

- (1) A minimum of one parking space for every three home sites shall be provided for visitor parking.
- (2) Visitor parking shall be located within 500 feet of the home sites the parking is intended to serve, as measured along a road or sidewalk.
- (3) If parking bays are provided for visitor parking, they shall contain individual spaces that have a clear parking width of 10 feet and a clear length of 20 feet.

(e) Sidewalks.

- (1) Sidewalks shall be constructed in the community and maintained for the safe and convenient movement from all home sites to principal destinations within the community and connection to the public sidewalks outside the community. Sidewalks shall be installed along one side of all internal collector roads within the community and to the public right-of-way and to all service facilities including but not limited to central laundry, central parking, and recreation areas. Sidewalks shall also be required along that portion of a community fronting along public thoroughfares.
- (2) All common sidewalks shall be constructed in compliance with all of the following requirements:
 - (i) Sidewalks shall have a minimum width of 4 feet and shall be constructed in compliance with Act 8 of the Public Acts of 1973, being Section 125.1361 et seq. of the Michigan Compiled Laws, an act which regulates sidewalks for handicappers.
 - (ii) All sidewalks shall meet the standards established in Rule 928 of the Manufactured Housing Commission Rules and AASHTO standards.
- (3) An individual sidewalk with a minimum width of 3 feet shall be constructed between at least one entrance, or patio, porch, or deck if provided, and the parking spaces on the home site or parking bay, whichever is provided, or the common sidewalk.

(f) Lighting.

- (1) Access points shall be lighted. If the public thoroughfare is lighted, then the illuminated level shall not be more than the average illumination level of the adjacent illuminated thoroughfare.
- (2) At all internal road intersections and designated pedestrian crosswalks, the minimum illumination shall not be less than .15 foot candle.
- (3) Internal roads, parking bays, and sidewalks shall be illuminated at not less than .05 foot candle.
- (4) If a community directory is provided, then it shall be illuminated at not less than 3.15 horizontal foot candles on any entry on the directory.

(g) Utilities.

- (1) All electrical, telephone, cable television, natural gas, and other utility services shall be installed underground and specifically designed in conformance with the Manufactured Housing Commission Rules. When separate meters are installed, each meter shall be located in a uniform manner on each housing site.
- (2) All manufactured housing sites and all other buildings within the community shall be connected to the water system of the Village, if it is available to the community, or to another state-approved system. The community water system shall conform to Parts 2-4 of the Michigan Department of Environmental Quality manufactured housing community standards.
- (3) Fire hydrants shall be installed in all communities for which public water systems are available and shall be in compliance with the requirements and provisions of the fire code. There shall be no more than 500 feet between hydrants as measured along adjacent roadways within the community.
- (4) All manufactured housing sites and all other buildings within the community shall be connected to the sanitary sewage system of the Village, if it is available to the community, or to another state-approved system. The community's sanitary sewage system shall conform to the Michigan Department of Environmental Quality manufactured housing community standards.
- (5) All storm sewers shall be constructed in accordance Parts 2-4 of the Michigan Department of Environmental Quality manufactured housing community standards. Additional requirements for a community may be established by the Kent County Drain Commissioner, pursuant to Section 11(3) of Public Act 96 of 1987, as amended.

(h) Site Size, Spacing and Setback Requirements.

- (1) Home Site Area. The manufactured housing community shall be developed with sites averaging 5,500 square feet per manufactured housing unit. This 5,500 square feet average may be reduced by twenty (20%) percent provided that each individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of the average site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R 125.1946, Rule 946 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code, and Section 7.05(j) of this Chapter.
- (2) Required Distances Between Homes and Other Structures.
 - (i) Home sites shall be arranged to allow for, and manufactured homes shall be located to comply with, all of the following minimum separation distances, as measured from the wall/support line or foundation line, whichever provides the greater distance:
 - (I) For a home not sited parallel to an internal road, 20 feet from any part of an attached structure of an adjacent home that is used for living purposes.
 - (II) For a home sited parallel to an internal road, 15 feet from any part of an attached structure of an adjacent home that is used for living purposes if the adjacent home is sited next to the home on the same internal road or an intersecting internal road.
 - (III) Ten feet from either of the following:
 - (aa) The parking space on an adjacent home site.
 - (bb) An attached or detached structure or accessory of an adjacent home that is not used for living purposes.
 - (IV) 50 feet from permanent community-owned structures, such as either of the following:
 - (aa) Club houses.
 - (bb) Maintenance and storage facilities.
 - (V) 100 feet from a baseball or softball field.
 - (VI) 25 feet from the fence of a swimming pool.

- (ii) Attached or detached structures or accessories that are not used for living space shall be a minimum of 10 feet from an adjacent home or its adjacent attached or detached structures.
 - (iii) Any part of a home or an accessory structure, such as steps, porches, supported or unsupported awnings, decks, carports or garages, or similar structures shall be set back the following minimum distances:
 - (I) 10 feet from the edge of an internal road.
 - (II) 7 feet from a parking bay off a home site.
 - (III) 7 feet from a common sidewalk.
 - (IV) 25 feet from a natural or man-made lake or waterway.
 - (iv) A carport shall be in compliance with both of the following setbacks if it is completely open, at a minimum, on the two long sides and the entrance side:
 - (I) Support pillars that are installed adjacent to the edge of an internal road shall be set back 4 feet or more from the edge of the internal road or 2 feet or more from the edge of a sidewalk.
 - (I) Roof overhangs shall be set back 4 feet or more from the edge of the internal road.
 - (v) Steps and their attachments shall not encroach into parking areas more than 3 1/2 feet.
- (3) Setbacks From Property Boundary Lines.
- (i) Homes, permanent buildings and facilities, and other structures shall not be located closer than 20 feet from the property boundary line of the community.
 - (ii) If homes, permanent buildings and facilities, and other structures abut a public right-of-way, then they shall not be located closer than 50 feet from the boundary line. If the boundary line runs through the center of the public road, then the 50 feet shall be measured from the road right-of-way line.
- (i) Screening/Landscaping. Manufactured housing communities shall be landscaped as follows:

- (1) If a manufactured housing community abuts an existing residential development, the community shall be required to provide screening along the boundary abutting the residential development.
- (2) If the community abuts a non-residential development, it need not provide screening.
- (3) In all cases, however, a community shall provide screening along the boundary abutting a public right-of-way.
- (4) The landscaping shall consist of evergreen trees or shrubs at least three feet in height which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the manufactured housing community as effectively as the required landscaping described above.
- (5) Exposed ground surfaces in all parts of the community shall be paved or covered with ornamental stone or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface and all parts of the community shall be graded and equipped to drain all surface water in a safe and efficient manner.

(j) Open Space Requirements.

- (1) A community that contains 50 or more sites shall have not less than 2 percent of the community's gross acreage dedicated to designated open space, but in no case less than 25,000 square feet. At least one-half of the required open space, up to two acres, shall be dedicated to community recreation uses, such as, but not limited to, picnic areas, athletic fields, playgrounds, walking trails, shuffleboard courts and lawn game areas.
- (2) Required setbacks may not be used in the calculation of open space area.

(k) Site Constructed Buildings and Dwellings.

- (1) Site constructed buildings within the community such as community buildings or laundries, but not including manufactured homes and their accessory storage buildings, shall be reviewed by the Village at the time of submission for a building permit.
- (2) The maximum height of any community or similar building shall not exceed 35 feet, or two stories in height, whichever is less. Storage or service buildings shall not exceed 15 feet, or one story in height.
- (3) Community or service buildings shall not be located adjacent to an adjoining parcel that is either zoned or developed for single-family residential purposes.

- (4) Site-built single-family dwellings may be located in a community as follows:
 - (i) One single-family dwelling may be permitted for the exclusive use of the community owner or manager in a community of 30 acres or less.
 - (ii) Two single-family dwellings may be permitted for the exclusive use of the community owner, manager, or caretaker in a community in excess of 30 acres.
 - (iii) Any such single-family dwellings permitted under this section shall comply in all respects with the requirements of single-family dwellings in the R-1 Single Family Residential District.
- (l) Signs. There shall be a maximum of one sign per road frontage with an entrance which shall bear only the name of the community. Such a sign shall be located from the street a distance equal to the setbacks established in Rule 944(2) of the Manufactured Housing Commission Rules. The sign may be lighted, provided that the source of the light is not visible and is not of the flashing or intermittent type. One sign, not exceeding 32 square feet in area shall be permitted for the first entrance provided to the community. For multiple entrances, a 16 square foot sign shall be permitted at each entrance after the first. Signs may be double-faced, but each side of the sign shall have identical copy and be flush with the other side.
- (m) RV Storage. If boats, boat trailers and utility trailers are permitted to be parked within the manufactured housing community, adequate parking spaces for such vehicles in a central or collective parking area shall be provided. This area shall be in addition to the automobile parking requirements of this ordinance and shall be adequately locked, fenced and permanently buffered.
- (n) Compliance with Regulations. The design, layout, construction and use of a manufactured housing community shall in all other respects comply with the regulations on the design, construction and use of manufactured housing communities, the sale and leasing of manufactured housing lots and all other aspects of the construction and use of manufactured housing communities, as set forth in the rules of the Michigan Manufactured Housing Commission, as amended from time to time.

SECTION 7.06. MANUFACTURED HOMES WITHIN MANUFACTURED HOUSING COMMUNITIES; OPERATION OF COMMUNITIES.

- (a) Home Size. Manufactured homes within a community shall not contain less than 920 square feet of area, as measured by the outside dimensions, nor have an outside width of less than 13 feet.

- (b) Installation. The installation of manufactured housing on each site within the community shall conform with the requirements of Rule 602 and Rule 602A of the Manufactured Housing Commission Rules. All utility connections to homes within the community shall be performed in accordance with the requirements of Rule 603 of the Manufactured Housing Commission Rules.
- (c) Skirting shall be installed around all manufactured housing units and meet all of the following requirements:
 - (1) Such skirting shall be compatible aesthetically with the appearance and construction of the manufactured housing unit. All skirting shall be installed prior to the issuance of a certificate of occupancy. In the event that such installation is delayed due to weather, or for other similar reasons, a temporary certificate of occupancy may be issued for a period not to exceed 90 days. All skirting shall meet the requirements established by the rules of the Michigan Manufactured Housing Commission.
 - (2) Individual manufactured housing units shall be skirted around the perimeter of the manufactured housing unit to conceal the underbody from view. Skirting shall be vented in accordance with the requirements of Rule 604 of the Manufactured Housing Commission Rules. All skirting shall be manufactured of fire resistant material and certified as such by the manufacturer. Skirting shall be installed in a manner so as to resist damage under normal weather conditions and shall be properly maintained.
- (d) Storage of Personal Property.
 - (1) Except as otherwise noted in this Ordinance, no personal property, including tires, shall be stored outside or under any mobile home, or within carports which are open on any side.
 - (2) Bicycles and motorcycles may be parked in carports. Seasonal outdoor storage of outdoor cooking grills is permitted so long as they are kept on either a finished wooden deck, a concrete or bituminous asphalt patio or equivalent type of surface associated with the home.
 - (3) Storage sheds with a maximum area of one hundred forty-four (144) square feet may be placed upon any individual mobile home site for the storage of personal property.
- (e) Towing mechanisms shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.

- (f) A manufactured home shall be used only as a single family dwelling. This provision shall not be construed to preclude the siting of model manufactured homes on licensed sites in a manufactured housing community.
- (g) No manufactured home shall be occupied for dwelling purposes unless it is placed on a site or lot and connected to water, sanitary sewer, electrical, and other facilities as may be necessary, prior to building official inspection and approval.
- (h) New or pre-owned manufactured homes, which are to remain on-site in the manufactured housing community, may be sold by the resident, owner or a licensed dealer or broker, provided that manufactured housing development management permits the sale.
- (i) The owner or operator of any community shall be responsible for all street maintenance within the confines of the community and shall be responsible for all snow removal within the confines of the community and shall be responsible for picking up trash and garbage within the confines of the community.
- (j) Swimming pools, if provided, shall be in compliance with Act 368 of the Public Acts of 1978, as amended, and the rules promulgated thereunder.
- (k) Individual fuel oil, liquid petroleum, or other fuel tanks or combustible personal property shall not be permitted to be stored in or under any home.
- (l) Each home site shall be provided with approved garbage containers that meet the requirements of the Manufactured Housing Commission. The containers shall be kept in sanitary conditions at all times. It shall be the responsibility of the community operator to ensure that all garbage containers do not overflow and to ensure that all areas within the community are maintained free from any trash or other discarded materials.
- (m) Every community shall be equipped with fire extinguishment equipment in good working order, with type, size and number so located as to be in compliance with Rule 702A of the Manufactured Housing Commission Rules. Each fire extinguisher shall be periodically examined and kept at all times in a useable condition in compliance with the regulations of the State Police Fire Marshal Division.

SECTION 7.07. REVIEW AND APPROVAL OF PRELIMINARY MANUFACTURED HOUSING COMMUNITY PLANS.

- (a) Review. Prior to the establishment of a new manufactured housing community, an expansion of a manufactured housing community, or construction of any building within the community not previously approved, a plan shall be presented to the Planning Commission for its review and approval.
- (b) Application. All plans submitted to the Planning Commission for review under this section shall contain the following information:

- (1) *The date, north arrow and scale.* The scale shall not be less than one inch equals fifty feet for property under three acres and at least one inch equals one hundred feet for those three acres or more.
- (2) All site and/or property lines are to be shown in dimension.
- (3) The location and height of all existing and proposed structures on and within the subject property, and existing within one hundred feet of the subject property.
- (4) The location and typical dimensions of all existing and proposed internal drives, sidewalks, curb openings, signs, exterior lighting, parking areas (showing dimensions of a typical parking space), unloading areas, community buildings, open space and recreation areas.
- (5) The location and the pavement and right-of-way width of all abutting roads, streets, or alleys.
- (6) The name and firm address of the professional civil engineering, registered landscape architect, landscaping firm, or architectural firms responsible for the preparation of the site plan.
- (7) The name and address of the property owner and developer.
- (8) The location of all community rubbish receptacles and landscaping and the location, height, and type of fences and walls.
- (9) Location of all fire hydrants, if applicable.
- (10) The number of manufactured housing sites proposed.
- (11) The submittal shall contain a narrative of the arrangements to be made for water supply and sewage disposal service, including approximate capacity, source of water supply, discharge points for sewage disposal, and description of stormwater management facilities.
- (12) Utility and other easements.
- (13) Existing wetlands.
- (14) Proposed sign locations.
- (15) Demonstration that all required setbacks and separation distances will be met.

Provided, however, that detailed construction plans shall not be required to be submitted to the Village.

- (c) Fee. Fees for the review of a manufactured housing community plan shall be established by resolution of the Village Council.
- (d) Decision.
 - (1) The plan shall be reviewed by the Planning Commission for compliance with the design standards for manufactured housing communities contained in this Chapter, and the regulations of the State Manufactured Housing Commission. If it is determined that the manufactured housing community complies with the Ordinance and regulations, it shall be approved.
 - (2) The plan shall be approved, approved with conditions, or denied within sixty (60) days after received by the Village, unless the applicant consents to allow a longer period of review. The 60-day review period, or other review period of alternate duration consented to by the applicant, shall not commence, in any case, until the lands for which the plan have been submitted have been zoned in the R-3 District.

CHAPTER 8
C-1 NEIGHBORHOOD BUSINESS DISTRICT

SECTION 8.01. DESCRIPTION AND PURPOSE. It is the intent of this chapter to provide for certain commercial enterprises designed to provide convenience shopping and service opportunities for neighborhoods and the community. The regulations for these commercial areas are designed to ensure compatibility with surrounding land uses by limiting their intensity and impact on adjoining streets and properties.

SECTION 8.02. PERMITTED USES. Land, buildings and structures in the C-1 Neighborhood Business District shall be used for the following purposes only:

- Antique shop
- Baked-goods or pastry store
- Barber or beauty shop
- Book, stationery, card or gift store
- Candy store, soda fountain, ice cream store
- Catering establishment
- Child care centers
- Clothes cleaning and/or laundry pick-up station
- Clothing and dry goods store
- Computer service and sales
- Consumer electronics
- Contractor (plumbing, heating, electrical, etc.), provided all operations and storage are completely enclosed in a building
- Convenience store
- Delicatessen
- Department store or discount store
- Electrical supply store
- Florist
- Fruit stand - enclosed
- Furniture store and home furnishings
- Grocery store
- Hardware store
- Household appliance store
- Ice cream store
- Jewelry store
- Laboratory, medical or dental
- Laundromat
- Lodge hall, private clubs, veterans' clubs
- Meat market
- Musical instrument store
- Office, including medical clinic
- Paint and wallpaper store
- Pet shop, but not the treatment or boarding of animals
- Pharmacy or drug store
- Photographic store

Printing, photocopying, and publishing shop
Radio and television store
Restaurants and cafes, but not including drive-ins or drive-through facilities
Retail store
Shoe repair shop
Small engine and appliance repair
Tailor
Taxidermist
Tire shop, excluding recapping and retreading
Variety store
Video rental and sales
Other retail commercial uses determined by the Planning Commission to be similar in nature to the listed uses

SECTION 8.03. SPECIAL LAND USES. The following uses may be permitted as a Special Land Use subject to the requirements of Chapter 12.

- (a) Taverns, bars, restaurants and cafes selling beer, wine or alcoholic liquors for consumption on the premises in compliance with all applicable state laws.
- (b) Restaurants and cafes with drive-in or drive-through windows or other drive-in customer service.
- (c) Off-site parking lots not associated with another principal use.
- (d) Funeral homes and mortuaries.
- (e) Community centers, churches, governmental, administration or service buildings which are owned and operated by a governmental agency or a non-profit organization.
- (f) Gasoline service stations, including motor vehicle repair.
- (g) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve not more than six (6) persons but is not operated in a structure constructed for residential purposes, or such a center or care home which is authorized to serve more than six (6) persons but not more than twelve (12) persons.
- (h) Nursing homes, homes for the aged, those state-licensed residential facilities with an approved capacity to serve more than twelve (12) persons and those facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities.
- (i) An Accessory Residential Use, subject to the terms and conditions of Section 12.37.

- (j) Provisioning center, as that term is defined and used by the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, as amended, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (k) Marihuana retailer or marihuana microbusiness, as those terms are defined and used by Michigan Initiated Law 1 of 2018, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (l) Safety compliance facility, as that term is defined and used by the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, as amended, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (m) Marihuana safety compliance facility, as that term is defined and used by Michigan Initiated Law 1 of 2018, subject to the applicable provisions of Section 12.38 of this Ordinance.

SECTION 8.04. OTHER USES. The following other uses are permitted as provided in this ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 4.15.
- (b) Signs as regulated under Chapter 15.
- (c) Off-street parking and loading as regulated by Chapter 16.

SECTION 8.05. REQUIRED CONDITIONS. The use of property in this District shall be subject to the following conditions:

- (a) If goods are produced on the premises for sale, more than 50% of the quantity of such goods shall be sold at retail on the premises where produced.
- (b) If a permitted or special use in this district is adjacent to an R-1 or R-2 district, a buffer must be constructed at the common property line consisting of either a solid fence, greenbelt, or a wall. The height of said buffer is subject to review and approval by the Planning Commission pursuant to Chapter 13. Said buffer shall be maintained in a neat and orderly manner.
- (c) All business, service or processing shall be conducted wholly within a completely enclosed building, except for motor vehicle parking, off-street loading, drive-up facilities at banks and other financial institutions, restaurant drive-up or drive-through facilities and gasoline service stations.

SECTION 8.06. HEIGHT AND YARD REQUIREMENTS.

- (a) No building shall exceed a maximum of thirty-five (35) feet in height, as measured from the natural grade at the front of the building or structure to the highest point of the building or structure; provided, however, that no building shall have more than two stories.

- (b) Each commercial building shall have a front yard of at least five (5) feet, provided that where an existing lesser setback line has been established by existing commercial buildings occupying forty (40) percent or more of the commercially-zoned frontage on the same block, said setback shall apply.
- (c) No side yard shall be required for a commercial building, except that where a side yard of a commercially-zoned lot adjoins a residential or agricultural use or a side street, a ten (10) foot side yard shall be required, unless a lesser side yard has been established by existing commercial buildings occupying forty (40) percent or more of the commercially-zoned frontage within the same block along the side street, in which case the established setback shall apply.

SECTION 8.07. MINIMUM LOT AREA AND WIDTH. No minimum lot area or minimum lot width is required.

SECTION 8.08. MINIMUM FLOOR AREA. No minimum building floor area is required.

CHAPTER 8A
C-2 HIGHWAY BUSINESS DISTRICT

SECTION 8A.01. DESCRIPTION AND PURPOSE.

- (a) The intent of the C-2 Highway Business District is to provide standards for commercial development in selected areas of the Village located along major streets and highways. The intent of the district is also to accommodate businesses and commercial uses that provide products and services for areas greater in scope than the surrounding neighborhoods or the immediate vicinity. Such uses are expected to be those which serve the travelling public, as well as local residents.
- (b) Among the additional specific purposes of the C-2 District are the following:
 - (1) To promote the safe and efficient flow of traffic by regulating the number and placement of driveways, and thus helping to minimize conflicts from vehicle turning movements.
 - (2) To enable the Planning Commission, through the site plan review process, to review proposed land uses with a view toward providing adequate off-street parking and loading; appropriate outdoor lighting; safe and convenient access; and otherwise to avoid adverse land use impacts.
 - (3) To enable the Planning Commission, through the site plan review process, to require landscaping designed to cause uses in the district to be reasonably compatible with other commercial uses in the Village, and to shield adverse views from adjacent lands and streets.
 - (4) To require in appropriate cases, alternate means of access by means of service drives or otherwise, so as to avoid traffic congestion.

SECTION 8A.02. PERMITTED USES. Land, buildings and structures in the C-2 Highway Business District shall be used for the following purposes only:

All uses permitted in the C-1 Business District
Auto wash
Automobile, motorcycle and other vehicle sales and repair
Bank and other financial institution
Bowling alley
Farm machinery and implements, sales and repair
Feed store
Funeral home and mortuary
Health club and fitness center
Home improvement center
Mobile home sales, trailer and camper sales
Motor vehicle sales and service
Motor vehicle storage garages

Nursery and greenhouse, including outdoor storage of goods, equipment and supplies
Off-street parking lot
Outdoor recreation business
Postal service facility; mail and package delivery service
Storage of goods and commodities in mini-warehouses and other personal rental space
Taverns, bars and cafes selling beer, wine or alcoholic liquors for consumption on the premises
Veterinary services
Other commercial and business uses serving the general area and determined by the Planning Commission to be similar in nature to the listed uses.
Wind Energy Conversion Systems which are less than 50 feet in height and which comply with the requirements of Section 4.40.

SECTION 8A.03. SPECIAL LAND USES. The following uses may be permitted as a special land use subject to the requirements of Chapter 12.

- (a) Gasoline service station, including motor vehicle repair
- (b) Commercial kennels.
- (c) Wholesale warehousing
- (d) Hotel and motel
- (e) Restaurant with drive-up or drive-through window
- (f) Hospital
- (g) College and trade school
- (h) Open air business
- (i) Indoor ice rink
- (j) Theater
- (k) Storage and parking of contracting equipment, including outdoor storage and parking. Such contracting equipment may include, though is not limited, to earth-moving and excavating vehicles and equipment and other equipment associated with construction, excavation and the building trades.
- (l) Community centers, churches, governmental, administration or service buildings which are owned and operated by a governmental agency or a non-profit organization.
- (m) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve not more than six (6) persons but is not operated in a structure

constructed for residential purposes, or such a center or care home which is authorized to serve more than six (6) persons but not more than twelve (12) persons.

- (n) Nursing homes, homes for the aged, those state-licensed residential facilities with an approved capacity to serve more than twelve (12) persons and those facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities.
- (o) Provisioning center, as that term is defined and used by the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, as amended, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (p) Marihuana retailer or marihuana microbusiness, as those terms are defined and used by Michigan Initiated Law 1 of 2018, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (q) Safety compliance facility, as that term is defined and used by the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, as amended, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (r) Marihuana safety compliance facility, as that term is defined and used by Michigan Initiated Law 1 of 2018, subject to the applicable provisions of Section 12.38 of this Ordinance.

