

**ZONING ORDINANCE
CITY OF
ORCHARD LAKE VILLAGE, MICHIGAN**

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municode



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PREAMBLE

In accordance with the authority and intent of Act 207, of the Public Act of 1921, as amended, the City of Orchard Lake Village desires to provide for the orderly development of the City, which is essential to the well-being of the community, and which will place no undue burden upon developers, commerce or residents. The City further desires to assure the provision of adequate sites for commerce and residence; to provide for the free movement of vehicles upon the proper streets and highways of the City, and facilitate adequate and efficient provision of transportation systems; to protect commerce and residences against incongruous and incompatible uses of land, and to promote the proper use of land and nature resources for the social and economic well-being of the City as a whole; to assure the provision of adequate space for the parking of vehicles of customers using commercial and retail areas; to meet the needs of the City's residents for congestion, recreation and other public service and facility needs; and that all uses of land and buildings within the City of Orchard Lake Village be so related as to provide for economy in government and mutual rapport. The result of such purposes of this Ordinance, which related the City's Master Plan, will promote and protect the public health, safety, comfort, convenience and general welfare of the residents, shoppers and others in the City of Orchard Lake Village.

ENACTING CLAUSE

The City of Orchard Lake Village Ordains:

RESOLUTION ADOPTING THE CODIFIED ZONING ORDINANCE #14.01 FOR THE CITY OF ORCHARD LAKE VILLAGE

Moved by: Mayor Pro Tem Hoffman Seconded by: Councilmember Majcher

WHEREAS, the City of Orchard Lake Village previously adopted Zoning Ordinance # 14.0 for zoned properties in the City; and,

WHEREAS, Zoning Ordinance # 14.01 has never been codified; and,

WHEREAS, the City has recently codified the Zoning Ordinance # 14.01; and,

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ZONING ORDINANCE CITY OF ORCHARD LAKE VILLAGE, MICHIGAN

WHEREAS, the material content of the codified Zoning Ordinance # 14.01 has not been changed, rather the content has been retyped and organized in an orderly fashion; and,

NOW, THEREFORE, IT IS HEREBY RESOLVED the City's Codified Zoning Ordinance # 14.01 is hereby adopted.

IT IS FURTHER RESOLVED, that this Resolution shall be effective upon adoption.

Passed, adopted and approved this 17th day of September, 2018.

AYES:	<u>7 - Mayor McIntyre, Mayor Pro Tem Hoffman, Councilmembers Kosmensky, Majcher, Sonneville, Oram and Wade.</u>
NAYS:	<u>0</u>
PRESENT:	<u>7 - Mayor McIntyre, Mayor Pro Tem Hoffman, Councilmembers Kosmensky, Majcher, Sonneville, Oram and Wade.</u>
ABSENT:	<u>0</u>

CERTIFICATION

I, Rhonda McClellan, being the duly appointed and qualified Clerk of the City of Orchard Lake Village, Oakland County, Michigan, do hereby certify and declare that the foregoing is a true and correct copy of Resolution, the original of which is on file in my office, adopted by the City of Orchard Lake Village Council at a regular meeting held on September 17, 2018. Rhonda McClellan, City Clerk

SUPPLEMENT HISTORY TABLE

The table below allows users of this Zoning Ordinance to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Zoning Ordinance and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Zoning Ordinance and are considered "Omitted."

In addition, by adding to this table with each supplement, users of this Zoning Ordinance will be able to gain a more complete picture of the Zoning Ordinance's historical evolution.

Legislation	Date Adopted	Included/Omitted
Supp. No. 1		
Ord. of	5-21-2018(1)	Included
Ord. of	5-21-2018(2)	Included
Ord. of	5-21-2018(3)	Included
Ord. of	8-20-2018(1)	Included
Res. of	9-17-2018	Included
Supp. No. 2		
Ord. of	5-20-2019	Included
Supp. No. 3		
Ord. of	9-21-2020(1)	Included
Ord. of	9-21-2020(2)	Included

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Supp. No. 4		
Ord. of	5-24-2021(1)	Included
Ord. of	5-24-2021(2)	Included
Ord. of	5-24-2021(3)	Included
Ord. of	5-24-2021(4)	Included
Ord. of	5-24-2021(5)	Included

ARTICLE I SHORT TITLE

This Ordinance shall be known as the "Zoning Ordinance of the City of Orchard Lake Village", and will be referred to herein as "this Ordinance".

ARTICLE II DEFINITIONS

For the purpose of this Ordinance certain terms and words are defined as follows:

Section 2.01 CONSTRUCTION OF LANGUAGE.