SECTION 8A.04. OTHER USES. The following other uses are permitted as provided in this ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 4.15.
- (b) Signs as regulated under Chapter 15.
- (c) Off-street parking and loading as regulated by Chapter 16.

SECTION 8A.05. REQUIRED CONDITIONS. The use of property in this District shall be subject to the following conditions:

- (a) If a permitted use or a special land use is adjacent to an R-1 or R-2 district, a buffer shall be constructed at or near the common property line. The buffer shall consist of a solid fence, or a greenbelt or a wall. The height of the buffer, and the extent to which it will serve to shield the view of the use from the adjacent R-1 or R-2 lands, shall be subject to review and approval by the Planning Commission under Chapter 13, pertaining to site plan review.
- (b) Driveways shall be subject to the approval of other governmental agencies having jurisdiction, including the Michigan Department of Transportation with regard to a state highway.

- (c) The Planning Commission may require development of service drives, where such drives can serve to minimize the number of driveways onto the abutting street or may serve to insure that traffic is able to safely gain access to or from parcels of land within the district.
- (d) The Planning Commission may require the submission of a landscape plan in conjunction with site plan review. If required, the landscape plan shall indicate existing vegetation that is to be retained; location, size and type of all proposed plants; the location of berms and other natural features on the site; and other matters that may be required by the Planning Commission.
- (e) Mechanical equipment and service areas shall be visually screened from adjacent properties, public streets and other public areas.
- (f) Off-street parking areas and off-street loading areas shall be provided in compliance with Chapter 16.
- (g) The Planning Commission may require the submission of an outdoor lighting plan in conjunction with site plan review. If required, the lighting plan shall indicate the location, nature and illumination levels of all outdoor lighting fixtures, including the height thereof. Other detail regarding outdoor lighting fixtures may be required.
- (h) Buildings shall be designed and constructed using a variety of architectural materials and features, so as to moderate the visual impact of the building, particularly where long building walls are located along an adjacent street.

SECTION 8A.06. HEIGHT AND YARD REQUIREMENTS.

- (a) No building or structure shall exceed a maximum of forty-five (45) feet in height, as measured from the natural grade at the front of the building or structure to the highest point of the building or structure.
- (b) There shall be a minimum required front yard of seventy-five (75) feet.
- (c) There shall be a minimum required of rear yard of twenty-five (25) feet.
- (d) Each side yard shall have a minimum width of ten (10) feet except that such minimum width shall be twenty-five (25) feet for any side yard that is adjacent to a residential use or adjacent to residentially-zoned land.

SECTION 8A.07. MINIMUM LOT WIDTH. The minimum lot width shall be one hundred (100) feet.

SECTION 8A.08. MINIMUM FLOOR AREA. No minimum building floor area is required.

CHAPTER 9
I-1 LIGHT INDUSTRIAL DISTRICT

SECTION 9.01. DESCRIPTION AND PURPOSE. This zoning district permits the compounding, assembling, or treatment of articles or materials, but does not permit heavy manufacturing or the processing of raw materials. The district also provides for certain other services and uses that are compatible with light industrial uses.

SECTION 9.02. PERMITTED USES. Land, buildings or structures in this Zoning District may be used for the following purposes only:

- (a) The manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products, except the rendering or refining of fats and oils.
- (b) The compounding, assembly or treatment of articles from the following previously-prepared materials: canvas, cloth, cork, felt, fibers, glass, leather, paper, plastics, rubber, tin, wood and yarn.
- (c) Auto repair shops
- (d) Contractor yards
- (e) Crating and packing service
- (f) Printing shops
- (g) Sign painting and servicing shops
- (h) Public utility service or storage yard.
- (i) Warehouses and storage
- (j) Wholesale sales
- (k) Off-site parking lots not associated with another principal use.
- (l) Other similar light industrial uses that involve the compounding, assembly or treatment of goods, articles or materials, but which do not involve heavy manufacturing or the processing of raw materials.

SECTION 9.03. SPECIAL LAND USES. The following uses may be permitted as a Special Land Use subject to the requirements of Chapter 12.

- (a) Bottling plants and dairies.
- (b) Machine shop
- (c) Other light industrial uses not included in Section 9.02.

- (d) Processor, as that term is defined and used by the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, as amended, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (e) Marihuana processor, as that term is defined and used by Michigan Initiated Law 1 of 2018, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (f) Grower (Class A, B or C), as that term is defined and used by the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, as amended, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (g) Marihuana grower (Class A, B or C), as that term is defined and used by Michigan Initiated Law 1 of 2018, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (h) Safety compliance facility, as that term is defined and used by the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, as amended, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (i) Marihuana safety compliance facility, as that term is defined and used by Michigan Initiated Law 1 of 2018, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (j) Secure transporter, as that term is defined and used by the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, as amended, subject to the applicable provisions of Section 12.38 of this Ordinance.
- (k) Marihuana secure transporter, as that term is defined and used by Michigan Initiated Law 1 of 2018, subject to the applicable provisions of Section 12.38 of this Ordinance.

SECTION 9.04. OTHER USES. The following other uses are permitted as provided in this ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 4.15.
- (b) Signs as regulated under Chapter 15.
- (c) Off-street parking and loading as regulated by Chapter 16.

SECTION 9.05. HEIGHT REGULATIONS. No building or structure shall exceed a maximum of forty-five (45) feet in height, as measured from the natural grade at the front of the building or structure to the highest point of the building or structure.

SECTION 9.06. AREA REGULATIONS. No building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following requirements are provided and maintained in connection with such building, structure, or enlargement.

- (a) Front Yard. There shall be a front setback of not less than fifty (50) feet.
- (b) Side Yards. There shall be total side yards of not less than fifty (50) feet; provided, however, that no side yard shall be less than twenty-five (25) feet. Where an I-1 District abuts the R-1 District, or the R-2 District, there shall be a side yard setback of at least fifty (50) feet.
- (c) Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet; provided, however, that where an I-1 District abuts the R-1 District, the R-2 District, or other residentially-used lands, there shall be a rear yard setback of at least one hundred (100) feet except that the Planning Commission may permit such required rear yard setback to be a minimum of 50 feet, in its approval of a site plan under Chapter 13.
- (d) Lot Area and Width. The minimum lot area shall be thirty thousand (30,000) square feet and the minimum lot width shall be one hundred twenty-five (125) feet.

SECTION 9.07. MINIMUM FLOOR AREA. No minimum building floor area is required.

SECTION 9.08. REQUIRED CONDITIONS.

- (a) Any side yard or rear yard adjoining any lot or parcel of land in the R-1 or R-2 District shall be screened by a compact hedge of deciduous or evergreen trees, having such minimum height as determined by the Planning Commission in its review and approval of the site plan under the terms of Chapter 13.
- (b) Ingress to and egress from any lot or parcel of land shall be designed and used so as to maximize pedestrian safety, ease of traffic flow and control and ready access by emergency vehicles and personnel.
- (c) Off-street parking and loading areas shall be designed and used so as to avoid significant adverse impact on adjacent and nearby lands.
- (d) Refuse and service areas shall be designed and used so as to maximize motor vehicle and pedestrian safety and convenience, promote ease of traffic flow and to minimize the effects, if any, of smoke, noise, dust, vibration or odor on adjacent or nearby lands.

CHAPTER 10

RESIDENTIAL PLANNED UNIT DEVELOPMENT

SECTION 10.01. DESCRIPTION AND PURPOSE. This chapter is intended to authorize greater flexibility, creativity and design in the development of lands used for residential purposes, through the establishment of pre-planned areas in accordance with plans approved by the Village under the requirements and procedures of this chapter.

SECTION 10.02. AUTHORIZATION. A Planned Unit Development (“PUD”) shall be approved by amendment to the zoning map, with an accompanying ordinance specifying the terms and conditions of approval of the PUD. Approval under this Chapter, including all aspects of the final plan and conditions imposed shall be considered as part of the Zoning Ordinance, although it need not be incorporated into the codified ordinances of general application. Violation of any provision of a planned unit development ordinance shall in all respects be considered a violation of the Zoning Ordinance.

SECTION 10.03. ELIGIBILITY FOR PUD REZONING.

- (a) Lands proposed for PUD rezoning shall have an area of at least five contiguous acres.
- (b) A proposed PUD shall satisfy all of the following minimum requirements:
 - (1) The PUD shall result in substantial benefit to the users of the development and to the Village.
 - (2) The PUD shall not result in a significant increase in the need for public services and facilities and shall not place a significant burden upon surrounding lands or the natural environment, unless any resulting adverse effects are adequately provided for or are mitigated by features of the PUD as approved.
 - (3) The PUD shall be compatible with the Village Master Plan and consistent with the intent and purposes of this chapter.

SECTION 10.04. LAND USES. Land, building and structures in the Residential Planned Unit Development District shall be used only for the permitted uses stated in the R-1 Single Family Residential District and the R-2 Medium Density Residential District.

SECTION 10.05. APPLICATION AND REVIEW PROCEDURES.

- (a) Optional Preapplication Conference. Before submitting an application for a PUD, the applicant may meet with the Planning Commission to submit information regarding the proposed PUD and to confer with the Planning Commission about any proposed application and the PUD.

(b) Preliminary Development Plan.

- (1) An applicant for PUD rezoning shall submit 12 copies of a preliminary development plan of the development which contains the following information:
 - (i) Legal description of the lands and the street address thereof;
 - (ii) A narrative describing the uses and purposes of the PUD;
 - (iii) Locational sketch of the site in relation to surrounding and nearby lands;
 - (iv) Date, north arrow and scale;
 - (v) All lot lines or other property lines, with dimensions;
 - (vi) Existing and proposed topographical contours;
 - (vii) Location of existing natural resources, including woodlands, drainage courses, floodplains, wetlands, lakes, streams and other bodies of water;
 - (viii) Existing zoning and land use of the proposed site and adjacent and nearby lands;
 - (ix) Location, size and type of all existing and proposed buildings and structures;
 - (x) Location and dimensions of all existing and proposed streets, driveways and parking areas;
 - (xi) Area and location of all areas devoted to open space;
 - (xii) Statement of all uses that are to be conducted on the lands and the location of all such uses;
 - (xiii) Location and description of existing and proposed signs and exterior lighting;
 - (xiv) Proposed restrictive covenants, if any, for the development;
 - (xv) Description of the means proposed for sanitary sewage disposal and the supplying of water;
- (2) If required by the Planning Commission, the preliminary development plan shall include additional information reasonably necessary for the review and consideration of the proposed development and the effects thereof. Such other information may include a traffic impact analysis,

environmental impact statement, economic studies and other relevant data and background information.

- (3) The Planning Commission may, in addition, require that the applicant obtain comments from the County Health Department, County Road Commission, County Drain Commissioner, Department of Natural Resources, Department of Environmental Quality, Department of Transportation and other governmental agencies regarding possible or likely effects of the proposed PUD on matters within their respective jurisdictions.
- (c) Review of Preliminary Development Plan. The Planning Commission shall review the preliminary development plan and make recommendations to the applicant regarding the PUD, together with any recommended changes in or modifications thereof. The recommendations shall be based upon consideration of the requirements of this Ordinance and, in particular, the requirements of this Chapter.
- (d) Advisory Public Hearing. In the course of its consideration of the preliminary development plan, the Planning Commission may, but is not required to, convene an advisory public hearing to receive public comments concerning the preliminary development plan. Informal notice of such advisory hearing shall be given in the manner provided in Section 19.07. Failure to give notice of such an advisory public hearing shall not affect the validity of the proceedings.
- (e) Final Development Plan. After receiving the recommendations of the Planning Commission concerning the preliminary development plan, the applicant shall submit 12 copies of a final development plan to the Village, which contains the information required for a preliminary development plan, and which addresses other matters requested by the Planning Commission. Copies of the final development plan and an application for PUD rezoning, shall be forwarded to the Planning Commission. The plan shall also state the projected time for completion of the PUD, any proposed phasing of the PUD, and the projected time for completion of each phase.
- (f) Public Hearing on Final Development Plan. Notice of the hearing shall be given in the manner provided in Section 19.07 of this Ordinance.
- (g) Recommendation by Planning Commission. After public hearing, the Planning Commission shall make recommendations to the Village Council regarding the final development plan. The Planning Commission may recommend in favor of rezoning the lands in accordance with the final development plan; it may recommend against rezoning of the lands in accordance with the final development plan; or it may recommend such rezoning only if certain changes or modifications in the PUD are made or if certain specific conditions are imposed.

- (h) Consideration by Village Council. The Village Council shall review the final development plan and the recommendations submitted by the Planning Commission. The Village Council shall determine whether the final development plan complies with the standards, conditions and requirements of this Ordinance and, in addition, shall determine whether the proposed project promotes the purposes of this Chapter. After making such determination, the Village Council may approve the final development plan and grant the rezoning application, or may deny approval of the plan and the application for rezoning.
- (i) Conditions of Approval. The Village Council may impose reasonable conditions upon its approval of a PUD, so as to protect the environment and conserve natural resources and energy, to ensure compatibility with adjacent use of lands, and promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
 - (1) They shall be designed to protect natural resources, the health, safety and welfare of those who will use the proposed development and landowners in the vicinity of the development and the community as a whole.
 - (2) They shall be related to the valid exercise of the Village's regulatory authority, and in particular its authority as to those matters which may be affected by the proposed development.
 - (3) They shall be necessary to meet the intended purpose of this Ordinance, be related to the standards established in this chapter for the proposed PUD under consideration, and be necessary to ensure compliance with those standards.

SECTION 10.06. DESIGN AND DEVELOPMENT REQUIREMENTS. The following minimum design and development standards and requirements shall apply to a Residential Planned Unit Development:

- (a) The maximum building density per acre of land in the PUD shall be as approved by the Planning Commission and Village Council.
- (b) Building setback requirements shall conform to such requirements as stated in the R-1 District or the R-2 District, except that the Planning Commission and Village Council may permit greater or lesser building setbacks, based upon the natural features of the site, particular aspects of the proposed uses or for other land use considerations.
- (c) The height of buildings and structures shall not exceed 35 feet.
- (d) The buildings and structures in the proposed PUD shall be designed and developed with a reasonably compatible architectural treatment or theme.
- (e) Yards and distances between principal buildings, and the uses of any required yards, shall be as determined by the Planning Commission and Village Council.

- (f) The Planning Commission and Village Council may require that a portion of the gross site area shall be preserved and maintained as common open space.
- (g) Streets, building locations, vehicle parking areas, pedestrian ways and utility easements shall be designed to promote public safety and compatibility of land uses, and to minimize friction between land uses.
- (h) There shall be adequate and convenient access for fire and other emergency vehicles.
- (i) Private streets may be used for internal circulation streets and for parking purposes if adequate provision is made for police and fire protection, refuse collection and other public services.
- (j) Driveways and circulation roadways shall be designed to minimize traffic and congestion within the PUD.
- (k) Off-street parking spaces shall be as determined by the Planning Commission and Village Council.
- (l) For land areas in the PUD that are to be held in common ownership, a restrictive covenant or comparable recordable instrument showing future maintenance provisions shall be prepared and recorded, subject to approval by the Planning Commission and Village Council.
- (m) Grading within the PUD shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land or upon adjacent and nearby lands.
- (n) There shall be adequate and effective stormwater drainage systems, subject to the approval of the Village's engineers.
- (o) The placement of signs, and the area, height, nature and type thereof, and other aspects of any signs within the PUD, shall be as determined by the Planning Commission and Village Council.

SECTION 10.07. AMENDMENTS IN THE PUD.

- (a) An approved final development plan and any conditions imposed upon final PUD approval shall not be changed except upon the mutual consent of the Village Council and the applicant, except as stated in this section.
- (b) A minor amendment in a PUD may be approved by the Planning Commission, at a public meeting thereof, without notice or public hearing.

The following items shall be considered to be minor amendments:

- (1) Reduction of the size of any building, structure or sign.

- (2) The minor relocation, or adjustment in the placement, of buildings or other structures.
 - (3) Changes in floor plans which do not alter the character of the use.
 - (4) Internal rearrangement of parking areas, if it does not affect the number of parking spaces or alter the design or location of parking area access.
 - (5) Changes required by the Village for safety reasons.
 - (6) Changes which would preserve the natural features of the site, without changing the basic development layout.
 - (7) Other similar changes of a minor nature which are proposed to be made to the configuration, design, layout or topography of the development plan and which are deemed by the Planning Commission to be not material or significant in relation to the entire site, and which the Planning Commission determines would not have a significant adverse effect upon adjacent or nearby lands or the public interest.
- (c) If a proposed amendment or other modification in an approved PUD is not a minor amendment, then such amendment shall be a major amendment. In such case, the applicant shall submit the requested change or amendment to the Village, and the same shall be considered by the Planning Commission and the Village Council in the same manner and under the same procedures as an original application for PUD approval and rezoning.

SECTION 10.08. PERFORMANCE GUARANTIES.

- (a) The Village Council, after recommendation by the Planning Commission, or in its own discretion, may require reasonable performance guarantees deemed sufficient to assure the completion of a proposed PUD or portions thereof. The amount of the performance guarantee shall be determined by the Village Council, based on a recommendation by the Planning Commission.
- (b) Such performance guarantees may be in the form of a cash deposit, performance bond, letter of credit, or other satisfactory written assurance. In the case of performance guarantees involving sureties or guarantors, such sureties or guarantors shall be satisfactory to the Village Council and such performance guaranties shall be conditioned upon timely and faithful compliance with all of the terms and conditions of the PUD.
- (c) In its discretion, the Village Council, upon recommendation by the Planning Commission, may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit or other written assurance, based upon the percent or other portion of the required improvements that have been satisfactorily completed.

SECTION 10.09. TIME LIMITATIONS ON DEVELOPMENT. Each PUD shall be under construction within one year after the date of approval of the final development plan and the adoption of the Zoning Ordinance amendment by the Village Council. If this requirement is not complied with, the Planning Commission may in its discretion grant an extension not exceeding one year, if the PUD applicant submits reasonable evidence to the effect that unforeseen difficulties or other special circumstances have been encountered. If a PUD has not been commenced within the required period of time, or within any authorized extension thereof, no building permits for the PUD or any part thereof shall be issued. In such a case, the Planning Commission and Village Council may initiate proceedings for the rezoning of the lands to some other zoning district.

CHAPTER 11

COMMERCIAL PLANNED UNIT DEVELOPMENT

SECTION 11.1. DESCRIPTION AND PURPOSE. This chapter is intended to authorize greater flexibility, creativity and design in the development of lands used for commercial purposes, through the establishment of pre-planned areas in accordance with plans approved by the Village under the requirements and procedures of this chapter.

SECTION 11.2. AUTHORIZATION. A Planned Unit Development (“PUD”) shall be approved by amendment to the zoning map, with an accompanying ordinance specifying the terms and conditions of approval of the PUD. Approval under this Chapter, including all aspects of the final plan and conditions imposed shall be considered as part of the Zoning Ordinance, although it need not be incorporated into the codified ordinances of general application. Violation of any provision of a planned unit development ordinance shall in all respects be considered a violation of the Zoning Ordinance.

SECTION 11.3. ELIGIBILITY FOR PUD REZONING.

- (a) Lands proposed for PUD rezoning shall have an area of at least five contiguous acres.
- (b) A proposed PUD shall satisfy all of the following minimum requirements:
 - (1) The PUD shall result in substantial benefit to the users of the development and to the Village.
 - (2) The PUD shall not result in a significant increase in the need for public services and facilities and shall not place a significant burden upon surrounding lands or the natural environment, unless any resulting adverse effects are adequately provided for or are mitigated by features of the PUD as approved.
 - (3) The PUD shall be compatible with the Village Master Plan and consistent with the intent and purposes of this chapter.

SECTION 11.4. LAND USES. Land, building and structures in the Commercial Planned Unit Development District shall be used only for the permitted uses stated in the C-1 Business District.

SECTION 11.5. APPLICATION AND REVIEW PROCEDURES.

- (a) Optional Preapplication Conference. Before submitting an application for a PUD, the applicant may meet with the Planning Commission to submit information regarding the proposed PUD and to confer with the Planning Commission about any proposed application and the PUD.

(b) Preliminary Development Plan.

- (1) An applicant for PUD rezoning shall submit 12 copies of a preliminary development plan of the development which contains the following information:
 - (i) Legal description of the lands and the street address thereof;
 - (ii) A narrative describing the uses and purposes of the PUD;
 - (iii) Locational sketch of the site in relation to surrounding and nearby lands;
 - (iv) Date, north arrow and scale;
 - (v) All lot lines or other property lines, with dimensions;
 - (vi) Existing and proposed topographical contours;
 - (vii) Location of existing natural resources, including woodlands, drainage courses, floodplains, wetlands, lakes, streams and other bodies of water;
 - (viii) Existing zoning and land use of the proposed site and adjacent and nearby lands;
 - (ix) Location, size and type of all existing and proposed buildings and structures;
 - (x) Location and dimensions of all existing and proposed streets, driveways and parking areas;
 - (xi) Area and location of all areas devoted to open space;
 - (xii) Statement of all uses that are to be conducted on the lands and the location of all such uses;
 - (xiii) Location and description of existing and proposed signs and exterior lighting;
 - (xiv) Proposed restrictive covenants, if any, for the development; and
 - (xv) Description of the means proposed for sanitary sewage disposal and the supplying of water.
- (2) If required by the Planning Commission, the preliminary development plan shall include additional information reasonably necessary for the review and consideration of the proposed development and the effects thereof. Such other information may include a traffic impact analysis,

environmental impact statement, economic studies and other relevant data and background information.

- (3) The Planning Commission may, in addition, require that the applicant obtain comments from the County Health Department, County Road Commission, County Drain Commissioner, Department of Natural Resources, Department of Environmental Quality, Department of Transportation and other governmental agencies regarding possible or likely effects of the proposed PUD on matters within their respective jurisdictions.
- (c) Review of Preliminary Development Plan. The Planning Commission shall review the preliminary development plan and make recommendations to the applicant regarding the PUD, together with any recommended changes in or modifications thereof. The recommendations shall be based upon consideration of the requirements of this Ordinance and, in particular, the requirements of this Chapter.
- (d) Advisory Public Hearing. In the course of its consideration of the preliminary development plan, the Planning Commission may, but is not required to, convene an advisory public hearing to receive public comments concerning the preliminary development plan. Informal notice of such advisory hearing shall be given in the manner provided in Section 19.07. Failure to give notice of such an advisory public hearing shall not affect the validity of the proceedings.
- (e) Final Development Plan. After receiving the recommendations of the Planning Commission concerning the preliminary development plan, the applicant shall submit 12 copies of a final development plan to the Village, which contains the information required for a preliminary development plan, and which addresses other matters requested by the Planning Commission. Copies of the final development plan and an application for PUD rezoning, shall be forwarded to the Planning Commission. The plan shall also state the projected time for completion of the PUD, any proposed phasing of the PUD, and the projected time for completion of each phase.
- (f) Public Hearing on Final Development Plan. The Planning Commission shall hold a public hearing on the final development plan and the application for rezoning. Notice of the hearing shall be given in the manner provided in Section 19.07 of this Ordinance.
- (g) Recommendation by Planning Commission. After public hearing, the Planning Commission shall make recommendations to the Village Council regarding the final development plan. The Planning Commission may recommend in favor of rezoning the lands in accordance with the final development plan; it may recommend against rezoning of the lands in accordance with the final development plan; or it may recommend such rezoning only if certain changes or modifications in the PUD are made or if certain specific conditions are imposed.

- (h) Consideration by Village Council. The Village Council shall review the final development plan and the recommendations submitted by the Planning Commission. The Village Council shall determine whether the final development plan complies with the standards, conditions and requirements of this Ordinance and, in addition, shall determine whether the proposed project promotes the purposes of this Chapter. After making such determination, the Village Council may approve the final development plan and grant the rezoning application, or may deny approval of the plan and the application for rezoning.
- (i) Conditions of Approval. The Village Council may impose reasonable conditions upon its approval of a PUD, so as to protect the environment and conserve natural resources and energy, to ensure compatibility with adjacent use of lands, and promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
 - (1) They shall be designed to protect natural resources, the health, safety and welfare of those who will use the proposed development and landowners in the vicinity of the development and the community as a whole.
 - (2) They shall be related to the valid exercise of the Village's regulatory authority, and in particular its authority as to those matters which may be affected by the proposed development.
 - (3) They shall be necessary to meet the intended purpose of this Ordinance, be related to the standards established in this chapter for the proposed PUD under consideration, and be necessary to ensure compliance with those standards.

SECTION 11.6. DESIGN AND DEVELOPMENT REQUIREMENTS. The following minimum design and development standards and requirements shall apply to a Commercial Planned Unit Development:

- (a) The maximum building density per acre of land in the PUD shall be as approved by the Planning Commission and Village Council.
- (b) Building setback requirements shall conform to such requirements as stated in the C-1 District, except that the Planning Commission and Village Council may permit greater or lesser building setbacks, based upon the natural features of the site, particular aspects of the proposed uses or for other land use considerations.
- (c) The height of buildings and structures shall not exceed 35 feet.
- (d) The buildings and structures in the proposed PUD shall be designed and developed with a reasonably compatible architectural treatment or theme.
- (e) Yards and distances between principal buildings, and the uses of any required yards, shall be as determined by the Planning Commission and Village Council.

- (f) The PUD shall be reasonably compatible with nearby residential uses, as determined by the following standards:
 - (1) The PUD site shall have direct access to a public street.
 - (2) The appearance of the PUD shall be reasonably harmonious with adjacent and nearby uses, or the appearance thereof shall be reasonably moderated by landscaping, enclosure of principal and accessory uses, lower profile of buildings, various architectural controls and other means.
 - (3) The distances separating proposed buildings and other uses from adjacent and nearby residential lands and uses shall be great enough to serve as a reasonable buffer.
 - (4) Loading docks, refuse accumulation areas, truck maneuvering areas and similar exterior uses shall be sufficiently set back from property lines and, where appropriate, shall be sufficiently buffered or shielded, so as to avoid serious adverse effects upon adjacent or nearby lands.
 - (5) The uses in the PUD shall have no serious adverse effects upon adjacent or nearby residential lands.
- (g) The Planning Commission and Village Council may require that a portion of the gross site area shall be preserved and maintained as common open space.
- (h) Streets, building locations, vehicle parking areas, pedestrian ways and utility easements shall be designed to promote public safety and compatibility of land uses, and to minimize friction between land uses.
- (i) There shall be adequate and convenient access for fire and other emergency vehicles.
- (j) Private streets may be used for internal circulation streets and for parking purposes if adequate provision is made for police and fire protection, refuse collection and other public services.
- (k) Driveways and circulation roadways shall be designed to minimize traffic and congestion within the PUD.
- (l) Off-street parking areas for commercial uses shall comply with the C-1 District parking requirements. However, in the discretion of the Planning Commission and Village Council, in the approval of the PUD, a greater or lesser off-street parking requirement may be approved, based upon the applicable land use facts and circumstances.
- (m) For land areas in the PUD that are to be held in common ownership, a restrictive covenant or comparable recordable instrument showing future maintenance

provisions shall be prepared and recorded, subject to approval by the Planning Commission and Village Council.

- (n) Grading within the PUD shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land or upon adjacent and nearby lands.
- (o) There shall be adequate and effective stormwater drainage systems, subject to the approval of the Village's engineers.
- (p) The Planning Commission and Village Council may require screening and buffering of commercial uses in the PUD, from other lands and land uses, by means of landscaping, isolation distances and other methods.
- (q) Signs in the PUD shall be as determined by the Planning Commission and the Village Council as to the type, nature, area, height, placement and setback of signs and other aspects thereof.
- (r) Off-street loading space shall comply with the off-street loading space requirements for commercial uses as stated in Chapter 16; provided, however, that the Planning Commission and Village Council, in their approval of the PUD, may permit other or different off-street loading arrangements or facilities.

SECTION 11.7. AMENDMENTS IN THE PUD.

- (a) An approved final development plan and any conditions imposed upon final PUD approval shall not be changed except upon the mutual consent of the Village Council and the applicant, except as stated in this section.
- (b) A minor amendment in a PUD may be approved by the Planning Commission, at a public meeting thereof, without notice or public hearing.

The following items shall be considered to be minor amendments:

- (1) Reduction of the size of any building, structure or sign.
- (2) The minor relocation, or adjustment in the placement, of buildings or other structures.
- (3) Changes in floor plans which do not alter the character of the use.
- (4) Internal rearrangement of parking areas, if it does not affect the number of parking spaces or alter the design or location of parking area access.
- (5) Changes required by the Village for safety reasons.
- (6) Changes which would preserve the natural features of the site, without changing the basic development layout.

- (7) Other similar changes of a minor nature which are proposed to be made to the configuration, design, layout or topography of the development plan and which are deemed by the Planning Commission to be not material or significant in relation to the entire site, and which the Planning Commission determines would not have a significant adverse effect upon adjacent or nearby lands or the public interest.
- (c) If a proposed amendment or other modification in an approved PUD is not a minor amendment, then such amendment shall be a major amendment. In such case, the applicant shall submit the requested change or amendment to the Village, and the same shall be considered by the Planning Commission and the Village Council in the same manner and under the same procedures as an original application for PUD approval and rezoning.

SECTION 11.8. PERFORMANCE GUARANTEES.

- (a) The Village Council, after recommendation by the Planning Commission, or in its own discretion, may require reasonable performance guarantees deemed sufficient to assure the completion of a proposed PUD or portions thereof. The amount of the performance guarantee shall be determined by the Village Council, based on a recommendation by the Planning Commission.
- (b) Such performance guarantees may be in the form of a cash deposit, performance bond, letter of credit, or other satisfactory written assurance. In the case of performance guarantees involving sureties or guarantors, such sureties or guarantors shall be satisfactory to the Village Council and such performance guaranties shall be conditioned upon timely and faithful compliance with all of the terms and conditions of the PUD.
- (c) In its discretion, the Village Council, upon recommendation by the Planning Commission, may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit or other written assurance, based upon the percent or other portion of the required improvements that have been satisfactorily completed.

SECTION 11.9. TIME LIMITATIONS ON DEVELOPMENT. Each PUD shall be under construction within one year after the date of approval of the final development plan and the adoption of the Zoning Ordinance amendment by the Village Council. If this requirement is not complied with, the Planning Commission may in its discretion grant an extension not exceeding one year, if the PUD applicant submits reasonable evidence to the effect that unforeseen difficulties or other special circumstances have been encountered. If a PUD has not been commenced within the required period of time, or within any authorized extension thereof, no building permits for the PUD or any part thereof shall be issued. In such a case, the Planning Commission and Village Council may initiate proceedings for the rezoning of the lands to some other zoning district.

CHAPTER 12 SPECIAL LAND USES

SECTION 12.01. PURPOSE OF SPECIAL LAND USES. Uses allowed as special land uses are those which, because of their nature, are not necessarily appropriate at all locations throughout a zoning district, or are appropriate only if subject to special conditions. The purpose of this chapter is to provide standards and procedures for reviewing requests for special land uses, and for imposing conditions upon such uses.

SECTION 12.02. PROCEDURES FOR SPECIAL LAND USES.

- (a) The applicant shall submit to the Planning Commission, through the Village Clerk, an application which shall include a required site plan (See Chapter 13) and written evidence and drawings showing that all of the requirements for the applicable special use are met.
- (b) Upon receipt of such application, one (1) notice of a hearing on the special land use request shall be delivered and published in accordance with Section 19.07 of this Ordinance.
- (c) A public hearing shall be held by the Planning Commission before a final decision is made regarding the application.
- (d) Reasonable conditions may be attached to the approval of a special land use. The conditions may include, but are not limited to, 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 ensure reasonably-shaped and buildable lots or parcels (where applicable), 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. Conditions imposed shall meet all of the following requirements:
 - (1) Be designed to protect natural resources, the health, safety and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - (2) Be related to the valid exercise of the police power, and purpose which are affected by the proposed use or activity.
 - (3) Be necessary to meet the intent and purpose of the Zoning Ordinance and Master Plan, be related to the standards established in the ordinance for the land use or activity under consideration and help insure compliance with those standards.

- (e) The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner after a public hearing, notice of which was given in the same manner as the original hearing. The approving Planning Commission shall maintain a record of conditions which are changed.
- (f) The Village may require submission of an environmental impact assessment, traffic impact study, utility system plan, stormwater management plan, water supply system plan and other plans or studies bearing upon the operation and effects of the special land use, and may employ consulting engineers and other professional consultants and advisors, including the Village attorney, to assist in the review of the special land use application.

SECTION 12.03. GENERAL STANDARDS. To approve a special land use, the Planning Commission (or the Village Council, if the Village Council is the approving body) must find that all the following general standards are satisfied, in addition to any applicable standards set forth in this Ordinance for particular special land uses:

- (a) The special land use shall be established, laid out and operated so as not to have a substantial adverse effect upon adjoining or nearby lands or any of the uses thereof.
- (b) The special land use must not have an adverse effect on water and sewer services, storm water drainage, road capacity and volume of traffic and traffic safety and circulation.
- (c) The special land use must not have an adverse effect on police and fire services and other public safety and emergency services.
- (d) The special land use must not have an adverse effect on the need and demand for public services and the protection and preservation of natural features and natural resources.
- (e) The special land use shall not have an adverse impact upon other pertinent land use factors including but not limited to the view from adjacent and nearby lands; off-street parking and loading; refuse removal and similar services; control of noise, glare and vibration; signs; outdoor lighting.
- (f) The special land use shall have safe and reliable facilities for the collection and disposal of sanitary sewage and the providing and distribution of water supply. In the discretion of the Planning Commission, water supply and sewage disposal plans shall be submitted for review by the Village's consulting engineer.
- (g) The special land use shall be consistent with the intent and purposes of this Ordinance and the Master Plan.

SECTION 12.04. DECISION.

- (a) The Planning Commission (or the Village Council with respect to any uses for which the Board is the approving body) shall deny, approve or approve with conditions a request for a special land use. The decision shall be incorporated in the minutes or in a separate statement containing the conclusions relative to the special land use under consideration, specifying the basis for the decision and any conditions imposed.
- (b) As to those special land uses which, according to this ordinance, shall be approved through action of both the Planning Commission and the Village Council, the action taken by the Planning Commission shall be a recommendation on whether the proposed special land use shall or shall not be granted and, if granted, upon what conditions it shall be granted. Such recommendation shall be forwarded to the Village Council, and the final decision on the special land use shall be made by the Village Council, at a public meeting, and after considering the Planning Commission recommendation.

SECTION 12.05. CONDITIONS OF APPROVAL. The Planning Commission may impose reasonable conditions on the approval of a special land use. Said conditions shall meet the following requirements:

- (a) Be designed to insure public services and facilities affected by the proposed use or activity will be capable of accommodating increased service and facility loads caused by the proposed use.
- (b) Be designed to insure that said use is compatible with adjacent land uses and activities.
- (c) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- (d) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (e) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- (f) The conditions imposed with respect to the approval of a special land use shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are changed.

SECTION 12.06. EXPIRATION OF SPECIAL LAND USE. A special land use shall expire one year after it is granted, unless construction is complete or commencement of the use

has substantially begun. The Planning Commission may, upon request by the applicant, extend the term of the special land use by successive periods of up to one year each upon a finding that there have been no changed conditions in the area which would require reconsideration of the special land use application or site plan.

SECTION 12.07. REVOCATION OF SPECIAL LAND USE. If a violation of any of the conditions or standards imposed on a special land use is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises of the special land use and the Planning Commission that such violation exists and that the special land use will be revoked within 15 days of such notification. If said violation is not corrected within 15 days, the Planning Commission shall revoke the special land use. Furthermore, such a violation is hereby declared to be a violation of the Zoning Ordinance, subject to all of the remedies and penalties provided for in this Ordinance.

SECTION 12.08. PERFORMANCE OF STANDARDS The following provisions are standards for specific special land uses which must be satisfied to qualify for a special land use, in addition to the general standards set forth in this Chapter.

SECTION 12.09. CHURCHES.

- (a) Churches shall be located on a parcel of land having such area as approved by the Planning Commission. Safe, adequate and convenient access from a public street shall be provided.
- (b) Playgrounds, athletic grounds or similar recreational areas associated with a church may be permitted if approved by the Planning Commission.
- (c) Steeples, spires and roof ornamentation in excess of the height permitted in the zoning district in which a church is located are permitted if approved by the Planning Commission as a special land use.
- (d) A nursery school or child care center may be operated on church property if approved by the Planning Commission as an additional special land use. Any such nursery school or child care center shall be located in the church building or in an accessory building located on the church property. There shall be appropriate and sufficient off-street parking areas, outdoor play areas, appropriate fencing and other design elements and features for the safety of the children attending and the appropriate operation of the child care facility. The Planning Commission may require appropriate registration or licensing as may be required by law.

SECTION 12.10. SCHOOLS.

- (a) The area of associated playgrounds, athletic grounds and other recreational areas shall be subject to approval of the Planning Commission.

- (b) Provision shall be made for adequate off-street parking area, proper vehicle circulation routes within the school building site and appropriate routes and parking area for school buses shall be provided on the site.
- (c) The location of public and private schools, in relation to public streets and other land uses, shall be such as to provide for convenient ingress to and egress from school buildings and other school facilities and so as to avoid serious adverse effects upon adjacent and nearby lands.
- (d) Suitable arrangements for the management, detention or retention and other control of storm water drainage shall be provided for.

SECTION 12.11. LIBRARIES AND MUSEUMS.

- (a) Libraries, museums and similar special land uses, owned and operated by a governmental agency or nonprofit organization, shall have direct and adequate access to and from a public street.
- (b) In considering the approval of a special land use for such purposes, the Planning Commission shall consider among other matters, the location of the facility, adequacy of access, sufficient off-street parking area and such other matters as will assure the design and operation of the facility in such a manner as to have no serious adverse effects upon adjacent or nearby lands.

SECTION 12.12. PARKS, PLAYGROUNDS AND COMMUNITY CENTERS.

- (a) Parks, playgrounds and community centers shall have direct access from and to a public street. Adequate off-street parking shall be provided.
- (b) Outdoor lighting shall not be brighter than necessary to provide for the safe use of the facility, and any such lighting shall be directed away from adjoining properties and public rights-of-way.
- (c) The Planning Commission may require adequate screening of the use from adjacent and nearby lands or may require specified setbacks from property lines, so as to avoid serious adverse effects upon other lands and land uses.

SECTION 12.13. BED AND BREAKFAST ESTABLISHMENTS.

- (a) The bed and breakfast establishment shall be located on lands with direct access to a public street.
- (b) The use shall be established only in a detached single-family dwelling.
- (c) There shall be adequate off-street parking, so located as to minimize negative impacts upon adjacent lands.

- (d) Exterior refuse storage facilities shall be screened from view on all sides by a solid decorative fence or landscaping.
- (e) One freestanding sign shall be allowed for identification purposes only; the sign shall not be illuminated. The area, height and placement of the sign shall comply with the sign requirements for the district in which the bed and breakfast establishment is located.
- (f) Breakfast may be served, but only to overnight guests and to the operator's family and employees. The establishment shall not be used for public restaurant purposes.

SECTION 12.14. CHILD CARE CENTERS, DAY CARE, GROUP HOMES AND OTHER CARE FACILITIES.

- (a) Requirements for group homes and care homes permitted as a special land use under Sections 5.03(e) (R-1 District), 5A.03(e) (R1-A District), 6.03(g) (R-2 District), 8.03(g) (C-1 District) and 8A.03(m) (C-2 District). A facility of this type shall be permitted as a special land use if the following conditions are satisfied:
 - (1) *Lot size.* The lot size shall be not less than the minimum lot size applicable in the district in which the facility is located.
 - (2) *Parking.* Parking shall conform to the parking regulations applicable in the district in which the facility is located. The facility shall have no less than one parking space for each owner/operator and one parking space for every two persons being served (based on approved capacity).
 - (3) *Fire chief and health department approvals.* The facility shall be subject to the approval of the Township fire chief and subject to all State and county health department requirements.
 - (4) *Fencing.* All outdoor play areas shall be enclosed by a chain link fence or solid fence of at least four feet in height, which shall be screened from any abutting residential use by vegetation having a height when planted of at least five feet.
 - (5) *Operating hours.* Operating hours of any facility providing day care shall not exceed 16 hours during any 24-hour period, and unless specifically approved by the Planning Commission based upon a finding under particular circumstances of no negative impact on neighboring properties or the surrounding area, shall be limited from 6 a.m. to 10 p.m. daily.
 - (6) *Property appearance.* The property shall be maintained consistent with the visible characteristics of the neighborhood.

- (7) *Signs.* Signs shall conform to the sign regulations applicable in the district in which the facility is located.
 - (8) *Licensing.* The facility shall be registered and licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended.
 - (9) *Outdoor play area.* A child care center or other facility offering services to more than six minors shall provide and maintain an outdoor play area of not less than 5,000 square feet. The area shall be free from sharp gravel, glass or cinder and shall be well drained. The outdoor play area shall be completely enclosed by a chain link fence or a solid fence of at least four feet in height and shall be screened from any abutting residential use by vegetation having a height when planted of at least five feet. In its discretion, the Planning Commission may permit an outdoor play area of less than 5,000 square feet if it is demonstrated that such minimum is not necessary to preserve the residential character of the property. In making this determination, the Planning Commission shall consider the amount of outdoor play area proposed, the number of children, the hours of operation and the type of recreational activities provided indoors and outdoors.
 - (10) *Refuse collection.* All refuse collection facilities shall be screened from view by adequate fencing.
 - (11) *Distance between facilities.* A home or facility seeking approval under this section shall not be located within 1,500 feet of any existing child care facility, group home or other facility described in this section.
 - (12) *Impact on neighborhood.* The facility shall be harmonious with the character of the neighborhood and shall not have a negative impact on or injure nearby properties or the use and enjoyment of nearby properties
- (b) Requirements for nursing homes, homes for the aged, State-licensed residential facilities serving more than twelve (12) persons and facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities where such uses are permitted as special land uses under Sections 6.03(e) (R-2 District), 8.03(h) (C-1 District) and 8A.03(n) (C-2 District). A facility under this section may be permitted in the foregoing districts if the following conditions are satisfied:
- (1) *Lot Size.* The minimum lot size shall be calculated by multiplying the number of persons approved for capacity of the facility by 5,000 square feet, but in no event shall the minimum lot size be less than two acres.
 - (2) *Parking.* Parking shall conform to the parking regulations applicable in the district in which the facility is located. The facility shall have no less than one parking space for each owner/operator and one parking space for every two persons being served (based on approved capacity).

- (3) *Setbacks.* No part of the facility building or buildings may be closer than 100 feet to an adjacent lot line; except that the Planning Commission may reduce this setback requirement to not less than 25 feet if it finds that such reduction in the setback will not be injurious to the use or enjoyment of nearby properties; will not result in traffic or other safety hazards; and will not materially impair the intent and purpose of this ordinance or the public's interest. In modifying such setback requirements, the Planning Commission may attach conditions regarding the location, character, landscaping or treatment of the buildings or premises or other such matters as are reasonably necessary to the furtherance of the intent and spirit of this ordinance and the public's interest.
- (4) *Building size.* The building must provide for each tenant, elderly or retired person or minor in the building or buildings so used a minimum floor area exclusive of basement or attic space of 250 square feet.
- (5) *Fire chief and health department approvals.* The facility shall be subject to the approval of the Township fire chief and subject to all State and county health department requirements.
- (6) *Fencing.* All outdoor play areas shall be enclosed by a chain link fence or solid fence of at least four feet in height, which shall be screened from any abutting residential use by vegetation having a height when planted of at least five feet.
- (7) *Operating hours.* Operating hours of any facility providing day care shall not exceed 16 hours during any 24-hour period, and unless specifically approved by the Planning Commission based upon a finding under particular circumstances of no negative impact on neighboring properties or the surrounding area, shall be limited from 6 a.m. to 10 p.m. daily.
- (8) *Outdoor play area.* A child care center or other facility offering services to more than six minors shall provide and maintain an outdoor play area of not less than 5,000 square feet. The area shall be free from sharp gravel, glass or cinder and shall be well drained. The outdoor play area shall be completely enclosed by a chain link fence or a solid fence of at least four feet in height and shall be screened from any abutting residential use by vegetation having a height when planted of at least five feet. In its discretion, the Planning Commission may permit an outdoor play area of less than 5,000 square feet if it is demonstrated that such minimum is not necessary to preserve the residential character of a property, or it may require a larger play area for larger facilities. In making its determination regarding the size of the play area, the Planning Commission shall consider the amount of outdoor play area proposed, the number of children, the hours of operation and the type of recreational activities provided indoors and outdoors.

- (9) *Refuse collection.* All refuse collection facilities shall be screened from view by adequate fencing.
 - (10) *Property appearance.* The property shall be maintained consistent with the visible characteristics of the neighborhood.
 - (11) *Signs.* Signs shall conform to the sign regulations applicable in the district in which the facility is located.
 - (12) *Licensing of facilities.* Homes for the aged shall be registered and licensed as required under Part 213 of the Public Health Code, MCL 333.21301 et seq., as amended. Nursing homes shall be registered and licensed as required under Part 217 of the Public Health Code, MCL 333.21701 et seq., as amended.
 - (13) *Impact on neighborhood.* The facility shall be harmonious with the character of the neighborhood and shall not have a negative impact on or injure nearby properties or the use and enjoyment of nearby properties.
- (c) Child Care Center as Accessory Use. A child care center or day care center (a “child care facility”) may be permitted as an accessory use for a church, nursing home, home for the aged or a business, subject to review and approval by the Planning Commission according to the requirements provided for special land uses by this chapter and the standards provided in Section 12.14(b), and subject to all of the following additional conditions and requirements.
- (1) The child care facility may receive infants, pre-school and elementary school age children for care (including, without limitation, supervision, training or educational instruction) for periods of less than 24 hours per day.
 - (2) The child care facility shall provide care primarily to children of employees of the facility while those employees are engaged in carrying out their employment with the facility. The requirements of this paragraph shall be deemed satisfied so long as preference in admission to the facility shall be given to children of employees prior to the admission of any children of persons who are not employees of the facility. This paragraph shall not apply to churches.
 - (3) The principal functions of the child care facility accessory to a nursing home or home for the aged shall be to provide opportunities for the interaction of, and to foster an inter-generational relationship between, the elderly residents of the facility and the children attending the child care facility, and to provide child care for the children of employees of the facility. The principal function of a child care facility accessory to a business shall be to provide child care for the employees of the business.

- (4) The child care facility shall be located on the same property as the home, church or business to which the child care facility is accessory.
 - (5) The child care facility shall provide appropriate fencing, child drop-off and pick-up areas, and other facilities, design elements and operational characteristics for the safety of the children attending the child care facility, as determined necessary by the Planning Commission.
 - (6) The child care facility shall be registered and licensed as required for “child care centers” or “day care centers” under the Child Care Organizations Act (Act 116 of the Public Acts of 1973, as amended).
- (d) Planning Commission Modifications. The Planning Commission may modify the requirements of this Section 12.14 in circumstances where it determines that the facility as modified will be harmonious with the character of the neighborhood and will not have a negative impact on or injure nearby properties or the use and enjoyment of nearby properties. The Planning Commission may impose reasonable conditions in connection with any such modifications.

SECTION 12.15. HOME OCCUPATION IN ACCESSORY BUILDING.

- (a) The accessory building in which a permitted home occupation is conducted shall be so located and have such area and height as is approved by the Planning Commission.
- (b) The area, bulk, appearance and location of the accessory building shall not be such as to substantially alter the essentially residential character and appearance of the premises.
- (c) The conducting of the home occupation in the accessory building shall not have a serious adverse effect upon adjacent or nearby lands, by reason of excessive noise, vibration, outdoor lighting or other features.

SECTION 12.16. CLASSES OF INSTRUCTION FOR MORE THAN SIX PERSONS.

- (a) Classes of instruction for more than six persons, conducted in a residential district, shall qualify as a home occupation if approved by the Planning Commission.
- (b) Such classes shall be conducted within a dwelling, unless the conducting thereof in an accessory building is approved by the Planning Commission.
- (c) Adequate off-street parking shall be provided for persons attending the classes.

SECTION 12.17. RESERVED.

SECTION 12.18. OFFICES FOR PHYSICIANS, DENTISTS AND OTHER PROFESSIONAL PERSONS.