The following rules of constructions apply to the text of this Ordinance

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive and discretionary.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or structure includes any part therefore.
- F. The phrase "used for" includes: "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
- G. The word "person" includes an individual, a corporation, a partnership, a public utility, an incorporated association, or any similar entity.
- H. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and", "or", "either or", the conjunction shall be interpreted as follows:
 1. "And" indicates that all the connected items, conditions, provisions or events shall apply.
 2. "Or" indicates that the connected items, conditions or provisions or events may apply singly or in any combination.
- I. Terms not herein defined shall have the meaning customarily assigned to them.
- J. Catch terms and titles and illustrations used in this Ordinance shall not be construed as specific regulation but rather as guides to the various articles, section and subsections of the Ordinance.

Section 2.02 ACCESSORY BUILDINGS, STRUCTURES, AND USE.

1. **Accessory Use:** An accessory use is that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same zoning lot as the principal use to which is exclusively related.
2. **Accessory Building:** An accessory building is a type of structure that: a) has a roof which is supported by columns or walls, b) is intended for the shelter or enclosure of persons, animals, goods or chattel, and c) is further intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same zoning lot as the principal use to which it is exclusively related. Examples of accessory buildings include garage, pump houses, and dog houses, etc.
3. **Accessory Structure:** An accessory structure is anything constructed or erected, the use of which requires permanent location, and that is intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same zoning lot as the principal use to which it is exclusively related. Examples of accessory structures include accessory buildings, swimming pools, play structures, fences, HVAC units, generators, and tennis courts, etc.
4. **Residence:** A dwelling that is designed for and occupied by one (1) family.

ADULT BOOKSTORE: Adult bookstore is an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals, novelties, toys, audio and other similar materials, and peep show facilities which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Anatomical Areas" (as described in definition for Adult Motion Picture Theater) or an establishment with a segment or section devoted to the sale or display of such material.

ADULT FOSTER CARE FAMILY HOME: Adult foster care family home means a private residence with the approved capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home license shall be a member of the household and occupant of the residence, and in addition thereto, the license shall comply in all respects to the requirements as are set forth in Act 218, P.A. 1979 and any amendments thereto.

ADULT FOSTER CARE LARGE GROUP HOME: Adult foster care large group home means an adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults who shall be provided foster care. Beginning four (4) years after the effective date of Act 21, P.A. 1979 (approved January 16, 1980), an adult foster care large group home which is licensed by the department to provide foster care in each respective category may receive only those adults in a category whose primary need for services is based upon not more than one (1) of the following categories:

- a. Aged condition;
- b. Mental illness, developmental disability or physical handicap, or a combination of mental illness, development disability or physical handicap.

ADULT FOSTER CARE SMALL GROUP HOME: Adult foster care small group home means an adult foster care facility with the approved capacity for not more than twelve (12) adults who shall be provided foster care.

ADULT MOTION PICTURE THEATER: An adult motion picture theater is an enclosed building or open air site used for presenting motion pictures distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Anatomical Areas" (as defined below), for observation by patrons thereon. "Specified Sexual Activities" for the purpose of this Section are defined as follows:

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

And "Anatomical Areas" are defined as follows:

- A. Less than completely and opaquely covered: (i) human gentiles, pubic region, (ii) buttock and (iii) female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

ALLEY: A public or private thoroughfare separating side or rear lot lines and used only as a service road or way, and less than thirty (30) feet in width.

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

ATTIC: The space between the ceiling beams of the top story and the roof rafters.

AUTOMOBILE SERVICE STATIONS: A building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, aircraft or boats, and including the customary space and facilities for installation of such commodities on or in such vehicles, and including space for facilities for the temporary storage of vehicles not over forty-eight (48) hours, minor repair, servicing or steam cleaning, but not including bumping, painting, refinishing, major repairs and overhauling, rust-proofing, or high-speed, automatic conveyor or drive-through washing thereof.

BARRIER NATURAL: Trees, shrubs, or other woody landscaping materials that have not necessarily been planted for the purpose of enclosing or screening areas of land, but which form a visual barrier, or which are likely to form a visual barrier based on typical growing conditions. A natural barrier may consist of shrubs or groupings of trees and shrubs.

BASEMENT: A portion of a building partly or wholly below the finished grade level and so located that the vertical distance from said grade level to the floor is greater than the vertical distance from said grade level to the ceiling.

BLOCK: The property abutting one side of a street and lying between two nearest intersecting streets or between the nearest such streets and un-subdivided acreage or lake: or between any of the foregoing and any other barrier, to the continuity of development.