- (a) Offices for physicians, dentists, architects, engineers, attorneys and other professional persons, in the R-2 District, shall be subject to special land use approval by the Planning Commission.
- (b) Such offices shall have direct access to and from a public street. Safe, adequate and convenient off-street parking area shall be provided.
- (c) The signs identifying any such offices shall comply with the sign requirements for the R-2 District, unless otherwise approved by the Planning Commission.

SECTION 12.19. UTILITY AND PUBLIC SERVICE BUILDINGS.

- (a) The materials, color and design of such buildings shall be generally compatible with the surrounding neighborhood.
- (b) Utility and public service buildings shall comply with the yard setback requirements of the district in which such buildings are located. The Planning Commission may, however, increase the minimum setback areas, as a condition of special land use approval.
- (c) Fencing and screening may be required.
- (d) Adequate driveways and off-street parking areas for the vehicles servicing the buildings shall be provided.

SECTION 12.20. RESERVED.

SECTION 12.21. TAVERNS, BARS AND RESTAURANTS SERVING BEER, WINE OR ALCOHOLIC LIQUORS.

- (a) Taverns, bars, restaurants and cafes selling beer, wine or alcoholic liquors for consumption on the premises shall be subject to special land use approval by the Planning Commission.
- (b) The appropriate state license shall be obtained and kept in force at all times. The use shall be subject to the approval of the Village Council, if such approval is a condition of the state licensing of the use.
- (c) In determining whether to approve the special land use, the Planning Commission shall consider the proximity of the proposed use to adjoining properties; the extent to which the proposed use harmonizes with adjoining commercial and other properties; the general effect of the use on adjoining and nearby lands, including residential lands in the vicinity.

SECTION 12.22. MOTOR VEHICLE WASH BUSINESS.

- (a) There shall be sufficient stacking capacity for the drive-through portion of the establishment, so as to assure that vehicle traffic does not extend into a public right-of-way.
- (b) Safe, adequate and convenient driveways and vehicle circulation areas shall be provided.
- (c) Wash bays for self-service establishments shall be located at least 50 feet away from any residential district.
- (d) Where such establishments adjoin residentially-zoned or residentially-used property, a solid wall or fence, eight feet in height, unless other height is approved by the Planning Commission, shall be erected along or near the common property line. Such fence shall be continuously maintained in good condition.

SECTION 12.23. MOTOR VEHICLE ACCESSORY SALES, GASOLINE SERVICE STATIONS AND MOTOR VEHICLE REPAIR SHOPS.

- (a) Access driveways shall be located not less than 25 feet from the nearest part of a street intersection or any other driveway.
- (b) Pump islands of gasoline service stations shall be located at least 15 feet from any public right-of-way or lot line.
- (c) Where a motor vehicle service station or motor vehicle repair shops adjoins residentially-zoned or used property, a solid wall or fence, eight feet in height, unless other height is approved by the Planning Commission, or a substantial landscaped screen, eight feet in height, unless other height is approved by the Planning Commission, shall be erected or planted along any common lot line. Such fence, wall or landscaping shall be maintained in good condition.
- (d) Inoperable vehicles left on the site shall, within two days, be stored within an enclosed building, or in an area screened by a solid fence not less than eight feet in height, unless other height is approved by the Planning Commission. Such fence shall be maintained in good condition.
- (e) Storage of motor vehicle components and parts, trash, supplies or equipment outside of a building is prohibited.

SECTION 12.24. HOSPITALS.

- (a) The minimum lot area, lot coverage and building setback shall be as determined by the Planning Commission.

- (b) Adequate off-street parking and safe, adequate and convenient access driveways shall be provided. Such driveways shall be located not less than 50 feet from the nearest part of any intersection or from any other driveway.
- (c) Areas and facilities for the temporary outdoor accumulation of refuse shall be shielded from the view from adjacent lands and streets by a solid fence or substantial landscaping. Such fencing or landscaping shall be continuously maintained in good condition.

SECTION 12.25. HOTELS AND MOTELS.

- (a) The minimum lot area, lot coverage and building setback shall be as determined by the Planning Commission.
- (b) Adequate off-street parking and safe, adequate and convenient access driveways shall be provided. Driveways shall be located not less than 50 feet from the nearest part of any intersection or from any other driveway.
- (c) Areas and facilities for the temporary outdoor accumulation of refuse shall be shielded from the view from adjacent lands and streets by a solid fence or substantial landscaping. Such fencing or landscaping shall be continuously maintained in good condition.

SECTION 12.26. MOTOR VEHICLE SALES AND SERVICE AGENCIES.

- (a) Motor vehicles sales and service businesses, for new and used motor vehicles, including the sale of use motor vehicles as an accessory use to a principal use, shall be subject to special land use approval by the Planning Commission.
- (b) Adequate off-street parking and safe, adequate and convenient access driveways shall be provided. Driveways shall be located not less than 50 feet from the nearest part of any intersection or from any other driveway.
- (c) That portion of the site used for vehicle parking and areas used for outdoor display or storage shall have a durable and dustless surface, and such areas shall be properly graded and drained so as to dispose of all surface water.
- (d) All outdoor lighting shall be shielded so as to prevent glare from lighting onto adjacent lands and nearby streets.

SECTION 12.27. MOTOR VEHICLE STORAGE GARAGES.

- (a) Access driveways shall be located not less than 25 feet from the nearest part of a street intersection or any other driveway.
- (b) All stored motor vehicles shall be kept inside a completely enclosed building.

- (c) Outdoor storage of motor vehicle components and parts or other items or equipment associated with motor vehicles is prohibited.
- (d) Adequate, safe and convenient driveways for the ingress and egress of motor vehicles shall be provided.

SECTION 12.28. RESTAURANTS AND CAFES WITH DRIVE-THROUGH FACILITIES.

- (a) There shall be sufficient stacking capacity for the drive-through portion of the restaurant so that traffic does not extend into the public right-of-way. At least ten stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicle circulation within the restaurant site.
- (b) In addition to other parking space requirements, at least three parking spaces shall be provided in close proximity to the exit of the drive-through portion of the restaurant site, so as to allow for the temporary parking of the vehicles of customers who are waiting for delivery of orders.
- (c) Access driveways shall be located at least 25 feet from the nearest part of a street intersection or any other driveway.
- (d) Outdoor speakers and lighting for the drive-through portion of the restaurant shall be so located that sound transmission and glare of lighting toward adjacent properties is minimized.

SECTION 12.29. CERTAIN OFF-SITE PARKING LOTS.

- (a) Off-site parking lots that are not associated with another principal use shall be subject to special land use approval by the Planning Commission.
- (b) The parking lots shall be located in the C-1 Business District or the I-1 Light Industrial District.
- (c) Parking spaces for motor vehicles shall not be located within any required yard setback area.
- (d) Safe and adequate driveways and safe and adequate areas for circulation of vehicle traffic on the site shall be provided.
- (e) Outdoor lighting, if any, shall be so arranged as to avoid the glare of lighting onto adjacent and nearby lands or streets.

SECTION 12.30. BOTTLING PLANTS AND DAIRIES.

- (a) Safe and adequate driveways for trucks and other vehicles shall be provided.

- (b) All bottling facilities and related facilities and equipment shall be located a sufficient distance away from property lines so that there are no serious adverse effects upon adjacent and nearby lands by reason of noise, vibration or other impacts

SECTION 12.31. MACHINE SHOPS.

- (a) The use shall be located on in the I-1 District. The minimum lot area shall be as determined by the Planning Commission.
- (b) The principal building any accessory buildings and structures shall not be located within 100 feet of any residential district or the property line of any residential use.
- (c) Any outdoor repair or storage activities shall be adequately screened from the view from adjacent and nearby lands.

SECTION 12.32. OTHER LIGHT INDUSTRIAL USES NOT OTHERWISE PERMITTED IN THE I-1 DISTRICT.

- (a) Light industrial uses not listed as permitted uses in the I-1 District may be permitted if approved by the Planning Commission as a special land use.
- (b) In considering whether to approve such other light industrial uses, the Planning commission may impose conditions and requirements relating to driveways, outdoor lighting, screening and buffering, isolation distance from other uses and may impose other requirements for the purpose of avoiding adverse impacts upon adjacent or nearby lands.

SECTION 12.33. ANTENNAS AND TOWERS OF A HEIGHT GREATER THAN 30 FEET. Freestanding radio, television and telecommunications antennas and towers (including satellite dish antennas) exceeding a height of 30 feet above grade, or exceeding a dimension of 15 feet in any other direction, including any mounting structure, may be approved by the Planning Commission as a special land use upon compliance with the following requirements:

- (a) Any such antenna or tower shall be permanently secured to a stable foundation. It shall be grounded to protect against damage from lightning.
- (b) No part of the antenna or tower shall display any name, symbol, words or letters, advertising message, graphic representation or other written or pictorial matter visible from adjacent or nearby lands.
- (c) Any such antenna or tower shall be located only in a rear yard or side yard, unless otherwise permitted by the Planning Commission. It shall not be closer to a property line than its height, unless a lesser setback is permitted by the Planning Commission.

- (d) A commercial or public antenna or tower, including accessory buildings or structures, shall be fully enclosed by a sturdy fence, securely gated, and shall have such height as reasonably determined by the Planning Commission.
- (e) The antenna or tower shall not be so located or constructed so as to have a serious adverse effect on adjacent or nearby land uses.
- (f) The antenna or tower and the construction, installation, maintenance and operation thereof shall comply with all federal, state and local laws, ordinances and regulations.
- (g) Antennas and towers for commercial telecommunications services, including cellular telephone antennas and towers, shall comply with the following requirements:
 - (1) Such antennas and towers may be required by the Planning Commission to be located on an existing approved tower if such location is reasonably feasible and practical, in the opinion of the Planning Commission, based upon the facts concerning the existing tower, the area to be served by the proposed telecommunications antenna and other relevant factors.
 - (2) A proposed tower for commercial telecommunications services may be required, in the discretion of the Planning Commission, to be designed, constructed and placed so as to accommodate both the applicant's equipment and comparable equipment for at least two additional users. The Planning Commission may require that such towers be designed and constructed so as to allow for the future rearrangement of equipment upon the tower, and to accept equipment mounted at varying heights on the tower.
 - (3) Towers for commercial telecommunications services shall be designed so as to blend, insofar as possible, into the surrounding environment, through the use of color of equipment and architectural treatment, except in those cases where color of equipment may be dictated by state or federal agencies. Such towers shall be of a monopole design unless the Planning Commission determines that an alternative design would be satisfactory.
 - (4) The Planning Commission may require that commercial telecommunications towers not be illuminated, unless required by state or federal agencies having jurisdiction. No signs or other written or graphic matter not related to safety or hazard warnings shall be permitted on any part of the tower or associated equipment or buildings, except that a name identification sign may be located on an associated building.
 - (5) The Planning Commission may require that commercial telecommunications towers, or other related structures or buildings, be screened with landscaping, berms, walls or a combination of any of them.

- (6) Towers for commercial telecommunications services which are abandoned or unused shall be removed, along with any associated buildings, structures or equipment within one year of the ceasing of operations, unless a time extension is granted by the Zoning Administrator. One time extension, of up to six months, shall be permitted if the Zoning Administrator determines that the owner or former operator of the facility is taking active steps to insure its removal.

- (h) The Planning Commission in its reasonable discretion may impose other terms and conditions regulating the construction, installation, use and maintenance of any such antenna or tower. Such other terms and conditions may include, though need not be limited to, the following:
 - (1) The screening or buffering of an antenna or tower and any accessory buildings or structures thereof.
 - (2) The timely removal of unused or unsafe antennas or towers or accessory buildings or structures thereof.
 - (3) The prohibition on the construction or occupancy of dwellings or other buildings or the construction and use of other structures within a specified isolation distance from an antenna or tower.
 - (4) The preservation of existing trees and other existing vegetation not required to be removed for installation of an antenna or tower; the reasonable restoration of trees or other vegetation removed or destroyed during the construction or installation of an antenna or tower or accessory buildings or structures thereof.

- (i) Where the effect of any of the provisions of this section would be to prevent or preclude the operation of amateur radio antennas (being antennas operating for the purpose of receiving or transmitting communications by a radio station described in Section 153(q) of Title 47 of the U.S. Code) and licensed by the Federal Communications Commission, such amateur radio antenna may be approved by the Planning Commission as a special land use if it is reasonably demonstrated that the application of any of the provisions of this section would be to preclude or prevent the operation of such amateur radio antenna. In granting any such special land use for an amateur radio antenna, the Planning Commission may impose reasonable conditions upon such approval, but such conditions shall not interfere with the reasonable accommodation of amateur radio communications and such conditions, if any, shall be no more than the minimum practicable regulations necessary to accomplish the Village's legitimate purposes in regulating such amateur radio antennas.

SECTION 12.34. BILLBOARDS. Billboards may be constructed, installed, maintained and used only in the I-1 District, and only if approved by the Planning Commission as a special land use in accordance with the requirements of this section. Billboards may be constructed,

installed, maintained and used in the Commercial PUD District, if approved by the Planning Commission and Village Council as a part of a planned unit development.

- (a) A billboard shall be located not closer than 25 feet and not further away than 100 feet from the nearest right-of-way line of a state highway.
- (b) A billboard shall not exceed 180 square feet in area and shall not be greater than 35 feet in height. The lowest point of the billboard, not including the stakes or supports, shall be at least 20 feet above the level of the ground at the base of the billboard.
- (c) A billboard shall not be located closer than 1200 feet from any other billboard.
- (d) A billboard may be illuminated, but no flashing lights or other intermittent lights shall be permitted. Illumination, if any, shall be shielded so as to prevent light from being directed at any part of a highway or street. A billboard shall not be so illuminated that it interferes with the effectiveness of any official traffic sign, signal or device.
- (e) The owner of a billboard shall apply for any required state permit. A Village sign permit shall also be required, together with payment of the fee prescribed therefore.
- (f) A billboard shall be located at least 200 feet away from any portion of an R-1, R-2 or R-3 District.
- (g) A billboard shall not be installed, maintained or used at any location where it may interfere with or obstruct the safe and convenient travel of vehicles and pedestrians, nor shall it be installed, maintained or used at a location where, because of the congestion of traffic or population, it would have serious adverse effects upon the public safety or other aspects of the public interest, or otherwise constitute a nuisance.
- (h) In approving a billboard as a special land use, the Planning Commission may impose terms, conditions and limitations relating to the size, height, location, nature, spacing and other features of a billboard.

SECTION 12.35. FUNERAL HOMES AND MORTUARIES. Funeral homes and mortuaries may be established and operated in the C-1 District upon compliance with all of the following terms and provisions:

- (a) Funeral homes and mortuaries shall be located on a parcel of land having sufficient area as approved by the Planning Commission.
- (b) Safe, adequate and convenient access to and from a public street shall be provided.

- (c) There shall be adequate off-street parking area and proper vehicle circulation routes within the funeral home property, including sufficient and convenient area for the assembling of funeral processions.
- (d) Signs shall comply with the sign provisions of the C-1 District, except that the Planning Commission may permit additional directional signs or other signs on the funeral home property that may be necessary for the accommodation of motor vehicles associated with the funeral home use.
- (e) All state licensing requirements for funeral homes and mortuaries shall be complied with.
- (f) The location and use of funeral homes and mortuaries, in relation to public streets and other land uses, shall be such that there are no serious adverse effects upon adjacent and nearby lands or the public interest.

SECTION 12.36. STORAGE AND PARKING OF CONTRACTING EQUIPMENT. Contracting equipment may be stored and parked, including storage and parking out of doors, in the C-2 District, upon compliance with all of the following terms and conditions:

- (a) The minimum lot area shall be one (1) acre.
- (b) If the special land use is adjacent to residentially-zoned or residentially-used land, a solid wall or opaque fence, at least eight feet in height shall be installed and maintained along the rear property line and side property line, whichever adjoins said residential lands; provided, however, that the Planning Commission may approve some other height for such wall or fence. A landscaped greenbelt, for screening purposes, shall also be required, and it shall have such width and other features as determined by the Planning Commission.
- (c) Contracting equipment shall not be stored or parked out of doors within 50 feet of the front property line.
- (d) Any exterior lighting shall utilize cut-off fixtures and shall be shielded, so that lighting glare is avoided and so that light does not spill over onto adjacent lands or streets.
- (e) Any access driveway shall be located at least 50 feet away from the nearest part of a street intersection or other driveway.
- (f) Safe, adequate and convenient access to and from a public street shall be provided.
- (g) The Planning Commission may impose other terms and conditions upon the special land use.

SECTION 12.37. AN ACCESSORY RESIDENTIAL USE. In addition to a permitted commercial use as provided in Chapter 8, a parcel in the C-1 Neighborhood Business District may contain one or more dwellings meeting the requirements of this section (an “Accessory Residential Use”) if the Accessory Residential Use is approved as a special land use by the Planning Commission. The Accessory Residential Use shall meet each of the following requirements:

- (a) An Accessory Residential Use shall consist of a use permitted by Section 6.02 of this ordinance. Each dwelling shall be located in the principal commercial structure.
- (b) If a visible residential use is inconsistent with or may diminish the commercial character or appearance of the vicinity, such as in areas where pedestrian or vehicular customer or commercial traffic is present, the Planning Commission may require that only non-residential commercial uses may be located on the first floor, adjacent to the street, so as to maintain the area’s commercial character and appearance.
- (c) The Accessory Residential Use shall comply with all applicable building code requirements and state and federal laws, including accessibility requirements of the Americans with Disabilities Act.
- (d) Two off-street parking spaces shall be clearly marked and designated as reserved for residential use only. The Planning Commission may in its discretion reduce or eliminate this requirement if the applicant can demonstrate that off-street parking is not reasonably available to the applicant and on-street parking, municipal parking or some other sufficient parking arrangement is available; provided, however, on-street parking shall not be used for residential purposes if it reduces the spaces available for pedestrian or vehicular commercial traffic, particularly those spaces on the primary street adjacent to the commercial use.
- (e) An Accessory Residential Use shall be separated by a solid wall and/or a lockable door from any non-residential use and shall have a separate means of ingress and egress. If the Accessory Residential Use is not located on the ground floor, a separate internal or external staircase for use only by the Accessory Residential Use shall be provided.
- (f) An Accessory Residential Use shall not be permitted in a location where odor, smoke, noise, glare, fumes, gas, vibration, unusual danger of fire or explosion, emission of particulate matter or interference with radio or telephone communication, or other similar conditions associated with non-residential uses on the premises or in the vicinity, would be incompatible with residential uses at such a location.

SECTION 12.38. MEDICAL MARIHUANA FACILITIES AND RECREATIONAL MARIHUANA ESTABLISHMENTS. The following provisions shall govern the issuance of special land use permits for Medical Marihuana Facilities, as governed by the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, as amended (the “MMFLA”), and Recreational Marihuana Establishments, as governed by Michigan Initiated Law 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act (the “MRTMA”):

- (a) **Date for Receipt of Applications.** The Planning Commission shall not begin to accept applications for medical marihuana facilities and recreational marihuana establishments until November 1, 2019.
- (b) **Separation Distances.** Medical marihuana facilities and recreational marihuana establishments shall comply with the following minimum separation distances:
 - (1) 1,000 feet of a child-care center, or a public or private K-12 school;
 - (2) 1,000 feet of a publicly owned park or playground;
 - (3) 1,000 feet of a church or place of worship;
 - (4) 1,000 feet of a substance use rehabilitation facility licensed by the State of Michigan;
 - (5) 1,000 feet of the boundary of any land zoned in the R-1, R1-A, R-2 or R-3 Districts, as measured along the primary street frontage on which the marihuana facility or business is located;
 - (6) Within the C-1 or C-2 Districts: 2,000 feet of another marihuana facility or establishment (except where co-location is permitted under subsection (c)); and
 - (7) Within the I-1 District: 1,000 feet of another marihuana facility or establishment (except where co-location is permitted under subsection (c)).

Unless otherwise stated above, the separation distances required by this subsection shall be computed by measuring a straight line from the nearest property line of a lot or parcel used as a marihuana facility or establishment to the nearest property line of a lot or parcel used for one of the other uses specified above.

- (c) **Co-Location.** There may be only one state operating license per parcel, except that co-location may be permitted in the following circumstances:
 - (1) A medical marihuana facility and recreational marihuana establishment may be co-located on a single parcel, subject to the terms of the MMFLA, the MRTMA, and the rules promulgated under those statutes.

- (2) In the I-1 District, a grower and processor may be co-located on the same parcel, subject to the terms of the MMFLA, the MRTMA, and the rules promulgated under those statutes.
- (3) In the I-I District stacked growers licenses are permitted on a single parcel, subject to the terms of the MMFLA, the MRTMA, and the rules promulgated under those statutes.

A separate special land use permit is required for each licensed facility or establishment that is located on a single parcel, including for each individual license in a stacked license.

(d) **Two-Step Application Process.** Applications for special land use permits for marihuana facilities or establishments shall be subject to a two-step process, as set forth below:

- (1) An application for a special land use permit for a marihuana facility or establishment may not be submitted to the Village until the applicant has already received prequalification approval from the state Department of Licensing and Regulatory Affairs (“LARA”), or its successor agency, for the type of state operating license that is consistent with the type of facility or establishment for which the applicant intends to seek a special land use permit.
- (2) An applicant for a state operating license shall not be deemed to have zoning approval for its proposed location for a marihuana facility or establishment until the applicant has obtained a special land use permit under the terms of this Section 12.38 for that same location. Accordingly, no Village official may sign an attestation or any other form indicating that a parcel is approved for a marihuana facility or establishment until a special land use permit has been issued for that same parcel under the terms of this Section 12.38.
- (3) After an applicant has obtained prequalification approval from LARA, the Planning Commission may accept and process an administratively complete special land use application from the applicant for a proposed marihuana facility or establishment, in accordance with the procedures set forth in Sections 12.02 through 12.05 of this Ordinance, including the required public hearing. This is referred to as Step One of the application process.
- (4) In reviewing a Step One special land use application for a proposed marihuana facility or establishment, the Planning Commission shall apply the general special land use standards of Section 12.03 and the specific special land use standards of this Section 12.38, and shall also consider the following criteria:

- (i) The adverse effects, if any, that the hours of operation of the proposed facility or establishment will have upon neighboring properties, with particular attention given to the effects of noise, odors, litter, loitering, parking, and glare from exterior lighting or headlights on nearby residential properties.
 - (ii) The amount and degree of law enforcement activities that could reasonably be anticipated to be generated by the proposed facility or establishment, both outside and inside, with particular emphasis upon noise, calls for service, trespass enforcement, parking, vehicular use by patrons, and vandalism.
 - (iii) How the proposed facility or establishment would ensure increased access and opportunity for those who might not own or be able to operate a vehicle, avoid an excessive parking burden and avoid increased congestion in the surrounding area.
 - (5) If the Planning Commission approves or conditionally approves a Step One special land use permit for a proposed marihuana facility or establishment, the permit shall not be effective until Step Two has been completed, as set forth below.
 - (6) After the Planning Commission has approved a Step One special use permit for a parcel, the Village Clerk may sign an attestation, verifying that such parcel has obtained zoning approval for the type for marihuana facility or establishment the applicant intends to operate on that same parcel. The applicant may thereafter apply to LARA for its final state operating license, in accordance with state law.
 - (7) Step Two of the application processes shall proceed only if and when an applicant has received its state operating license.
 - (8) Step Two commences when the applicant has submitted proof of having obtained its state operating license to the Village Clerk, along with all of the same application documents the applicant submitted to LARA to obtain its state operating permit. The Clerk shall forward all such materials to the Planning Commission for consideration at a public meeting, but no public hearing shall be required.
 - (9) If the Planning Commission determines that the state operating license has been issued on terms that are consistent with its Step One approval and the applicable terms of this Ordinance, it shall grant its approval to give immediate effect to the applicant's special land use permit.
- (e) **Step One Application Requirements.** Each Step One application for a special land use permit shall be accompanied by a detailed site plan that complies with Chapter 13 of this Ordinance, along with any additional information necessary to describe the proposed use or change of use. In order for an application to be

considered administratively complete and eligible for Planning Commission review, it must include the following additional information and documentation:

- (1) Verification. A signed statement by the applicant indicating the proposed type of facility or establishment, and an indication of whether stacked licenses or co-location is being sought.
- (2) Consent. A notarized statement by the property owner that acknowledges use of the property for a marihuana facility or establishment, and agreement to indemnify, defend and hold harmless the Village, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising out of, or in connection to, the operation of a marihuana facility or establishment. Written consent shall also include approval of the owner and operator for the Village to inspect the facility or establishment at any time during normal business hours to ensure compliance with applicable laws and regulations.
- (3) LARA Prequalification. A copy of the official paperwork issued by LARA, or its successor agency, indicating that the applicant has successfully obtained prequalification approval to apply for a state operating license. Copies of all documents submitted to LARA in connection with the initial prequalification application shall also be provided.
- (4) Proof of Insurance. Evidence of a valid and effective policy for general liability insurance within minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least B++ shall be produced that includes the name(s) of the insured, effective and expiration dates, and policy number. The Village of Kent City and its officials and employees shall be named as additional insureds. The Village shall be notified of any cancellation, expiration, reduction in coverage, or other policy changes within five business days of the event.
- (5) Building Elevations. Existing and proposed building elevations shall be provided, including building materials, window calculations, descriptions of glass to be used, and other pertinent information that describes building construction or structural alterations.
- (6) Sign and Lighting Plan. A sign plan for the exterior of the building and any interior signs that will be visible to the general public from the public right-of-way shall be submitted. All lighting fixtures visible to the public shall be identified.
- (7) Radius Map. A map, drawn to scale, illustrating all childcare centers, schools, parks, churches and rehabilitation facilities located within 1,000 feet of the applicant's proposed location, and illustrating all marihuana

facilities and establishments located within 2,000 feet of the applicant's proposed location. The map shall demonstrate compliance with the minimum separation distances required by Section 12.38(b).

- (8) Crime Prevention Through Environmental Design (CPTED) Plan. The application shall include a CPTED plan to address surveillance methods, access control strategies, territorial reinforcement, maintenance, and target hardening. The Kent County Sheriff's Department shall review and approve the CPTED plan prior to the Planning Commission public hearing.
- (9) Operations and Management Plan. An operations and management plan, describing security measures and the lifecycle of marijuana in the facility, including the storage and movement of the product, and procedures for the safe handling of currency.
- (10) Odor Control Plan. A detailed design, construction and operating plan for the odor control system that is required by Sections 12.38(g) and (h). The odor control plan shall include a narrative describing the procedures that will be implemented at the facility in order to comply with the BMPs required by Section 12.38(g). If a grower facility will include the outdoor cultivation of marijuana, the application shall also include a description of the odor control fogging agent that will be used, including the application schedule for the fogging agent, to effectively suppresses the release of marijuana odors from the boundaries of the outdoor cultivation area, in compliance with Section 12.38(h)(2).
- (11) Good Neighbor Plan. The purpose of the Good Neighbor Plan (GNP) is to reduce potential negative impacts on nearby residents and businesses. The GNP shall be a written plan for ensuring that all employees of the proposed facility or establishment are trained in the following matters and are subject to workplace rules for implementing those training standards:
 - (i) Crime prevention and awareness.
 - (ii) The handling of state-regulated substances.
 - (iii) Loitering control.
 - (iv) Trespass enforcement.
 - (v) Neighborhood communication.
- (12) Community Involvement. The applicant shall provide written verification of having met with or attempted in good faith to meet with the local recognized neighborhood associations and adjacent property owners, to discuss methods for alleviating possible negative impacts of the facility or

establishment and the components of the GNP. The written verification shall include all of the following:

- (i) A copy of the written notice that the applicant sent to neighborhood associations and adjacent property owners, asking to meet for this purpose, and the names and addresses of those to whom the notice was sent.
 - (ii) The time, date, and location of the meeting(s), and the names, addresses, and phone numbers of those who participated in the meeting(s).
 - (iii) A copy of the draft GNP and site plan that was presented at the meeting(s), if different than the versions submitted to the Planning Commission.
 - (iv) Identification of those components of the GNP which were agreed upon and those which were unresolved, plus any additional items discussed during the meeting(s).
- (f) **Operations.** Marihuana facilities and establishments shall be operated in compliance with all applicable state laws, LARA rules, all conditions of the state operating licenses, and all applicable Village ordinances. In addition, such facilities and establishments shall comply with the following regulations:
- (1) The exterior appearance shall be compatible with surrounding businesses and any descriptions of desired future character, as described in the Master Plan or an Area-Specific Plan.
 - (2) Applicable zoning requirements for architecture, signage and door entry orientation shall be complied with.
 - (3) No equipment used in the processing, production or sale of marihuana may be placed or stored outside of an enclosed building.
 - (4) Site and building lighting shall be sufficient for safety and security, but not cause excessive glare or be designed so as to be construed as advertising with the intent to attract attention.
 - (5) Drive-through facilities and mobile facilities are prohibited.
 - (6) Interior construction and design shall not impede the future use of a building for other uses as permitted in the assigned zone district.
 - (7) Neither marihuana nor marihuana-infused products may be directly visible from the exterior of the facility.

- (8) Interior security measures shall not be visible from the public right-of-way (e.g. security shutters, bars, or other methods) during operating business hours.
 - (9) Interior walls that function as a separation wall between waiting rooms and display areas shall not be more than forty (40) percent glass if the separation wall is visible from the exterior of the building.
 - (10) Interior lighting shall not be so bright so as to create a nuisance to neighboring property owners or passersby.
 - (11) Provisioning centers, retailers and microbusinesses shall not be open to customers between the hours of 9:00 p.m. and 9:00 a.m.
 - (12) The main entry of the facility or establishment shall be handicap accessible.
 - (13) Ventilation, by-product and waste disposal, and water management (supply and disposal) shall not produce contamination of air, water, or soil; or reduce the expected life of the building due to heat and mold; or create other hazards that may negatively impact the structure and/or surrounding properties.
- (g) **Odor Control Equipment and Practices.** All buildings or structures that are used in connection with the operation of a marihuana facility or establishment, and which have or will have marihuana located therein, in any form, including, without limitation, marihuana plants and marihuana-infused products, shall have a fully-functioning exhaust ventilation system or air filtration system that is equipped with an activated-carbon air filtration system having the highest efficiency rating available, and which is designed to remove not less than 98% of the volatile organic compounds (“VOCs”) emitted by the marihuana located within the building or structure. Such equipment shall be properly maintained and operated at all times, in accordance with the following best management practices (“BMPs”):
- (1) Regularly inspect and perform maintenance checks on the HVAC system and ducting to ensure that it is operating optimally, and that the airflow is properly controlled.
 - (2) Keep windows and doors closed in cultivation areas, and regularly inspect the infrastructure for potential leaks.
 - (3) Ensure that the temperature and relative humidity are properly controlled within acceptable tolerances in all cultivation rooms, so as to prevent the high temperature and humidity that will exacerbate odor generation.
 - (4) Ensure proper air circulation, which is critical for maintaining temperature and humidity control.

- (5) Have a documented system in place for recording and responding to all odor complaints.
- (6) Time the harvesting phase to minimize its ozone impact, with respect to time of day, time of year, and periods of high forecasted ozone. Emissions should be minimized in the morning and early afternoon, and during the summer.
- (7) Develop training programs and allocate responsibilities for employees to ensure BMPs are being implemented consistently and continually, as a part of the routine facility operating procedure.
- (8) The following additional BMPs shall be implemented at processing facilities that engage in the extraction of cannabis concentrates:
 - (i) Regularly inspect and maintain all solvent storage devices to prevent leaks. Keep storage containers closed except when necessary to add or remove solvent.
 - (ii) Conduct regular maintenance and inspection of the extraction system to ensure that it is functioning properly without direct leaks of the solvent.
 - (iii) Take caution to prevent leaks during the transfer of solvents between containers and systems at all stages of the production process.
 - (iv) Never dispose of a solvent through direct evaporation or spillage. Ensure that solvent is always recovered and kept in a closed-loop extraction system or designated container.
 - (v) Maintain an inventory of all solvent liquids and ensure that the facility operating procedure allocates responsibility for all relevant workers to maintain and update the inventory.

(h) **Other Odor Provisions.**

- (1) The exhaust ventilation system or air filtration system that is required by Section 12.38(g) shall also be designed, constructed and operated so as to prevent, to the maximum extent that is technically feasible, the escape of any marijuana smoke, debris or dust from the building or structure, into the outside atmosphere.
- (2) A marijuana grower facility that engages in the outdoor cultivation of marijuana plants shall have on site at all times and apply daily, or several times daily, as needed to control odors, an odor control fogging agent that effectively suppresses the release of marijuana odors from the boundaries of the outdoor cultivation area.

- (3) It shall be deemed a violation of this Ordinance if the escape of any marihuana odors from a marihuana facility or establishment results in a detectable marihuana odor at the property line of the marihuana facility or establishment that interferes with the reasonable use and enjoyment of another's property.
 - (4) In the case of a site condominium unit, rental space or other similar subdivision of a single property that is occupied by a marihuana facility or establishment, it shall also be deemed a violation of this ordinance if the escape of any marihuana odors from such an area results in a detectable marihuana odor at the boundary line of the building space controlled by the facility or establishment that interferes with the reasonable use and enjoyment of the owners or occupants of adjacent building space.
- (i) **Annual Fee.** The holder of a special land use permit for a marihuana facility or establishment must pay to the Village an annual registration fee of \$5,000, for each state license used within the Village in order to help defray administrative, compliance monitoring and enforcement costs. The holder of a stacked grower license must pay a separate annual fee in the amount of \$5,000 for each license. The holder of a licenses for a premise where co-location has been permitted must pay a separate annual fee in the amount of \$5,000 for each license. The initial annual registration fee(s) must be paid when the application for Step One special land use approval is submitted, but will be refunded if the application is denied. In each subsequent year, registration fees are due on the effective date of the special land use permit. The annual registration fee is in addition to, not in lieu of, any other licensing and permitting requirements imposed by any law, state regulatory agency, or by Village ordinance.
 - (j) **Consumption.** No smoking, inhalation, or other consumption of marihuana shall take place on or within the premises of any marihuana facility or establishment. It shall be a violation of this ordinance to engage in such behavior, or for a person to knowingly allow such behavior to occur. All of the following will give rise to the rebuttable presumption that a person allowed the consumption of marihuana on or within the premises:
 - (1) The person had control over the premises or the portion of the premises where the marihuana was consumed;
 - (2) The person knew or reasonably should have known that the marihuana was consumed; and
 - (3) The person failed to take corrective action.
 - (k) **Permit Transfer.** Upon the approval of Planning Commission, a special land use permit for a marihuana facility or establishment may be transferred to another person holding the same type of state operating license (e.g., grower to grower; processor to processor; etc.), without seeking replication for a new special land

use permit, but only if both the proposed transferor and proposed transferee have not been subject to enforcement action for violation of a local ordinance or state law governing marihuana facilities or establishments. The proposed transferor and proposed transferee shall each provide an affidavit regarding the accuracy of all claims of compliance. Should such claims prove to be false, then the transferred permit shall be void and revoked. If the Planning Commission does not approve a permit transfer based on a finding of past violations, then the proposed transferee shall be required to apply for a new special land use permit under the provisions of Section 12.38.

(l) **Violations.**

- (1) A permittee's failure to comply with applicable requirements of this ordinance, the terms and conditions of its special land use permit, or its state operating license, are grounds for suspension or revocation of its special land use permit, in addition to other penalties provided by law. The Village may also request that LARA revoke or refrain from renewing the permittee's state operating license.
- (2) A special land use permit will be revoked or suspended automatically upon revocation or suspension of the licensee's authorization to operate by LARA.
- (3) After an automatic revocation of special land use permit, the licensee shall not be permitted to operate a marihuana facility or establishment in the Village unless it applies for and obtains a new special land use permit.

(m) **No Vested Rights.** The operation of a licensed marihuana facility or establishment is a revocable privilege and not a right. Nothing in this ordinance is to be construed to grant a property right for an individual or business entity to engage in the use, distribution, cultivation, production, possession, transportation or sale of marihuana as a commercial enterprise. Any individual or business entity which purports to have engaged in such activities either prior to or after the enactment of the amendatory ordinance which added this Section 12.38 without obtaining the required authorization is deemed to be an illegally established use and is not entitled to legal nonconforming status. Nothing in this ordinance may be held or construed to grant a vested right, license, permit or privilege to continued operations within the Village.

(n) **State Law.** Nothing in this Section 12.38 shall be construed in such a manner as to conflict with the Michigan Medical Marihuana Act, the MMFLA, the MRTMA, or other applicable state marihuana laws or rules. Nothing in this Section 12.38 is intended to grant, nor shall it be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with those same laws and rules.

- (o) **Federal Law.** Nothing in this Section 12.38 is intended to grant, nor shall it be construed as granting, immunity from criminal prosecution under Federal law. Neither this ordinance nor state law protect the owners or operators of properties on which the use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act.

CHAPTER 13
SITE PLAN REVIEW

SECTION 13.01. REVIEW REQUIRED. Site plan review shall be required:

- (a) Prior to the creation of any new use or erection of any new building, except single family dwellings.
- (b) Prior to any change in an existing use or structure, but only (1) if such change is from a residential to nonresidential use; or (2) is accompanied by an increase in the exterior dimensions of a building; or (3) if the use is changed to one in which the minimum parking spaces required for the use increase by more than 10%.

SECTION 13.02. INFORMAL PREAPPLICATION REVIEW.

- (a) If desired by the applicant, prior to submitting a site plan satisfying the requirements set forth herein, an informal review of a proposed application may be submitted to the Planning Commission.
- (b) Applications for an informal preapplication review shall be made in accordance with the application procedures of this section, except that no application fee shall be charged.
- (c) A proposed application submitted for preapplication review does not need to meet the requirements for site plans set forth herein, but shall contain sufficient information to inform the Planning Commission of the nature and scope of the proposed project.
- (d) The Planning Commission shall review the proposed application solely for the purpose of providing comments and making recommendations to assist the applicant in preparing a site plan which will conform to the standards of this Ordinance. No vote shall be taken on any proposed application.

SECTION 13.03. CONTENTS OF SITE PLAN. A site plan shall include all of the following information, unless waived by the Zoning Administrator.

- (a) A site plan based on an accurate certified land survey showing:
 - (1) The date, north arrow, and scale. The scale shall be not less than 1 inch = 100 feet.
 - (2) The name and firm address of the professional individual responsible for the preparation of the site plan.
 - (3) The name and address of the property owner or petitioner.
 - (4) A locational sketch.

- (5) Legal description of the subject property.
- (6) The size (in acres) of the subject property.
- (7) Property lines and required setbacks.
- (8) Refuse and service areas.
- (9) Loading and unloading facilities.
- (10) Exterior lighting and signs.
- (11) The location of all existing structures, driveways, and parking areas on the subject property within 300 feet of the subject property's boundaries.
- (12) The location and dimensions of all existing and proposed structures on the subject property.
- (13) The location of all existing and proposed drives, acceleration/ deceleration lanes, sidewalks and existing and proposed parking areas.
- (14) The location and right-of-way width of all abutting roads, streets, alleys or easements.
- (15) The existing zoning and use of all properties abutting the subject property.
- (16) The location and a general description of all existing vegetation, and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.
- (17) Location and nature of proposed connections to the public sewer system; provisions for water supply.
- (18) The location and size of all existing and proposed surface water drainage facilities.
- (19) The location and area of all existing and proposed lakes, streams, wetlands and other bodies of water.
- (20) Existing and proposed topographic contours.
- (21) Recreation areas, common use areas, and areas to be conveyed for public use.
- (22) Flood plain areas and basement and floor elevations of all buildings.
- (23) Any deed restrictions or covenants.
- (24) Typical elevation views of the front and side of each building.

- (b) A brief narrative description of the project.
- (c) Preliminary architectural sketches and/or a general statement as to the type of construction and materials to be used in the proposed buildings or structures. Height and area of buildings and structures shall be described.
- (d) The period of time within which the project will be completed.
- (e) Proposed staging of the project, if any.
- (f) Gross areas of buildings and parking.
- (g) Additional information which the Village may request and which is reasonably necessary to evaluate the site plan.

The application for site plan approval shall be accompanied by a fee, as established by resolution of the Village Council from time to time. The Planning Commission may waive any of the required contents of the site plan, if such items are not necessary to a decision concerning the plan.

SECTION 13.04. STANDARDS OF REVIEW. The Planning Commission shall approve a site plan if it determines that the plan complies with the requirements of this Ordinance; is consistent with the intent and purposes of this Ordinance; will be compatible with adjacent land uses, and the natural environment and capacities of public services and facilities; and will be consistent with the public health, safety and welfare. In addition, the site plan shall comply with the following standards:

- (a) Zoning Permit. Where a site plan has been approved for any use permitted or authorized under the Zoning Ordinance, a zoning permit shall be obtained, and the permit shall indicate that the development or other land use may be completed in accordance with all applicable Zoning Ordinance provisions.
- (b) Building Permit. Where a site plan has been approved for any use, any building permit issued shall provide that the development be completed in accordance with the approved site plan and a failure to conform with such site plan shall be a violation of this Ordinance and cause for revocation of the building permit.
- (c) Traffic Circulation. The number, location, and size of access and entry points, and internal traffic and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, and circulation within the site. In reviewing traffic circulation features, the Planning Commission shall consider spacing and alignment with existing and probable future access points on nearby properties, and may require that provision be made for shared access with adjacent properties.
- (d) Storm water. Storm water detention and drainage systems shall be designed so that the removal of surface waters will not adversely affect neighboring properties or public storm water drainage systems.

- (e) Landscaping. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing unnecessary tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. The Planning Commission may require that landscaping, buffers, or greenbelts be preserved or provided, to ensure the proposed uses will be adequately buffered from one another and from surrounding property.
- (f) Screening. Where commercial uses abut residential uses, appropriate screening consisting of attractively designed, opaque fencing, or equivalent landscaping, shall be provided so as to shield residential properties from noise, headlights, and glare, and from the view of trash receptacles, dumpsters and similar outdoor, utilitarian uses, common to commercial activities.
- (g) Lighting. Lighting shall be designed so as to minimize glare on adjacent properties and public streets.
- (h) Exterior Uses. Exposed storage areas, machinery, heating and cooling units, service areas, loading areas, utility buildings and structures, and similar accessory areas shall be located so as to have a minimum negative effect on adjacent properties, and shall be screened if reasonably required to ensure compatibility with surrounding properties.
- (i) Utilities. Water supply and sewer system connections shall comply with all Village requirements.

SECTION 13.05. **CONDITIONS.** The Planning Commission may impose reasonable conditions on the approval of a site plan. Such conditions may include but need not be limited to conditions necessary to insure compatibility with adjacent land uses, to promote the use of land in a socially and economically desirable manner, to protect the natural environment and conserve natural resources and to insure that public services and facilities affected by a proposed land use or activity will be capable of handling increased service and facility demands caused by the land use or activity.

SECTION 13.06. **IMPROVEMENTS; FINANCIAL GUARANTEES.** To insure compliance with the Zoning Ordinance and any conditions imposed thereunder, the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Village covering the estimated cost of some or all of the improvements associated with the project for which site plan approval is sought, be deposited with the Village Clerk, to insure timely and faithful completion of the improvement.

SECTION 13.07. **PROCEDURES.**

- (a) Twelve (12) copies of a site plan, a completed application form, and the application fee established by resolution of the Village Council shall be submitted to the Zoning Administrator. The Zoning Administrator may require a greater or lesser number of copies of the project plan, in accordance with the number needed for review by the Planning Commission.

- (b) The applicant shall also submit, at the same time, such additional amount as required by Village Council resolution to be paid into an escrow account, for the purpose of reimbursing the Village for its extraordinary or other costs in the review and consideration of the site plan.
- (c) After the Zoning Administrator determines that a proposed land use complies with the Zoning Ordinance, the Building Code and other ordinances of the Village, the site plan shall be placed on the agenda of the next Planning Commission meeting, which is scheduled to be at least ten days following completion of the Zoning Administrator's review.
- (d) The Planning Commission shall have the responsibility and authorization to approve the site plan, disapprove it, or approve it with conditions.
- (e) Any conditions or modifications desired by the Planning Commission shall be recorded in the minutes of the Planning Commission meeting.
- (f) Decisions on a site plan shall be made by a majority vote of those present.
- (g) Upon approval of a site plan, the site plan as approved shall become part of the record of approval of the land use. All subsequent actions relating to the land use shall be consistent with the approved site plan, unless changes therein are approved by the Planning Commission. Failure to conform to an approved site plan shall be a violation of this ordinance.
- (h) Upon approval of a site plan, one copy shall be signed by the chairman of the Planning Commission and filed with the Village Clerk, one copy shall be submitted to the Building Inspector and one copy shall be returned to the applicant.

SECTION 13.08. APPEAL.

- (a) An applicant aggrieved by the action of the Planning Commission with regard to a site plan may appeal in writing to the Village Council within seven days after the date of the Planning Commission's action. The Village Council shall determine a date, time and place when it will consider such appeal and shall notify the applicant thereof. Pending the consideration of such appeal, the site plan shall be deemed not to be approved.
- (b) All interested parties may be heard at the meeting at which the Village Council considers the appeal. After hearing the matter, the Village Council shall affirm, modify or reverse, in whole or in part, the action of the Planning Commission with regard to the site plan. Such action by the Village Council shall be based upon the standards set forth in Section 17.04.

CHAPTER 14 SITE CONDOMINIUMS

SECTION 14.01. PURPOSE AND SCOPE. Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant limited common element, shall be considered to constitute a building site which is the functional equivalent of a “lot” for purposes of determining compliance with the requirements of the Zoning Ordinance and other applicable laws, ordinances and regulations.

These provisions require preliminary review by the Planning Commission followed by final review and approval by the Village Council of site condominium project plans to ensure that site condominium projects comply with all applicable laws, ordinances and regulations, including, without limitation, this Zoning Ordinance, and the Condominium Act, Public Act 59 of 1978, as amended.

SECTION 14.02. DEFINITIONS. For purposes of this Chapter, the following words and phrases are defined as follows:

- (a) “Building envelope” means the area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a single-family residential site condominium project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built.
- (b) “Building site” means either:
 - (1) The area within the site condominium unit by itself (i.e., exclusive of any appurtenant limited common element), including the area under the building envelope and the area around and contiguous to the building envelope; or
 - (2) The area within the condominium unit, taken together with any contiguous and appurtenant limited common element.

For purposes of determining compliance with the applicable requirements of the Zoning Ordinance, a “building site” shall be considered to be the equivalent of a “lot.”

- (c) “Condominium Act” means Public Act 59 of 1978, as amended.
- (d) “Limited common element” means an area which is appurtenant to a site condominium unit and which is reserved in the master deed for the site condominium project for the exclusive use of the owner of the site condominium unit.

- (e) “Site condominium project” means a plan or project consisting of not less than two site condominium units established in compliance with the Condominium Act.
- (f) “Site condominium project plan” means the plans, drawings and information prepared for a site condominium project as required by Section 66 of the Condominium Act and as required by this Chapter for review of the project by the Planning Commission and the Village Council.
- (g) “Site condominium unit” means a condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of vacant air space, designed and intended for separate ownership and use as described in the site condominium project master deed, and within which a building or other improvements may be constructed by the condominium unit owner.
- (h) Except as otherwise provided by this Chapter, the following words and phrases, as well as any other words or phrases used in this Chapter which are specifically defined in the Condominium Act, shall conform to the meanings given to them in the Condominium Act: “common elements”; “condominium documents”; “condominium unit”; “contractible condominium”; “convertible area”; “expandable condominium”; “general common elements”; and “master deed.”

SECTION 14.03. REVIEW OF PRELIMINARY PLANS BY PLANNING COMMISSION.

- (a) Prior to final review and approval of a site condominium project plan by the Village Council, a preliminary site condominium project plan shall be reviewed by the Planning Commission in accordance with the procedures, standards and requirements provided by this Chapter.
- (b) Application for review and approval of a site condominium project plan shall be initiated by submitting to the Village Clerk:
 - (1) A minimum of 12 copies of a preliminary site condominium project plan which complies with the requirements of Chapter 13, together with a completed application form. The Zoning Administrator may require a greater or lesser number of copies of the project plan, in accordance with the number needed for review by the Planning Commission.
 - (2) An application fee in accordance with the fee schedule established by resolution of the Village Council, together with the payment of such additional amount as may be required by Village Council resolution to be paid into an escrow account, for the purpose of reimbursing the Village for its extraordinary or other costs in the review and consideration of the proposed site condominium.