BUILDING: Any structure having a roof, supported by columns or by walls and intended for the shelter, housing or enclosure of any person, animal, goods or chattel.

BUILDING-PRINCIPAL: A building in which is conducted the principal use of the lot in which it is located.

BUILDING GRADE: For the purposes of determining building height, building grade shall be determined separately on each side of the building as follows:

- 1. The average of the highest and the lowest finished grades at the face of the building, provided that;
- 2. The building grade shall not exceed the average native grade on each side by more than two (2') feet.

BUILDING HEIGHT: The vertical distance in feet measured from the building grade (as defined in Section 2.02) to the highest point on the roof. Building height shall be determined separately from each side of the building.

BUILDING LINE: A line established, in general, parallel to the front lot line, between which line and the front lot line no part of a building shall project, except as otherwise provided in this Ordinance.

BUILDING OFFICIAL: The officer or other designated authority charged with the administration and enforcement of the Michigan Construction Code and other related Ordinances.

BUILDING SITE: A parcel of land, platted or un-platted, which meets size and dimension requirements in the applicable zone set forth in the Schedule of Regulations, Article XIII.

CABARET: A cabaret is an establishment that features topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers.

CARPORT: Any roofed area reserved for the parking of cars or vehicles not fully enclosed. Such structure shall observe all setback requirements of the Zoning Ordinance for fully enclosed structures.

CHILD CARE CENTER: A facility, other than a private residence, receiving one or more preschool or school-age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery school, parent cooperative preschool play group, before-or after school program, or drop-in center. (Based on Public Act 116 of 1973, as amended)

CITY COUNCIL: The words "City Council" shall mean the City Council of the City of Orchard Lake Village.

CLERK: The Clerk for the City of Orchard Lake Village.

CONDOMINIUM: A condominium is a system of separate ownership of individual units in multi-unit projects. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners. For the purpose of this Ordinance, condominium terms shall be defined as follows:

- A. Condominium Act: Michigan Public Act 59 of 1978, as amended.
- B. Condominium Unit: That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed for the condominium project.
- C. Common Elements: Portions of the condominium project other than the condominium units.
- D. Limited Common Elements: Portions of the common elements reserved in the master deed for the exclusive use of less than all co-owners.
- E. General Common Elements: Common elements other than the limited common elements, intended for the common use of all co-owners.
- F. Master Deed: The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan.
- G. Condominium Subdivision Plan: Drawing and information which show the size, location, area, and boundaries of each condominium unit, building location, the nature, location, and approximate size of common elements, and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.
- H. Site Condominium Project: A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.

DECK: An elevated, exterior, permanent structure of horizontal surfaces.

DISTRICT: A portion of the City of Orchard Lake Village within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas and other requirements are established (see also ZONE).

DOCK: A horizontal surface located in, on, or above the water for purposes of boat mooring and access to and/or from watercraft or lake.

DRIVE-IN ESTABLISHMENT: A business establishment, other than a drive-in restaurant, so developed that its retail or service character is depended upon providing a driveway approach or parking spaces for motor vehicles so as to

serve patrons while in the motor vehicles, and many include drive-in banks, drive-in cleaners, drive-in laundries and other like businesses.

DRIVEWAYS: A driveway is a private lane, designed primarily for use by vehicles, that connects a house, garage, or other buildings with the street.

DWELLING, MULTIPLE: A residence for three (3) or more families living independently of each other and doing their own cooking in said building.

DWELLING, SINGLE FAMILY: A dwelling unit on one (1) building site with housekeeping facilities and construction features designed for only one (1) family.

DWELLING, TWO-FAMILY ATTACHED: A two family dwelling, attached, is a building on one (1) lot with separate housekeeping facilities for two (2) families.

DWELLING, TWO FAMILY SEMI-DETACHED: A two family dwelling, semi-detached is a building located on two lots with a dividing wall, through the center line of which runs the lot boundary, and intended for two (2) families, one (1) on each lot.

DWELLING UNITS: A dwelling unit is a building or portion thereof designed or used as a place of residence for a single family, with housekeeping facilities and construction features designed for only one (1) family.

ESSENTIAL SERVICES: The term "essential services" shall mean the erection, construction, alteration, or maintenance by public or quasi-public utilities or municipal departments of underground, surface, or overhead electrical, gas, steam, fuel or water systems, for the purpose of transmission, distribution, collection, communication, supply, or disposal; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment which are necessary for the furnishing of adequate service to City residents by such utilities or municipal departments for the general health, safety, and welfare of the public; but not including storage yards, sales or business offices, commercial buildings or activities, school bus yards, and wireless communication facilities.