The Village Clerk shall forward the copies of the preliminary plan to the Planning Commission, and the review of the preliminary plan shall be

included on the agenda of the next Planning Commission meeting which is at least ten days following completion of a review of the preliminary plan by the Zoning Administrator, such review by the Administrator being for the purpose of determining that the proposed land use complies with the Zoning Ordinance, the building code and other applicable ordinances of the Village.

The Village Clerk shall forward the copies of the preliminary plan to the Planning Commission.

- (c) The Planning Commission shall review the preliminary site condominium project plan in accordance with the following standards and requirements:
 - (1) The building site for each site condominium unit shall comply with all applicable provisions of this Ordinance, including minimum lot area, minimum lot width, required front, side and rear yards, and maximum building height. Compliance with required front, side and rear yards shall be determined by measuring the distance from the equivalent front, side, or rear yard boundaries of the building site to the closest respective front, side or rear boundary of the building envelope.
 - (2) If a site condominium project is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval and maintenance requirements for platted public streets as required by the Village. All private streets in a site condominium project shall be developed to the minimum design, construction, inspection, approval and maintenance requirements for private streets, as required by Village ordinance.
 - (3) The site condominium project shall be connected to an approved water supply and to public sanitary sewer. If public water facilities are not available, each condominium unit shall either be served by a private central system (designed for connection to a public system when and if a public system is made available), or shall have a well located within the condominium unit's building site. Water and sanitary sewer facilities shall be approved by the Kent County Department of Health and the Village in accordance with applicable standards.

SECTION 14.04. PLANNING COMMISSION RECOMMENDATION. After reviewing the preliminary site condominium project plan, the Planning Commission shall prepare a written statement of recommendations regarding the proposed site condominium project, including any suggested or required changes in the plan. The Planning Commission shall provide a copy of its written recommendations to the applicant and to the Village Council.

SECTION 14.05. REVIEW AND APPROVAL OF FINAL PLANS BY VILLAGE COUNCIL.

- (a) After receiving the Planning Commission's recommendations on the preliminary plan, the applicant shall submit to the Village Clerk a minimum of 12 copies of a final site condominium development plan. The Zoning Administrator may require a greater or lesser number of copies of the project plan, in accordance with the number needed for review by the Planning Commission. The Village Clerk shall forward the copies of the final plan to the Planning Commission, and the matter of review of the final plan shall be placed on the agenda of the next Planning Commission meeting which is at least ten days subsequent to a review of the final plan by the Zoning Administrator, such review being for the purpose of determining the extent to which the final plan complies with recommendations previously made by the Planning Commission, at the time of consideration of the preliminary plan.
- (b) The final site condominium project plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan. If any of the Planning Commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated.
- (c) The Planning Commission shall review the final plan and shall forward to the Village Council its comments and recommendations thereon.
- (d) After receiving the Planning Commission's recommendations on the preliminary and final plans and after receiving the final site condominium development plan from the applicant, the Village Council shall proceed to review and may approve, deny or approve with conditions the plan in accordance with the site plan approval standards provided by Chapter 13 and other applicable procedures, standards and requirements provided by this Chapter.
- (e) As a condition of approval of a final site condominium project plan:
 - (1) The Village Council shall, where appropriate, require that the plan be submitted to the state and county agencies having jurisdiction.
 - (2) The Village Council may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Council, to be delivered to the Village Clerk, covering the estimated cost of improvements associated with the site condominium project be deposited with the Village.
 - (3) The Village Council may impose additional reasonable conditions of approval.

SECTION 14.06. CONTENTS OF SITE CONDOMINIUM PROJECT PLANS. A condominium project plan shall include the documents and information required by Section 66 of the Condominium Act and such other materials that are determined necessary by the Planning

Commission for review of a preliminary plan or by the Village Council for review of a final plan, and shall also include the following:

- (a) All of the required elements of a site plan, under the terms of Section 13.03 of this ordinance, except such items or parts thereof as are waived by the Planning Commission.
- (b) The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
- (c) A storm drainage and a storm water management plan, including all lines, swales, drains, basins and other facilities and easements granted to the Village for installation, repair and maintenance of all drainage facilities.
- (d) A utility plan showing all water and sewer lines and easements granted to the Village for installation, repair and maintenance of all utilities.
- (e) A narrative describing the overall objectives of the proposed site condominium project.
- (f) A narrative describing the proposed method of providing potable water supply, waste disposal facilities and public and private utilities.
- (g) A street construction, paving and maintenance plan for all private streets within the proposed condominium project.

SECTION 14.07. CONSTRUCTION IN COMPLIANCE WITH PLAN. No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium project except in compliance with a final site condominium project plan as approved by the Village Council, including any conditions of approval.

SECTION 14.08. COMMENCEMENT OF CONSTRUCTION; ISSUANCE OF PERMITS. No construction, grading, soil stripping or other site improvements or changes shall be commenced by any person and no building, construction or grading permits shall be issued by the building inspector for a site condominium project until (1) a final site condominium project plan has been approved by the Village Council, (2) all conditions on commencement of construction imposed by the Village Council have been met, and (3) all applicable approvals or permits from county and state agencies have been obtained.

SECTION 14.09. REVISION OF APPROVED PLAN. Any proposed changes to an approved final site condominium project plan shall be reviewed by the Planning Commission and reviewed and approved by the Village Council as provided by this Chapter for the original review and approval of preliminary and final plans.

SECTION 14.10. MASTER DEED. All provisions of a final site condominium project plan which are approved by the Village Council as provided by this Chapter shall be incorporated, as approved, in the master deed for the site condominium project. A copy of the master deed as

recorded with the Kent County Register of Deeds shall be provided to the Village promptly after recording.

CHAPTER 15 SIGNS

SECTION 15.01. DESCRIPTION AND PURPOSE. This chapter is intended to regulate the size, number, location and manner of display of signs in the Village in a manner consistent with the following purposes.

- (a) To protect and further the health, safety and welfare of the Village residents, property owners and visitors.
- (b) To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision, distract or confuse drivers, or are improperly secured or constructed.
- (c) To conserve and enhance community character.
- (d) To promote uniformity in the size, number or placement of signs within districts.
- (e) To promote the economic viability of commercial areas by minimizing visual clutter, and allowing for proper placement of signs to safely direct motorists to their destination.
- (f) To balance the public's right to be informed and its desire to avoid visual pollution and hazardous conditions with the desires of businesses and non-business uses to communicate by means of signs.
- (g) To preserve and respect the right of free speech.

SECTION 15.02. DEFINITIONS.

- (a) Abandoned Sign. A sign which no longer identifies or advertises a bona fide business, owner, landlord, person, service, product or activity, or for which no legal owner can be found. A sign shall be considered an abandoned sign if the owner has failed to secure a permit as required by this Ordinance, or where the owner has failed to respond to notices issued under this Ordinance
- (b) Balloon Sign. A sign composed of a non-porous bag filled with gas or supported by air.
- (c) Banner Sign. A portable sign of fabric, plastic, or other non-rigid material without an enclosing structural framework.
- (d) Billboard. A sign which advertises an establishment, service or activity not conducted on the land on which the sign is located, or which advertises any goods or products that are not sold, manufactured, processed or fabricated on the land on which the sign is located. A billboard includes a billboard structure.

- (e) Community Special Event Sign. A portable temporary sign not exceeding four (4) square feet in area erected for the purpose of calling attention to non-commercial special events of interest to the general public which are sponsored by governmental agencies, schools or other non-profit groups whose purpose is of a public, charitable, philanthropic, religious or benevolent nature.
- (f) Construction Sign. A sign less than thirty-two (32) square feet in area and not exceeding six (6) feet in height which identifies the owners, lenders, contractors, architects and engineers of a project under construction, as well as the project itself.
- (g) Directional Sign. A sign which gives directions, instructions, or facility information for the movement of vehicles or pedestrians on the lot on which the sign is located, such as parking or exit and entrance signs. A directional sign shall not exceed four (4) square feet in area and shall be set back at least five (5) feet. It shall bear no advertising matter other than a logo, trademark or identifying name of the business or entity subject to such directional sign.
- (h) Freestanding Sign. A sign not attached to a building or wall which is supported by one or more poles or braces or which rests on the ground or on a foundation resting on the ground.
- (i) Garage or Estate Sale Sign. A temporary sign not exceeding four (4) square feet in area erected to advertise the resale of personal property belonging to the resident. This definition includes signs for garage sales, estate sales, rummage sales, yard sales or other similar casual sale of property.
- (j) Governmental Sign. A sign erected or required to be erected by the Village, Township, County, State or Federal governmental unit, but not including a school district.
- (k) Ground Sign. A freestanding sign not attached to a building or wall which rests on the ground or on a foundation resting on the ground, the bottom of which is no more than 24 inches above the finished grade.
- (l) Memorial Sign. A sign, tablet, or plaque memorializing a person, event, structure or site.
- (m) Non-conforming Sign. A sign which was legally erected prior to this Ordinance, but which does not conform to this Ordinance
- (n) Portable Sign. A sign that is not permanent or affixed to a building or structure and by its nature may be or is intended to be moved from one location to another.
- (o) Public Utility Signs. Signs of a non-commercial nature erected by public utilities with respect to services, products, warnings or other information regarding the utility.

- (p) Real Estate Sign. A non-illuminated sign that advertises the real estate upon which the sign is located as being for sale, rent or lease, provided the real estate sign does not exceed four (4) square feet in area for single or two-family residences or eight (8) square feet for commercial, industrial and other residential properties (including undeveloped land).
- (q) Roof Sign. A sign erected above the roof line of a building. The roof line, for purposes of this definition, shall include the top of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections. A sign erected upon a mansard roof or other roof with a pitch greater than twelve (12) feet shall be considered to be a wall sign.
- (r) Sandwich Board. A sandwich board is a self-supporting, freestanding temporary sign with two (2) faces, sometimes hinged at the top, with no moving parts or lights, displayed outside of a business, during business hours, to advertise the business, hours of operation, an event or a promotion (excluding real estate signage). A-Frame signs shall be considered a sandwich board.
- (s) Set back or Setback. The minimum distance a sign may be located from all right-of-way lines, driveway and property lines. Measurement of the setback shall be the distance from (a) a line extended vertically from the nearest part of the sign to the ground to (b) the applicable property line, driveway or right-of-way line.
- (t) Sign. A device, structure, fixture, or placard which may or may not use graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service or activity.
- (u) Subdivision or Community Sign. A freestanding sign identifying, in the case of a residential district, a residential development or development of multiple dwelling buildings, and in the case of a commercial development or industrial park, the name of the business center or industrial park. In the case of an industrial or commercial center, the development sign may include the names of the individual businesses or land uses within the development or park, subject to the regulations contained in this Ordinance. In the case of a planned unit development, a development sign shall comply with the requirements for a residential development, or for the requirements of a commercial or industrial development, as applicable to the uses in the PUD. If the PUD is a mixed use development, the names of the individual businesses or land uses within the development or park may be listed on the development sign.
- (v) Vehicle Sign. A sign placed on a continuously parked motor vehicle, or other parked vehicle, but not pertaining to the sale of the vehicle.
- (w) Wall Sign. A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than 12 inches from the exterior face of a wall to which it is attached.

- (x) Window Sign. A sign installed inside a window intended to be viewed from the outside, which complies with the following requirements:
- (1) Temporary window signs or displays are permitted provided that the signs or displays shall not cover more than thirty percent (30%) of the total window or door surface.
 - (2) Permanent window signs or displays shall be limited to fifteen (15%) percent of the total window surface.
 - (3) One address sign, containing only the street address, is permitted in the window of each tenant in a building that has more than one tenant. The address sign shall not exceed one (1) square foot in area. The address sign shall not be included in the calculation of permitted area for window signs.

SECTION 15.03. SIGN PERMITS AND APPLICATION.

- (a) Sign Permits. A sign permit shall be required for the erection, use, construction or alteration of all signs except those exempted herein. For purposes of this section, alteration shall mean any change in the size, height, lighting or location of a sign and any change in the use which is promoted, advertised or identified by the sign. Alteration of a sign shall also include the replacement of a sign, but shall not include the normal maintenance of a sign.
- (b) Application for Sign Permit. An application for a sign permit shall be made to the Zoning Administrator along with a fee if required by Village Council resolution. The application, at a minimum, shall include the following:
- (1) Name, address, and telephone number of applicant and the person, firm or corporation erecting the sign.
 - (2) Address or permanent parcel number of the property where the sign will be located.
 - (3) A sketch showing the location of the building, structure, or lot upon which the sign is to be attached or erected, and showing the proposed sign in relation to buildings and structures along with setback from lot lines, right-of-way lines and driveways.
 - (4) A drawing of the plans and specifications for the sign, including a drawing of how the sign will be attached to structures or the ground.
 - (5) Any required electrical permit shall be attached to the application.
 - (6) Any other information which the Zoning Administrator may require in order to demonstrate compliance with this Ordinance.

- (c) Electrical Service. All signs requiring electrical service shall be reviewed for compliance with the Village electrical code. Approval of electrical signs shall be noted on or attached to the sign permit.
- (d) Issuance and Duration of Permit. The Zoning Administrator shall issue a sign permit if all provisions of this Ordinance and other applicable Village ordinances are met. A sign authorized by a permit shall be installed or be under construction within six months of the date of issuance of the sign permit or the permit shall expire.

SECTION 15.04. SIGNS NOT REQUIRING A PERMIT.

- (a) Signs Subject to General Requirements. The following signs shall not require a permit, but shall be subject to all other applicable provisions of this Ordinance:
 - (1) Home occupation signs.
 - (2) Roadside stand signs.
 - (3) Directional signs.
 - (4) Construction signs.
 - (5) Garage or estate sale signs.
 - (6) Real estate signs.
 - (7) Subdivision or community signs.
 - (8) Sandwich Board Signs. Sandwich board signs or other similar may be located only in the C-1 or C-2 districts, and shall be subject to the requirements specified in Section 15.13.
- (b) Signs Subject only to Section 15.06. The following signs shall not require a permit and shall be exempt from the provisions of this Chapter, except for the design, construction and location standards contained in Section 15.06:
 - (1) Home identification signs.
 - (2) Address signs.
 - (3) Political signs.
 - (4) Memorial signs.
 - (5) Public utility signs.

SECTION 15.05. PROHIBITED SIGNS.

- (a) A sign not expressly permitted by this Ordinance is prohibited.
- (b) The following types of signs are also prohibited:
 - (1) Portable signs.
 - (2) Balloon signs.
 - (3) Vehicle signs.

SECTION 15.06. DESIGN, CONSTRUCTION AND LOCATION STANDARDS.

- (a) Sign Maintenance. All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or as a result of the effects of the weather. Signs shall be cleaned and maintained, clearly legible and not faded.
- (b) Proper Sign Supports. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
- (c) Wind and Weather. Signs shall be constructed to withstand all wind and vibration forces which can normally be expected to occur.
- (d) Illumination and Movement.
 - (1) Unless otherwise provided, signs may be illuminated internally or externally. If externally illuminated, the source of the light shall be enclosed and directed to prevent light from shining directly onto traffic or neighboring property. Beacon lights and search lights shall not be permitted.
 - (2) Flashing, moving, oscillating, blinking, or variable intensity light shall not be permitted. Electronic message boards or changeable copy signs in which the copy consists of an array of light are permitted provided the frequency of message change is not less than two (2) seconds. All lights in a display shall activate simultaneously, remain activated for not less than two (2) seconds, and deactivate simultaneously; provided, however, sign copy may be refreshed by text that appears or disappears through travel, scroll, fade or dissolved transitions if the visual impact is not to give the appearance of flashing, animation or other sudden movement likely to be unduly distracting to traveling motorists, and provided that each message on the sign, including the copy, must be displayed for a minimum of two (2) seconds. No sign shall have blinking, flashing or fluttering lights or other illuminated devices, such as changing light intensity, brightness or color.

- (3) A sign shall not contain any moving or animated parts, nor have the appearance of having moving or animated parts, except for time and temperature signs and barber pole signs.
- (e) Not in Right-of-Way. Signs shall not be placed in, upon or over any public right-of-way, except that non-commercial banners and/or seasonal displays may be placed in, upon or over a public right-of-way, on a temporary basis only, and only to give notice of a non-commercial festival or event, patriotic occasion, if given prior approval in writing by the Zoning Administrator. The Zoning Administrator shall determine that banners and/or seasonal displays will not create a visual distraction to the traveling public and will not interfere with the safe and normal use of the public rights-of-way. A Civic Event sign or Community Special Event sign in the form of a banner sign may be used as allowed by this section.

Signs placed in the right-of-way in violation of this Ordinance shall be deemed to be an abandoned sign and a safety hazard, subject to immediate removal and disposal by the Village.

- (f) Not a Traffic Distraction. A sign shall not be erected in any place where it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance.
- (g) Not Above Roof Line. A wall sign shall not extend past the edge of the wall to which it is affixed, and no wall sign shall extend above the roof line of a building.
- (h) Not Encroaching on Setback Area. A sign and its supporting mechanism shall not extend beyond any lot lines of the property on which it is located, nor shall it extend above the minimum setback line established for such sign.
- (i) Not on Utility Poles. A light pole, utility pole or other supporting member shall not be used for the placement of a sign, except as may be specifically provided in this chapter.

SECTION 15.07. SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS. The following sign regulations are applicable to all zoning districts.

- (a) On-Premises Signs. All signs shall be stationary and shall pertain only to the business or activity conducted on the premises, except for permitted billboards and permitted Civic Event and Community Special Event signs.
- (b) Measurement of Signs.
 - (1) The area of a sign shall be measured as the area within a single, continuous perimeter which encloses the most outward limits of writing, representation, emblem, or any other figure of similar character, together with any frame or other material or color forming an integral part of the

display or used to differentiate the sign from its background, excluding the structure necessary to support the sign.

- (2) The area of a freestanding or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two such faces are placed back-to-back and are of equal size, the area of the two back-to-back faces (including V-type signs having only one face visible to street traffic proceeding from a given direction) shall be counted as one face. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.
 - (3) The height of a sign shall be measured as the vertical distance from the highest point of the sign or sign structure (whichever is the higher) to the natural grade of the ground immediately beneath the sign, except that if such natural grade is at least ten (10) feet higher or ten (10) feet lower than the grade of the adjacent street, then the height of the sign shall be measured from the highest point of the sign or sign structure (whichever is the higher) to an elevation determined by computing the average between the natural grade of the ground immediately beneath the sign and the grade of the adjacent street.
- (c) Construction signs are permitted within any District, subject to the following restrictions:
- (1) There may be one construction sign, not larger than thirty-two (32) square feet in area and not exceeding six (6) feet in height.
 - (2) Construction signs shall not be erected until a building permit has been issued for the project which is the subject of proposed sign and construction activity has begun.
 - (3) Construction signs shall be removed immediately upon the issuance of any Occupancy Permit for the building or structure which is the subject of the construction sign.
- (d) Directional signs are permitted in any district subject to the following restrictions:
- (1) A directional sign may not contain advertising copy or the logo of the business or use.
 - (2) Such sign shall not exceed four (4) square feet in area or four (4) feet in height, and shall be set back at least five (5) feet from any lot line and edge of any driving lane.
 - (3) Directional signs shall be limited to traffic control functions only.

SECTION 15.08. SIGNS IN THE R-1, R1-A AND R-2 DISTRICTS. The following signs are permitted in the R-1 and R1-A Single Family Residential Districts and the R-2 Medium Density Residential District:

- (a) Signs as permitted and regulated by Sections 15.03, 15.04 and 15.07.
- (b) One freestanding sign for permitted non-residential uses, not to exceed sixteen (16) square feet in sign area and of a height not greater than six (6) feet. Such sign shall be set back at least five (5) feet.
- (c) A home occupation sign shall be permitted. The home occupation sign shall not exceed four (4) square feet in area or four (4) feet in height and shall be set back no less than five (5) feet.
- (d) Real estate signs shall be permitted as follows: One sign per parcel, not exceeding the size and dimension set forth in Section 15.02 for such a real estate sign. Such sign shall be set back a minimum of five (5) feet.
- (e) Signs in connection with a special land use shall be as permitted according to the special land use approval granted under Chapter 12 of this Ordinance.

SECTION 15.09. SIGNS IN THE R-3 MANUFACTURED HOUSING COMMUNITY DISTRICT. The following signs are permitted in the R-3 Manufactured Housing Community District:

- (a) Signs as permitted and regulated by Sections 15.03, 15.04 and 15.07.
- (b) Manufactured housing community identification signs as provided in Section 7.05(1) of this Ordinance.
- (c) There may be one home occupation sign on a lot within a mobile home park. Such home occupation sign shall not exceed four (4) square feet in area, shall not be higher than four (4) feet and shall be set back at least three (3) feet from any property line of a mobile home lot within a mobile home park.
- (d) One freestanding sign for permitted non-residential uses, not to exceed sixteen (16) square feet in sign area and of a height not greater than six (6) feet; but this provision shall not include mobile home park identification signs or home occupation signs, which are regulated by subsections (b) and (c) of this section.
- (e) Real estate signs shall be permitted as follows: One sign per parcel, not exceeding the size and dimension set forth in Section 15.02 for such a real estate sign. Such sign shall be set back a minimum of five (5) feet from any lot line.

SECTION 15.10. SIGNS IN THE C-1 NEIGHBORHOOD BUSINESS DISTRICT AND THE C-2 HIGHWAY BUSINESS DISTRICT. The following signs are permitted in the C-1 and C-2 Districts:

THE FOLLOWING SIGNS ARE PERMITTED IN THE C-1 DISTRICT:

- (a) Signs as permitted and regulated by Sections 15.03, 15.04 and 15.07.
- (b) Freestanding Signs. One freestanding sign is permitted for each lot or parcel of land. The freestanding sign shall not exceed fifty (50) square feet in area or twenty (20) feet in height, as measured from the natural grade. Freestanding signs shall be set back a minimum of five (5) feet.
- (c) Wall Signs. One wall sign is permitted for each parcel or lot. The area of a wall sign shall not exceed fifty (50) square feet in area or 10% of the building surface area of the wall on which the sign is located, whichever is less. Additional wall signs shall be permitted as follows:
 - (1) *Two or More Commercial Establishments*. If two or more commercial establishments are located on a parcel of land, each commercial establishment shall be permitted to have one wall sign. The total area of all permitted wall signs located on any building wall shall not exceed 10% of the building surface area of such wall, and no single wall sign shall exceed fifty (50) square feet in area.
 - (2) *Corner Lots*. A commercial establishment that has frontage on more than one street of a corner lot or parcel shall be permitted to have a wall sign on each building wall that fronts on such streets. No such wall sign shall exceed fifty (50) square feet in area, and the total area of all wall signs on a building wall shall not exceed 10% of the building surface area of that wall.
- (d) Real Estate Signs. Real estate signs shall be permitted as follows: One sign per parcel, not exceeding thirty-two (32) square feet in area and eight (8) feet in height. Such sign shall be set back a minimum of five (5) feet from any lot line.
- (e) Sandwich board signs shall be permitted, without a sign permit, in the C-1 District or C-2 District, as follows:
 - (1) Purpose. A sandwich board sign shall only be used to advertise such sale items, goods sold, menus or services rendered as are provided on the premises.
 - (2) Number of Signs Permitted. Only one sandwich board sign shall be permitted for each premises.

- (3) Location. Sandwich board signs shall be placed near the point of entry of the business, but shall not obstruct or interfere with use of sidewalks, driveways, rights-of-way, sight visibility, pedestrian movement, bicycle racks, loading zones, wheelchair ramps or other similar traffic or pedestrian facilities. Except for sandwich board signs located on sidewalks, all sandwich board signs shall be at least six (6) feet from the improved portion of a street. No sign shall cover more than 25% of the unobstructed width of a sidewalk, and no sandwich board sign shall be located on any portion of a sidewalk which is less than six (6) feet in width. Sandwich board signs located on a sidewalk shall not be located within 24 inches of the edge of the curb or roadway.
 - (4) Sign Construction. Sandwich board signs shall be constructed of durable, weather-resistant materials. The use of cardboard, paper, fabric or non-rigid materials is prohibited. Material such as papers, balloons, wind socks or other materials that may be added to increase the height or width of a sign, materials containing foil, mirrors, bare metal or other reflective materials which could create hazardous conditions to motorists, bicycles and pedestrians, and moving parts are all prohibited. A sandwich board sign shall be placed on the ground and shall not be carried by a person or animal.
 - (5) Hours of Display. Sandwich board signs shall be displayed during business hours only. Signs shall be brought indoors at the close of business each day.
 - (6) Sign Dimensions. A sandwich board sign shall not exceed more than six (6) square feet in area (counting only a single side) or more than 36 inches in height or 36 inches in width.
- (f) Special Land Uses. Signs in connection with a special land use shall be as permitted according to the special land use approval granted under Chapter 12 of this Ordinance.

THE FOLLOWING SIGNS ARE PERMITTED IN THE C-2 DISTRICT:

- (g) Signs as permitted and regulated by Sections 15.03, 15.04 and 15.07.
- (h) Freestanding Signs. One freestanding sign is permitted for each lot or parcel of land. The freestanding sign shall not exceed one hundred (100) square feet in area or twenty-five (25) feet in height, as measured from the natural grade. Freestanding signs shall be set back a minimum of ten (10) feet.
- (i) Wall Signs. Two wall signs are permitted for each parcel or lot. The total area of all permitted wall signs located on any building wall shall not exceed 10% of the building surface area of such wall, and no single wall sign shall exceed fifty (50) square feet in area. Additional wall signs shall be permitted as follows:

- (1) Two or more commercial establishments. If two or more commercial establishments are located on a parcel of land, each commercial establishment shall be permitted to have one wall sign. The total area of all permitted wall signs located on any building wall shall not exceed 10% of the building surface area of such wall, and no single wall sign shall exceed fifty (50) square feet in area.
- (2) Corner lots. A commercial establishment that has frontage on more than one street of a corner lot or parcel shall be permitted to have a wall sign on each building wall that fronts on such streets. No such wall sign shall exceed fifty (50) square feet in area, and the total area of all wall signs on a building wall shall not exceed 10% of the building surface area of that wall.
- (j) Real Estate Signs. Real estate signs shall be permitted as follows: One sign per parcel, not exceeding thirty-two (32) square feet in area and eight (8) feet in height. Such sign shall be set back a minimum of five (5) feet from any lot line.
- (k) Sandwich board signs shall be permitted in the C-2 District in accordance with the provisions of Section 15.10(a)(5) of this Ordinance.
- (l) Special Land Uses. Signs in connection with a special land use shall be as permitted according to the special land use approval granted under Chapter 12 of this Ordinance.

SECTION 15.11. SIGNS IN THE I-1 LIGHT INDUSTRIAL DISTRICT. The following signs are permitted in the I-1 Light Industrial District:

- (a) Signs as permitted and regulated by Sections 15.03, 15.04 and 15.07.
- (b) Freestanding Signs. One freestanding sign is permitted for each lot or parcel of land. The freestanding sign shall not exceed one hundred (100) square feet in area or twenty-five (25) feet in height, as measured from the natural grade. Freestanding signs shall be set back a minimum of ten (10) feet.
- (c) Wall Signs. One wall sign is permitted for each parcel or lot. The area of a wall sign shall not exceed 10% of the building surface area of the wall on which the sign is located, and no single wall sign shall exceed fifty (50) square feet in area.
- (d) Real Estate Signs. Real estate signs shall be permitted as follows: One sign per parcel, not exceeding the size and dimension set forth in Section 15.02 for such a real estate sign. Such sign shall be set back a minimum of five (5) feet.
- (e) Special Land Uses. Signs in connection with a special land use shall be as permitted according to the special land use approval granted under Chapter 12 of this Ordinance.

SECTION 15.12. SIGNS IN THE RESIDENTIAL PUD DISTRICT.

- (a) Signs in the Residential Planned Unit Development District shall be as determined by the Planning Commission and Village Council in the approval of the planned unit development.
- (b) In approving signs in the Residential PUD District, the Planning Commission and Village Council shall consider the following matters:
 - (1) The number of proposed signs and the area, height, placement and type of each sign.
 - (2) The location of signs in relation to streets and driveways. Signs shall be placed so as to avoid interference with or hazard to vehicle circulation and pedestrians.
 - (3) Signs shall be set back from all lot lines a sufficient distance so as to avoid interference with other land uses.
 - (4) Signs shall not have a serious adverse effect on adjacent or nearby lands and the uses thereof.

SECTION 15.13. SIGNS IN THE COMMERCIAL PUD DISTRICT.

- (a) Signs in the Commercial Planned Unit Development District shall be as determined by the Planning Commission and Village Council in the approval of the planned unit development.
- (b) In approving signs in a Commercial PUD District, the Planning Commission and Village Council shall consider the following matters:
 - (1) The number of proposed signs and the area, height, placement and type of each sign.
 - (2) The location of signs in relation to streets and driveways. Signs shall be placed so as to avoid interference with or hazard to vehicle circulation and pedestrians.
 - (3) Signs shall be set back from all lot lines a sufficient distance so as to avoid interference with other land uses.
 - (4) Signs shall not have a serious adverse effect on adjacent or nearby lands and the uses thereof.

SECTION 15.14. CIVIC EVENT SIGN AND COMMUNITY SPECIAL EVENT SIGNS.

- (a) Civic Event Sign shall mean a temporary sign displayed for civic events within the community such as holiday parades, festivals and other not-for-profit civic events for the primary purpose of promoting the Kent City/Casnovia community or where the Village of Kent City is either a sponsor or co-sponsor of the civic event.
- (b) Civic event signs are permitted in any zoning district, subject to the following restrictions:
 - (1) A civic event sign may be located on or off the lot on which the civic event is held. Written permission for sign placement on property other than the lot where the event is to be held must be obtained from the property owner where any sign is to be located.
 - (2) For all civic event signs, the maximum number, size and height of signs pertaining to the event shall be as follows:
 - a. A maximum of two (2) civic event signs shall be permitted for a civic event on each lot on which such sign is displayed.
 - b. The signs shall have a maximum size of thirty-two (32) square feet in area and a maximum height above ground level of six (6) feet. The sign setback shall be as required for freestanding signs in the zoning district in which the sign is to be located, or five (5) feet, whichever is greater.
 - c. Signs, larger than thirty-two (32) square feet and/or six (6) feet in height above ground level, may be installed adjacent to any street that crosses the boundary of the Village of Kent City within five hundred (500) feet of the Kent City boundary with its size, height and location determined by Kent City Village Council approval. The Village Council shall determine that any such sign shall not create a visual obstruction for drivers of vehicles, block driveways or impede emergency vehicles or the smooth flow of traffic on roadways and pedestrian walkways, and shall further determine that the sign will not be injurious to the use and enjoyment of nearby property and will be compatible with adjacent and anticipated future land uses.
 - d. The signs shall be removed promptly at the conclusion of the civic event which is being promoted.
- (c) Community Special Event Sign shall mean a temporary sign displayed for a limited time, to call attention to special events of interest to the general public which are sponsored by governmental agencies, schools or other groups which are non-profit and whose purpose is charitable, philanthropic, religious or benevolent.

- (d) Community special event signs are permitted in any zoning district, subject to the following restrictions:
- (1) A community special event sign may be located on or off the lot on which the special event is held. Permission for sign placement off premises must be obtained from the property owner where the sign will be placed
 - (2) A community special event sign may be located on or off the lot on which the special event is held. Written permission for sign placement on property other than the lot where the event is to be held must be obtained from the property owner where the sign is to be located.
 - a. For all community special event signs, the maximum number, size and height of signs pertaining to the event shall be as follows:
 - b. A maximum of two civic event signs shall be permitted for a special event on each lot on which such a sign is displaced.
 - c. The signs shall have a maximum size of four (4) square feet in area and four (4) feet in height and shall be set back no less than five (5) feet. The sign setback shall be as required for freestanding signs in the zoning district in which the sign is to be located, or five (5) feet, whichever is greater.

SECTION 15.15. BILLBOARDS. Billboards shall be constructed, installed, maintained and used only in accordance with special land use approval granted by the Planning Commission under Section 12.34 and other applicable special land use provisions.

SECTION 15.16. NON-CONFORMING SIGNS, ILLEGAL SIGNS, AND SIGNS ACCESSORY TO NON-CONFORMING USES.

- (a) Every legal permanent sign which does not conform to the height, size, area or location requirements of this Chapter as of the date of the adoption of this Ordinance, is hereby deemed to be non-conforming.
- (b) Non-conforming signs may not be altered, expanded, enlarged, or extended; however, non-conforming signs may be maintained and repaired so as to continue the useful life of the sign.
- (c) For the purposes of this Chapter, a non-conforming sign may be diminished in size or dimension or the copy of the sign may be amended or changed without jeopardizing the privilege of non-conforming use.
- (d) A sign that is accessory to a non-conforming use may be erected in the Village in accordance with the sign regulations for the District in which the property is located.

SECTION 15.17. ABANDONED SIGNS. Any sign which the Village determines to be abandoned shall be removed by the owner. If the owner does not remove the sign, or if no owner can be found, the Village may remove and dispose of the sign. If the sign is removed by the Village and the owner is known, the Village shall have the right to recover from the owner of the sign the full costs of removing and disposing of the sign. Signs in the public right-of-way shall be subject to immediate removal by the Village.

SECTION 15.18. MODIFICATIONS BY PLANNING COMMISSION. The Planning Commission may modify the sign regulations contained in this Chapter, with respect to an increase in the height, number or area of signs, or other modification of the requirements contained in this Chapter, where the purposes of this Chapter will nevertheless be achieved by the modified provisions. In approving such modifications, the Planning Commission shall consider the following criteria:

- (a) Standards for Modification.
 - (1) The modification shall be compatible with adjacent existing and future land uses and shall not be injurious to the use and enjoyment of nearby property.
 - (2) The modification shall improve and not impede emergency vehicle or personnel access, traffic or pedestrian circulation.
 - (3) The modification shall be necessary because of topography, natural features, visual obstructions or other unusual aspects of the site.
 - (4) The modification shall not result in traffic or safety hazards, shall not result in visual clutter or distraction, and shall not otherwise result in a detriment to the public health, safety and welfare.
- (b) Requests for Modification. When requesting any modifications from the provisions of this Chapter, the applicant shall provide the Planning Commission with a written statement of justification, indicating the site conditions that warrant the requested modifications and specifying how the modifications would nevertheless carry out the basic intent and purposes of this Chapter.

CHAPTER 15A
COMMERCIAL SIGN OVERLAY DISTRICT

SECTION 15A.01. PURPOSE. The purpose of this chapter is to modify the sign regulations for certain commercially zoned lands lying west of the intersection of Ball Creek Road and West Muskegon Street. The relevant lands are within the C-1 District and have frontage on West Muskegon Street (M-46) or Ball Creek Road. The purpose of these regulations is to enhance visibility and aesthetics in this area while minimizing distraction to motorists.

SECTION 15A.02. APPLICABILITY. The regulations set forth in this chapter apply to all lots or parcels in the C-1 District that lie west of the intersection of Ball Creek Road and West Muskegon Street and that also have frontage on either side of West Muskegon Street or on the southwest side of Ball Creek Road. These regulations shall supersede all conflicting regulations of this Ordinance to the extent of such conflict.

SECTION 15A.03. SIGN REGULATIONS. One freestanding sign is permitted for each lot or parcel of land, subject to the following requirements:

- (a) *One Commercial Establishment.* If only one commercial establishment is located on the lot or parcel, the freestanding sign shall not exceed fifty (50) square feet in area or twenty (20) feet in height, and shall be set back a minimum of five (5) feet from the street right-of-way line.
- (b) *Multiple Commercial Establishments.* If two or more commercial establishments are located on the lot or parcel, the freestanding sign shall not exceed one hundred (100) square feet in area or twenty-five (25) feet in height, and shall be set back a minimum of five (5) feet from the street right-of-way line. In addition, the freestanding sign shall have a minimum ground clearance of eight (8) feet, as measured from the natural grade of the ground immediately beneath the sign to the bottom of the outermost perimeter of the display area of the sign.
- (c) *Apportionment of Display Area.* A freestanding sign located on a lot or parcel with two or more business establishments shall be designed such that each business is allocated a percentage of the total display area equal to the percentage of the total lineal footage of building frontage occupied by that business; provided, however, that the display area of the sign may be allocated in a different manner if mutually agreed upon by the owners of all of the businesses on the lot or parcel.
- (d) *Site Plan Review.* The design and location of each freestanding sign and means of apportionment of such freestanding sign shall be submitted to the Planning Commission for its review as part of the site plan review procedure under Chapter 13.
- (e) *Compliance with Sign Chapter.* Except as to the requirements expressly modified by this Section 15A.03, signs in the Commercial Sign Overlay District shall fully comply with the requirements of Chapter 15.

CHAPTER 16
OFF-STREET PARKING AND LOADING

SECTION 16.01. **PURPOSE.** The purpose of this chapter is to prescribe regulations for off-street parking of motor vehicles in residential and non-residential zoning districts, to ensure by the provision of these regulations that adequate parking and access is provided in a safe and convenient manner, and to afford reasonable protection to adjacent land uses from light, noise, air pollution, and other effects of parking areas.

SECTION 16.02. **SCOPE.**

- (a) At the time any building or structure is erected, enlarged, or increased in capacity, or uses established, off-street parking and loading spaces shall be provided in all zoning districts according to the requirements of this Chapter.
- (b) No parking or loading area or space which exists at the time of the adoption of this Ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance.

SECTION 16.03. **LOCATION OF PARKING AREAS.**

- (a) For all residential uses the number of parking spaces required by this Ordinance shall be located on the same lot or parcel as the dwelling units served.
- (b) For all other uses the number of parking spaces required by this Ordinance shall be located on the same lot, or lots under the same ownership, within 300 feet of the building it is intended to serve, measured from the building to the nearest parking space of the on-premise parking lot.

SECTION 16.04. **GENERAL REQUIREMENTS.**

- (a) **Definitions.** For purposes of determining off street parking requirements the following definitions shall apply:
 - (1) **Gross Floor Area** - The sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed porches, court yards, or patios shall not be considered as part of the gross floor area except where they are utilized for commercial purposes such as the outdoor sale of merchandise or seating for a restaurant.
 - (2) **Usable Floor Area** - That area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers, Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or restrooms, shall be excluded from this computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior

walls, and total usable area for a building shall include the sum of the usable floor area for all floors.

- (3) Parking Area - For purposes of this chapter, parking area shall include the space where vehicles are parked, as well as access aisles, driveways, and loading and unloading areas.

(b) Units of Measurement.

- (1) Where benches, pews, or other similar seating are used as seats, each 24 inches of such seating facility shall be counted as one seat.
- (2) For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
- (3) When units of measurement determining the number of required parking spaces or loading spaces result in a requirement of a fractional space, that fraction shall be counted as a full parking space.

(c) Storage and Repair. The use of semi-trailers for storage purposes within a parking area is prohibited.

(d) Parking Requirements for Uses Not Listed. The minimum parking space requirements for all uses shall be as listed in Section 16.06. For uses not specifically listed in Section 16.06 the requirements shall be determined as follows.

- (1) The Zoning Administrator may establish the parking requirement by making the determination that the proposed use is similar in parking requirement to a use which is listed in Section 16.06. In such case, the same parking requirement shall apply.
- (2) If the proposed use is not similar to a use listed in Section 16.06, the Zoning Administrator shall refer to engineering or planning manuals, publications and reports, and may consider the parking requirements used by other municipalities, in order to determine the minimum parking requirements.

(e) Existing Parking Lots. Parking areas which are in existence as of the date of adoption of this chapter shall be considered legal non-conforming uses if lawfully approved under the previous regulations. Any expansion of such existing parking areas shall conform to the requirements of this Chapter.

SECTION 16.05. DESIGN, LOCATION AND CONSTRUCTION REQUIREMENTS. The following provisions shall apply to all uses except one-family dwellings, two-family dwellings and farms:

- (a) All drives, driveways, and parking spaces shall be surfaced with asphalt, bituminous, portland cement binder pavement or other durable and dustless surface. Such surfaces shall be graded to dispose of all surface water and prevent drainage onto abutting properties.

In order to reduce the amount of impervious surface and the corresponding storm water runoff as well as improve parking lot aesthetics, the Planning Commission or Zoning Administrator may approve alternate parking lot surfaces for overflow parking or employee parking.

- (b) Lighting fixtures used to illuminate off-street parking areas shall be so arranged as to deflect the light away from any adjoining residential properties or streets and highways.
- (c) All off-street parking areas, including parking aisles, except those serving residential dwellings with less than four dwelling units, shall be set back a minimum of five feet from the rear and side lot lines, and a minimum of 15 feet from the front lot line. The Planning Commission may permit parking areas to encroach within the 15 foot front setback where substantial screening or landscaping acceptable to the Planning Commission is provided.
- (d) Parking areas shall be designed to delineate access aisles or drives and to provide drivers proper sight distance at the end of parking rows where such rows intersect access aisles or drives.

SECTION 16.06. SCHEDULE OF OFF-STREET PARKING REQUIREMENTS. Each use shall provide parking spaces in conformance with the following schedule of requirements, subject, however, to subsection (g) of this section.

<u>Use</u>	<u>Number of Motor Vehicle Parking Spaces Required per Unit of Measure</u>
(a) <u>Residential</u>	
(1) Single-family, two family, or multiple family with three or more bedrooms.	Two for each dwelling unit
(2) Multiple family with one or two bedrooms.	Two for each two bedroom dwelling unit and 1.5 for each one bedroom dwelling unit.
(3) Mobile Home Parks.	Two for each mobile home or mobile home site.
(b) <u>Institutional/Public Assembly</u>	

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| (1) Churches, and other houses of worship. | One space per each three seats in the main worship area. |
| (2) Child Care Centers. | One space for every eight children of licensed capacity, plus one space for each employee. A minimum of three employee spaces shall be required. |
| (3) Elementary schools. | Two spaces per classroom. |
| (4) Junior high schools and middle schools. | Five spaces per classroom. |
| (5) High schools. | Eight spaces per classroom, or one space per each four seats of maximum seating capacity for that indoor place of assembly having the greatest capacity, whichever is greater. |
| (6) Libraries and museums. | One parking space per 400 square feet of gross floor area. |

(c) Offices

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| (1) Medical/dental clinics or offices. | Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required. |
| (2) General office buildings. | One space per 300 square feet of gross floor area. A minimum of four spaces shall be required. |
| (3) Banks, credit unions, or savings and loans. | Four spaces per 1,000 square feet of gross floor area, plus two spaces per each non-drive-through automatic teller plus four on-site waiting spaces for each drive up window or drive-thru automatic teller. |

(d) Retail and Service Uses

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| (1) Retail shopping centers, discount stores, and department stores containing between 25,000 and 400,000 square feet. | Four spaces per 1,000 square feet of usable floor area. |
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| (2) Other retail uses not otherwise specified herein. | One space per 200 square feet of usable floor area plus one per employee. |
| (3) Supermarkets and grocery stores. | One space per 200 square feet of usable floor area. |
| (4) Personal service establishments not otherwise provided herein. | One space per each 300 square feet of usable floor area plus one per employee. |
| (5) Appliance stores. | Four spaces per 1,000 square feet of gross floor area. |
| (6) Automobile service stations. | Two parking spaces per each service bay, plus one per each per each employee, plus one per each 200 square feet of retail area. A service bay and the area on each side of a gas pump may count as a parking space. |
| (7) Automobile wash establishments (automatic). | One parking space per each employee, plus fifteen on-site waiting spaces at each wash-bay entrance, plus two drying spaces at the exit. |
| (8) Automobile wash establishments (self-service). | One parking space per each employee, plus three on-site waiting spaces at each wash-bay entrance. |
| (9) Barber shops, beauty salons. | Two for each barber or beauty operator chair/station plus one for every two employees. |
| (10) Building supply store, home improvement store, paint and hardware store. | One space per 200 square feet of usable floor area plus one for each employee. |
| (11) Convenience stores. | Four spaces per 1,000 square feet of gross floor area |
| (12) Funeral homes and mortuaries. | One space per 50 square feet of parlor and chapel areas. |
| (13) Hotel, motel, or other commercial lodging establishment. | One space for each guest room, plus one for each two employees. |

(14) Laundromats.	One space per each three washing machines.
(15) Mini-storage houses/warehouses.	Six spaces.
(16) Motor vehicle dealerships	One space per 5,000 square feet of outdoor sales area, plus one space per sales desk/office, plus three spaces per service bay. A minimum of six spaces shall be required.
(17) Restaurants without drive-through facilities.	One space for each 100 square feet of usable floor area or one space for each two persons allowed within the maximum occupancy load established by the applicable code or ordinance, whichever is greater.
(18) Restaurants with drive-through facilities.	One space for each 100 square feet of usable floor area or one space for each one and one-half person allowed within the maximum occupancy load established by any applicable code or ordinance, whichever is greater
(e) <u>Recreation/Entertainment</u>	
(1) Bowling centers.	Five spaces per bowling lane.
(2) Movie theaters.	One space per each four seats, plus four spaces per screen.
(3) Public recreation centers.	Five spaces per 1,000 square feet of gross floor area.
(f) <u>Industrial Uses</u>	
(1) Light industrial and research establishments	One parking space per each employee working on the shift with the greatest number of employees.
(2) Wholesale warehouses or distribution facilities	One parking space per each employee working on the shift with the greatest number of employees.

- (g) Notwithstanding the above-stated vehicle parking space requirements, the Planning Commission, as a condition of site plan approval under Chapter 13, may reduce, increase or otherwise modify such minimum vehicle parking space requirements, upon consideration of the following standards:
- (1) Whether an increased, decreased or otherwise modified number of vehicle parking spaces would more accurately reflect the actual need for off-street vehicle parking spaces, as determined by the Planning Commission.
 - (2) Whether any varied number of required vehicle parking spaces would be consistent with public safety and welfare.
 - (3) Whether a decreased number of required vehicle parking spaces would tend to promote excessive parking of vehicles within public or private street rights of way.
 - (4) Whether, if the total number of required parking spaces is reduced, there would nevertheless be sufficient undeveloped land on the site so that if required at a subsequent time, additional off-street parking spaces could be constructed and used.
 - (5) Whether a reduction in the required number of off-street vehicle parking spaces would contribute to less stormwater run-off from the property.
 - (6) Whether there would continue to be adequate parking area and means of ingress and egress for emergency vehicles.

In determining any increase, decrease or other modification in the required number of off-street vehicle parking spaces, the Planning Commission may impose additional terms, conditions and limitations with regard to off-street parking area, access to the property, off-street loading areas and related aspects of the property.

SECTION 16.07. OFF-STREET LOADING REQUIREMENTS.

- (a) Off-street loading spaces shall be provided in size and quantity sufficient to prevent interference with adjacent streets or required off-street parking areas.
- (b) Required loading spaces shall not be included in the count of off-street parking spaces.
- (c) Loading spaces shall not use any portion of any public right-of-way.
- (d) Adequate maneuvering space for trucks using the loading spaces, consistent with public safety and reasonable circulation of vehicles on the adjacent public and private streets, shall be provided on the premises.

- (e) The design, location, and screening of off-street loading areas shall be reviewed at the time of site plan approval, so as to ensure that adequate protection is afforded to adjacent properties.

CHAPTER 17
NON-CONFORMING USES, BUILDINGS AND STRUCTURES

SECTION 17.01. CONTINUATION OF NON-CONFORMING USES. Except where specifically provided to the contrary, and subject to the provisions of this Chapter, a lawful building or structure, and the lawful use of thereof or the use of any land or premises which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be continued even though such building, structure or use does not conform with the provisions of this Ordinance or an amendment thereto.

SECTION 17.02. EXPANSION OF NON-CONFORMING STRUCTURE. Structures or buildings nonconforming only by reason of lot area, height, setback, parking, or other dimensional requirements may be altered only as follows:

- (a) The building, structure, parking area, or site may be changed so as to make it more closely conforming to this Ordinance, if such change does not increase the existing nonconformity.
- (b) The building, structure, parking area or site may be maintained, remodeled, and modernized, so that it is consistent with this Ordinance and does not expand the existing nonconforming use, structure, or building.

SECTION 17.03. NON-CONFORMING USES. The continued use, extension, enlargement, alteration, and remodeling of any nonconforming use, whether or not conducted in a conforming structure, shall be subject to the following conditions:

- (a) No structural alteration may be made which will change the form, character, or size of the building.
- (b) The area in a building or structure, or on a site devoted to the nonconforming use shall not be increased.
- (c) The operations conducted by a nonconforming use shall not be changed so as to create or increase noise, smoke, dust or other adverse effects.
- (d) A building, structure, or premises used for a nonconforming use may be converted to a less intensive or objectionable use, determined as follows:
 - (1) The building or premises may be changed to a use permitted by right in the same district in which the existing nonconforming use would be permitted, if the new use is required by the Zoning Ordinance to have the same, or less, parking and if the new use will be totally enclosed within a building.
 - (2) The structure or premises may be converted to any other proposed use which is determined by the Board of Zoning Appeals to be equally or more appropriate than the existing use, viewed in light of all the

surrounding facts and circumstances, following notice and public hearing given in the same manner as provided for a variance.

SECTION 17.04. RESTORATION AND REPAIR.

- (a) Subject to the provisions of this Chapter, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.
- (b) In the event any nonconforming building or structure is damaged by fire, wind, flood or other natural disaster, it may be rebuilt or restored if the cost thereof does not exceed 50% of the fair market value of the nonconforming building or structure prior to its damage or destruction.
- (c) In the event any nonconforming building or structure is damaged by fire, wind, flood or other natural disaster, and if its replacement cost would exceed 50% of the fair market value of the nonconforming building or structure prior to its damage or destruction, it may be rebuilt or restored only in accordance with the requirements of this Ordinance; provided, however, that such damaged nonconforming building or structure may be rebuilt or restored if first authorized by the Planning Commission as a special land use under Chapter 12. In considering whether to approve such special land use, the Planning Commission shall consider the following:
 - (1) Whether the rebuilding or restoration would substantially extend the probably duration of the non-conforming use; and
 - (2) Whether the land occupied by the non-conforming use can be used advantageously for a land use permitted under the terms of the zone district in which the land is located.

SECTION 17.05. CHANGE OR DISCONTINUANCE. The nonconforming use of a building or structure or of any land or premises shall not be:

- (a) Changed to any other nonconforming use, except as permitted in Section 17.03(d).
- (b) Re-established after it has been changed to a conforming use.
- (c) Re-established after being discontinued for a continuous period of 12 months.
- (d) Re-established if the building or structure in which it is located is damaged by fire, wind, flood or other natural disaster, such that its replacement cost would exceed 50% of the fair market value of the building or structure prior to damage or destruction, except as permitted in Section 17.04(c) and Section 17.04(d).

CHAPTER 18
ZONING BOARD OF APPEALS

SECTION 18.01. MEMBERS, APPOINTMENT AND TENURE. There is hereby created a Village Board of Zoning Appeals, consisting of five members. The first member of the Board of Appeals shall be a member of the Village Planning Commission. The second member may be a member of the Village Council. The remaining members of the Board shall be appointed from among the electors residing in the Village, provided that no elected officer of the Village nor any employee or contractor of the Village may serve as a member, except as provided herein. The members selected from among the electors of the Village shall each serve a term of three years staggered in such a way that the term of at least one member expires each year.

The Village Council may appoint not more than two alternate members to the Board of Appeals for the same term as regular members of the Board of Appeals. An alternate member of the Board of Appeals may be called to serve, by the chair or the Board of Appeals, in the absence of a regular member if the regular member will be unable to attend one or more meetings or if a regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve on the case until a final decision is made, and shall have the same voting rights as a regular member of the Board of Appeals, but shall not be eligible to serve as an officer.

Members of the Board may be removed by the Village Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

Any vacancy on the Board shall be filled by the Village Council for the remainder of the unexpired term in the same manner as the original appointment.

SECTION 18.02. OFFICERS. The Board shall elect from its membership a Chairperson, Vice Chairperson and Secretary. If a member of the Board of Appeals is also a member of the Village Council, that member shall not be elected as chairperson of the Board of Appeals.

SECTION 18.03. MEETINGS AND VOTING.

- (a) Meetings of the Board shall be held at such times as the Board may determine. Meetings shall be open to the public in compliance with the Open Meetings Act.
- (b) The presence of three regular members shall constitute a quorum. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass by this Ordinance or the Michigan Zoning Enabling Act, or to grant variances from the terms of this Ordinance; provided, however, to grant a variance from the uses of land permitted in the Zoning Ordinance, a concurring vote of two-thirds of the members of the Board of Appeals shall be necessary.

- (c) A member of the Board who also serves as a Planning Commission member or as a Village Council member is prohibited from participating in or voting on matters previously voted on in his or her capacity as a Planning Commission member or Village Council member.
- (d) The Board shall keep minutes of its proceedings, showing the actions of the Board.

SECTION 18.04. JURISDICTION. The Board of Appeals shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of the zoning map. It shall hear and decide all appeals from and review any order, requirements, decision or determination made by the Zoning Administrator or other administrative officers charged with the enforcement of the provisions of this Ordinance. The Board of Appeals shall also hear and decide all matters referred to it or upon which it is required to pass under this Ordinance. The Board of Appeals shall have no jurisdiction or authority to hear an appeal from any aspect or part of a determination or decision made with regard to a special land use or planned unit development.

SECTION 18.05. TIME FOR APPEAL; NOTICE. Any appeal from the ruling of the Zoning Administrator concerning the enforcement of the provisions of this Ordinance shall be made to the Board within such time as shall be prescribed by the Board by general rule. The person making the appeal shall file with the secretary of the Board and the enforcing officer a notice of appeal specifying the grounds for the appeal. The Zoning Administrator shall immediately transmit to the secretary of the Board all the papers constituting the record upon which the action appealed from was taken.

SECTION 18.06. EFFECT OF APPEAL. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator shall certify to the Board, after notice of the 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 of life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or on application and notice to the Zoning Administrator, by the circuit court of due cause shown.

SECTION 18.07. POWERS OF THE BOARD. The Board shall have all the powers and duties prescribed by law and this ordinance, including the following:

- (a) Hear and decide appeals. Where it is alleged that there is error or misinterpretation in any order, requirement, decision, or denial made by the Zoning Administrator or any other administrative official charged with the enforcement of the provisions of this Ordinance.
- (b) Hear and decide requests for variances. Where by reason of the exceptional narrowness, shallowness, or shape of a lot or parcel of land, by reason of exceptional topographic conditions or extraordinary conditions of land, buildings or structures, there are practical difficulties or unnecessary hardship in carrying out the literal requirements of this Ordinance.

- (c) Interpretations of the Zoning Map. Make interpretations of the Zoning Map of the Village of Kent City, Michigan, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

SECTION 18.08. VARIANCES. No variance in the provisions or requirements of this ordinance shall be authorized by the Board unless the Board makes affirmative findings, based upon competent material and substantial evidence on the whole record, as to each of the following matters. As to a dimensional variance, being a variance regarding the dimensional characteristics of a lot, parcel or property or a variance because of exceptional topographic or other conditions of the land, buildings or structures, the Board must make findings as to each of the following matters based on no less than three affirmative votes. As to the use variance, being a variance from the provisions or requirements of this ordinance because of the actual or proposed use of the property requested by the applicant, no less than two-thirds of the members of the Zoning Board of Appeals, being four affirmative votes, must find that based on competent material and substantial evidence on the whole record all of the following exist:

- (a) That the enforcement of the literal requirements of this ordinance would cause unnecessary hardship, as to a use variance, or practical difficulties, as to a dimensional variance.
- (b) That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (c) That literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.
- (d) That the authorizing of such variance will not be of substantial detriment to adjacent or nearby lands, structures or buildings, and will not be contrary to the spirit and purpose of this Ordinance.
- (e) That the special circumstances or conditions referred to in subsection (b) do not result from the actions of the applicant.

SECTION 18.09. CONDITIONS OF APPROVAL. In authorizing a variance or exception, the Board may, in addition to the specific conditions of approval called for in this Ordinance, attach thereto such other conditions and requirements deemed reasonably necessary for the furtherance of the intent and spirit of this Ordinance and the protection of the public interest.

SECTION 18.10. TIME LIMITATIONS ON VARIANCES. Any variance granted by the Board shall not be valid after a period of twelve months from the date granted unless the owner shall have taken substantial steps, as determined by the Board, in implementing the variance granted by the Board, provided that the owner, upon application filed prior to the expiration of the variance, may obtain an extension of the variance for an additional period of twelve months upon showing that the expiration of the variance will cause an undue hardship to the owner.

SECTION 18.11. PROCEDURE. The following procedures shall be complied with:

- (a) An appeal for variance from any ruling of the Zoning Administrator or other administrative officer may be taken by any person aggrieved thereby or by an officer, department or board of the Village. Any required fee shall be paid.
- (b) When an application or appeal has been filed in proper form and with the required data, the secretary of the Board shall place the application or appeal on the calendar for hearing and cause notices of the hearing to be served in accordance with the provisions of Section 19.07 of this Zoning Ordinance. The Board may recess such hearing from time to time, and if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice thereof shall be required. The Secretary of the Board shall file an affidavit of service of notice with the Board prior to the hearing. Each party may appear at the hearing in person or by agent or attorney.

SECTION 18.12. DECISIONS OF THE BOARD. The Board may reverse or affirm wholly or in part, or may modify, any order, requirement, decision or determination on which any appeal has been taken, and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of an appropriate and lawful permit. The Board shall also make findings and reach decisions upon all other matters which, under the terms of this Ordinance or by law, it is required to herein decide. In its minutes, the Board shall state the reasons and grounds for each of its decisions or determinations. The decision of the Board shall be final, but any person having an interest affected by any such decision may appeal to the circuit court. An appeal from a decision of the Board of Appeals shall be filed within 30 days after the Board issues its decision in writing signed by the chairperson, if there is then a chairperson, or signed by another member of the Board, if there is then no chairperson, or within 21 days after the Board approves the minutes of the meeting at which its decision was taken, whichever is first to occur.

CHAPTER 19
ADMINISTRATION AND ENFORCEMENT

SECTION 19.01. ZONING ADMINISTRATOR. Except as otherwise provided in this Ordinance or in other Village Ordinances, the Zoning Administrator shall administer and enforce this Ordinance, including the inspection of premises, the issuing of Zoning Permits, and other actions and proceedings for enforcement of the provisions of this Ordinance.

SECTION 19.02. ZONING PERMIT REQUIRED.

- (a) It shall be unlawful for any person to commence excavation for, or construction of, any building, structure or parking area, or to make structural changes in any existing building or structure, without first obtaining a zoning permit from the Village Zoning Administrator. No building, plumbing, electrical, mechanical or other permit shall be issued until the Zoning Administrator has determined that the plans and designated use, will conform with the provisions of this Ordinance.
- (b) The application for a Zoning Permit shall designate the existing or intended use of the structure or premises, or part thereof which is proposed to be altered, erected, or extended, and the number of dwelling units, if any, to occupy it. The application shall be accompanied by two accurate copies of drawings, drawn to scale, showing the actual lines, angles and dimensions of the lot to be built upon or used, and the exact size and location on the lot of all existing and proposed structures and uses, and other information necessary to demonstrate compliance with the Ordinance. The Zoning Administrator may waive or vary portions of the foregoing requirements not necessary for determination of compliance with this Ordinance, or may require the submission of additional information which is necessary to make such a determination.
- (c) One copy of the plans and specifications shall be filled in and retained by the Office of the Zoning Administrator, and the other shall be delivered to the applicant when the Zoning Administrator has approved the application and issued the permit.

SECTION 19.03. OCCUPANCY. It shall be unlawful to use or permit the use of any structure or premises hereafter altered, extended or erected, until the Building Inspector shall have made an inspection of the premises and shall have approved the same for occupancy in writing. The Building Inspector shall not issue a certificate of occupancy until it has been ascertained that there has been compliance with all of the requirements of this Ordinance.

SECTION 19.04. FEES. All applicants for permits, special land use, rezoning, site condominiums, variances, site plan approval, and other land use review or approval required by this Ordinance, shall pay the fee and any escrow established by resolution of the Village Council from time to time. The Zoning Administrator, Planning Commission, Board of Zoning Appeals, and Village Council shall not consider any application for land use approval for which the required fee has not been paid, or any escrow maintained at the required level.

SECTION 19.05. PERFORMANCE GUARANTEES.

- (a) The Planning Commission, Board of Zoning Appeals, and Village Council are empowered to require, as a condition of land use approval, that the applicant give financial security to ensure that all roads, landscaping, public utilities, and other improvements associated with a development are made in full compliance with all Village ordinances and conditions placed upon such land use approval. The amount of such security may be up to the full amount of the estimated cost of the improvements.
- (b) Security shall be in the form of a cashier's check payable to the Village, or by establishment of a performance bond or letter of credit in favor of the Village. Any performance bond or letter of credit shall, at a minimum: (i) be issued by a financial institution or insurer satisfactory to the Village; (ii) continue until the project is completed; (iii) and allow full or partial draws upon certification by the Zoning Administrator that improvements have not been completed as required.
- (c) Upon certification by the Zoning Administrator that all improvements have been fully completed, the Zoning Administrator shall authorize the return of all cashier's checks, or give notice that security may be terminated. A partial reduction in the amount of security may be permitted in the Zoning Administrator's reasonable discretion, as improvements are completed.
- (d) Upon premature termination or expiration of a bond or letter of credit posted as security, all work on an improvement shall be stopped until appropriate security is reestablished.

SECTION 19.06. VIOLATIONS AND PENALTIES.

- (a) Any person, corporation or firm who disobeys, omits, neglects or refuses to comply with any provision of this ordinance or any permit, license or exception granted hereunder, or any lawful order of the Zoning Administrator, Board of Zoning Appeals or the Village Council issued in pursuance of this ordinance shall be in violation of this ordinance. Any such violation is hereby declared to be a nuisance, per se.
- (b) Any person, corporation or firm who disobeys, omits, neglects or refuses to comply with any provision of this ordinance or any permit, license or exception granted hereunder, or any lawful order of the Zoning Enforcement Officer, Zoning Board of Appeals or the Village Council issued in pursuance of this ordinance shall be in violation of this ordinance. Any such violation is hereby declared to be a nuisance, per se. A violation of this ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this ordinance committed by the same

person within 12 months of a previous violation of the same provision of this ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day during which any violation continues shall be deemed a separate offense.

- (c) Each day during which any violation continues shall be deemed a separate offense.
- (d) The foregoing penalties shall not prohibit the Village from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

SECTION 19.07. PUBLICATION AND DELIVERY OF NOTICE OF PUBLIC HEARING. Except as stated otherwise in this Ordinance, whenever a public hearing on a zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, as amended, notice of the public hearing shall be published and delivered according to the requirements of this section.

- (a) The notice shall be published once, at least 15 days before the date of the public hearing, in a newspaper of general circulation in the Village.
- (b) For applications involving the rezoning of ten or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel; for all planned unit development and special land use applications; and for other zoning applications as to which a public hearing is required, a notice of public hearing shall be personally delivered or shall be mailed by first-class U.S. mail to the following persons, at least 15 days before the date of the public hearing:
 - (1) The applicant; the owner of the subject property, if different from the applicant;
 - (2) All persons to whom real property is assessed for property taxes within 300 feet of the property that is the subject to the application;
 - (3) One occupant of each dwelling unit in each building that contains four or fewer dwelling units and is located within 300 feet of the subject property;
 - (4) The owner or manager of a building containing more than four dwelling units, who shall be requested in writing to post the notice at the primary entrance of the building, but failure of such posting shall not constitute lack of notice to the owners or occupants of such dwelling units.
 - (5) If the above-described 300-foot radius extends outside of the Village's boundaries, then notice must be provided outside of the Village boundaries, within the 300-foot radius, to all persons stated above.
- (c) The notice of public hearing shall include the following information:

- (1) A description of the application or request.
- (2) An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
- (3) The date and time when the application or request will be considered; the location of the public hearing.
- (4) The location or address where written comments concerning the application or request will be received; the period of time within which such written comments may be submitted.

SECTION 19.08. APPLICATION FEES AND OTHER CHARGES, ZONING ESCROW DEPOSITS AND PAYMENTS.

- (a) All applications for requests, approvals or reviews by the Board of Appeals, Planning Commission, Village Council or other reviewing authority of the Village, including the rezoning of lands, special land uses, site plan approval, site condominium approvals, variances, permits, special exception approvals and other land use reviews, or other approvals provided for by the terms of this Ordinance, shall pay to the Village all required application fees and other fees or charges established by Village Council resolution. Applicants shall also deposit sums into an escrow account as provided by resolution of the Village Council, and such deposited sums shall be used for reimbursement of Village expenses with respect to zoning and land use approvals or other relief being applied for, in accordance with the terms of the zoning ordinance and any applicable Village Council resolution.
- (b) An application for any of the above-stated land use reviews, approvals, and other applications authorized hereunder, shall not be considered complete, and need not be considered by the applicable reviewing body, until the required application fee and other charges have been paid in full and until the deposit of all required sums in any required escrow account has taken place, and such deposit maintained or re-established at the required amount as directed by the Village.
- (c) Failure to pay all required fees and escrow amounts owing shall be a violation of this zoning ordinance. All appropriate remedies, including enforcement of this violation as a municipal civil infraction, shall be available to the Village.

SECTION 19.09. VIOLATIONS AND PENALTIES.

- (a) Any use of land which is commenced or conducted, or any building or structure which is erected, moved, placed, reconstructed, raised, extended, enlarged, altered, maintained or changed, in violation of any provision of this Ordinance is

hereby declared to be a nuisance per se. Any person who disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Building Official, Zoning Administrator, Board of Zoning Appeals, Planning Commission or the Village Council issued pursuant to this Ordinance shall be in violation of this Ordinance. Any such violation is hereby declared to be a nuisance per se.

- (b) A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100, nor more than \$500 for the first offense, and not less than \$250, nor more than \$1,000 for subsequent offenses, in the discretion of the court, and in addition to other costs, damages, attorneys' fees and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day during which any violation continues shall be deemed a separate offense.
- (c) In addition to the foregoing penalties, the Village may seek injunctive relief against persons alleged to be in violation of this Ordinance, and such other relief as may be provided by law.
- (d) The following Village officials are authorized to issue citations for violation of the provisions of this Ordinance which are designated to be municipal civil infractions, if they have reasonable cause to believe that an infraction has occurred, based upon personal observation or the report of a person who has allegedly witnessed the infraction:
 - (1) the Village President;
 - (2) the Village Clerk;
 - (3) the Village Building Official and/or Zoning Administrator; and
 - (4) the Village ordinance enforcement officer.
- (e) If a citation is based solely upon the complaint of someone who allegedly witnessed the violation, and not upon the personal observation of the official, then the citation shall be approved in writing by the Village President and the Village attorney.
- (f) Citations shall be numbered consecutively and shall be in a form approved by the State Court Administrator's Office.
- (g) Citations shall be served upon the alleged violator as provided by law.
- (h) Citations shall require an appearance at the district court within a reasonable time after the citation has been issued.

- (i) The procedures for the admission or denial of responsibility, request for informal or formal hearings, and all matters related to processing of citations for civil infractions shall be as provided by law.

SECTION 19.10. STOP WORK ORDERS.

- (a) Notice to Owner. Upon notice from the Village President, Village Clerk, Zoning Administrator or Building Official that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing, shall be posted on the property involved and shall be sent by first-class U.S. mail to the owner of the property involved, at the owner's last address or as that address is shown in the current Village property tax assessment roll.
- (b) Unlawful Continuation of Work. Any person who shall continue to work in or about the structure, land or building or use it after a stop work order has been posted on the land or at the site shall be in violation of this Ordinance, except such work as such person may be directed to perform in order to moderate or remove a violation.

CHAPTER 20 AMENDMENTS

SECTION 20.01. AMENDMENTS IN ZONING ORDINANCE. An amendment in the text of this Ordinance or an amendment in the zoning map may be initiated by the Planning Commission, by the Village Council or by any person affected by the provision or zoning designation which is requested to be changed or added.

SECTION 20.02. CONSIDERATION OF PROPOSED AMENDMENT.

- (a) With respect to an amendment as to which the Planning Commission determines to convene a public hearing, notice of the public hearing is to be given in accordance with Section 19.07 of this Ordinance.
- (b) The Planning Commission shall hold the public hearing. The Commission shall receive such public comment and review such reports and other materials as it deems appropriate in the circumstances.
- (c) After its decision, the Planning Commission shall forward its decision and the proposed amendment to the Village Council with its recommendation for approval or denial.
- (d) Upon receipt of a zoning ordinance amendment recommendation from the Planning Commission, the Village Council shall consider the proposed amending ordinance at a public meeting. The Village Council may hold a public hearing on the amending ordinance if it determines to do so, but such a hearing is not required. If such a public hearing is held by the Village Council, notice thereof shall be given in the same manner as is required by the terms of this Ordinance for a Planning Commission public hearing on an ordinance to amend the text of this Ordinance or the Zoning Map. If it desires, the Village Council may refer any proposed amending ordinance to the Planning Commission for further consideration and comment within a time specified by the Village Council, but the Council is not required to do so.
- (e) If an interested property owner requests a hearing by the Village Council on a proposed Zoning Ordinance amendment, and if such request is in writing and is sent by certified U.S. mail, addressed to the Village Clerk, the Village Council shall convene such a hearing. In that case, written notice of the date, time, place and purpose of the hearing shall be given to the requesting property owner in the same manner and to the same extent that notice of a Planning Commission public hearing is given to an applicant, but no other notice of the Village Council hearing need be given by publication, U.S. mail or otherwise.
- (f) The Village Council may adopt the amending ordinance at any regular or special meeting, by affirmative majority vote of the members of the Village Council; provided, however, a 2/3 vote shall be required if a valid protest petition is filed in accordance with Section 403 of the Michigan Zoning Enabling Act.

- (g) Except as otherwise provided by law, an ordinance to amend the Zoning Ordinance shall take effect upon the expiration of seven days after publication of the amending ordinance or seven days after publication of a summary of its provisions in a newspaper of general circulation in the Village, or at such later date after publication as may be specified in the amending ordinance.

The above-stated notice of adoption shall include the following information:

- (1) A summary of the regulatory effect of the amending ordinance, or the entire text of the amending ordinance; if the ordinance includes an amendment of the Zoning Map, the notice shall indicate the lands affected.
- (2) The effective date of the amending ordinance.
- (3) The location where and the time when a copy of the amending ordinance may be inspected or purchased.

SECTION 20.03. RESUBMISSION OF APPLICATIONS. Whenever a proposed zoning map amendment or amendment in the text of this ordinance has been considered, but has not been approved, by the Village Council, the Planning Commission shall not reconsider such zoning map amendment or such amendment in the text of this Ordinance for at least one year following the date of submission of the original application, unless the Planning Commission determines that at least one of the following conditions exist:

- (a) That the conditions or other relevant facts involved in the original denial have significantly changed;
- (b) That there are new conditions, facts or circumstances, different from those previously existing, which changed the nature of the original application or which reasonably justify a new application being submitted and considered.

**CHAPTER 21
MISCELLANEOUS**

SECTION 21.01. SEVERABILITY. This Ordinance and the sections and other parts thereof are hereby declared to be severable. If any section, part or provision of this Ordinance is determined to be invalid, unconstitutional or otherwise ineffective, by a court of competent jurisdiction, the remaining parts, sections or provisions of this ordinance shall not be affected thereby, if such other parts, sections or provisions can be given effect without those parts or portions thus declared to be invalid.

SECTION 21.02. EFFECTIVE DATE. This Ordinance shall become effective thirty days after publication, or thirty days after publication of a summary of its provisions, in a local newspaper of general circulation in the Village.

SECTION 21.03. REPEAL OF PRIOR ZONING ORDINANCE. The prior Village Zoning Ordinance, being the Zoning Ordinance adopted December 14, 1987, is hereby repealed in its entirety, effective as of the date this ordinance becomes effective.

* * * * *

This Ordinance was ADOPTED by the Village Council of the Village of Kent City on September 28, 1998, and became EFFECTIVE October 26, 1998.

This text of the Ordinance includes all amendments adopted and made effective up to and including June 1, 2021.

Mary Portell, Village Clerk