ESTABLISHED RESIDENTIAL BUILDING PATTERN: The Established residential Building pattern describes the general alignment of existing residences with respect to the waterfront or road front. The Building Official shall have the authority to determine if such a pattern exists (see Section 4.36, sub-section B).

FACADE: Generally one side of the exterior of a building, especially the front, but also sometimes the sides and rear.

FAMILY:

- a. An individual or group of two (2) or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one (1) additional unrelated person, who are domicile together as a single, domestic, housekeeping unit in a dwelling unit, or
- b. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing non-transient 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, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period. Furthermore, it shall not include an Adult Foster Care Family Home, Adult Foster Care Large Group Home, Adult Foster Care Small Group Home.

FAMILY DAY CARE HOME: Family day care home means a private home in which 1 but fewer than 7 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day

care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

FENCE: A structure erected around or by the side of any open space to prevent passage in or out. The term "fence" is commonly applied to various forms constructed of posts carrying boards, rails, pickets, or wire or to iron structures consisting of horizontal or vertical bars. Fences may also be constructed of other material, including but not necessarily limited to stone, brick, block, or concrete. See also definition for "Natural Fence".

FENCE, NATURAL: Trees, shrubs, or other woody landscaping materials that have been planted for the purpose of enclosing or screening areas of land or to mark a boundary. Such a fence typically consists of closing spaced plantings that, based on typical growing conditions, will form a visual or physical barrier thirty (30") inches or higher above ground level. Plant material in a natural fence may be planted in rows, staggered, or at random. Natural fence heights shall be measured from finished grade to the highest point of the fence, or if the natural fence is planted on a fill area, the height shall be measured from the existing grade (as defined herein).

FLOOR AREA, GROSS: The sum of the gross horizontal areas of the floors within outside walls of a building including basement, elevator shafts and stairwells at each story, floor space used for mechanical equipment, penthouse, half story and mezzanine or interior balcony.

FLOOR AREA, NET: Any floor area within outside walls of a building exclusive of areas in cellars, basements, utility areas, unfinished attics, garage, open porches and accessory building.

FOSTER FAMILY HOME: Foster family home means a private home in which 1 but not more than 4 minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan adoption code are given care and supervision for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.

FOSTER FAMILY GROUP HOME: Foster family group home means a private home in which more than 4 but fewer than 7 minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan adoption code are provided for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.

GARAGE, PRIVATE: Shall mean an enclosed building or structure not larger than the principal building on the same lot, if any, which is completely enclosed by solid walls except for windows and garage doors and which is used primarily for the storage of motor or recreation vehicles or boats.

GARAGE, PUBLIC: A structure intended for service to the public in the storage, servicing and repairing of motor vehicles but not including the manufacture of parts or accessories.

GRADE: The surface of the land including the surface contours and slope. The grade is depicted by elevations of the surface of the land.

GRADE, EXISTING: The grade prior to excavating, filling, re-grading or other similar changes or improvements to the land.

GRADE, FINISH: The grade after excavating, filling, re-grading or other similar changes or improvements to the land.

GROUND LEVEL UNENCLOSED PROJECTION: A ground level unenclosed projection shall include patios, walkways, landings, steps (but not including lakeside stairs as permitted under Section 4.09 C), and similar landscape features that are generally flat and are installed flush with the surface of the ground. For the purposes of this definition, "flush with the ground" shall mean plus-or-minus three (3) inches of the adjacent ground level. Materials used to construct such landscape features may include brick pavers, patio blocks, cut stone, fieldstone, granite, masonry, limestone, sandstone, slate, marble, wood blocks, concrete or other paving, exposed aggregate concrete, or similar materials. Pavers, blocks, stone and similar materials may be constructed with mortar or similar substance to create an impervious surface, or they may be "dry laid" without mortar or a similar substance.

Terraces that are constructed principally of soil (rather than impervious materials) and are planted with grass or other live landscaping shall not be considered Ground Level Unenclosed Projections and therefore, are not subject to minimum setback requirements.

GROUP DAY CARE HOME: Group day care home means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during calendar year.

HOME OCCUPATION: An occupation or profession conducted entirely within a dwelling by the inhabitants therefore, where such use is clearly incidental to the principal residential use of the dwelling, and where such use does not:

- a. Change the character or appearance of the residence
- b. Result in any signs or display on the premises
- c. Result in any sales of commodities or goods on the premises
- d. Require equipment other than would commonly be found on residential premises.

Home occupations are hereby defined by class. Class I home occupations include professional offices of a doctor, attorney, real estate professional, accountant, travel agent, or other professional, where business is conducted chiefly by telephone and/or fax, and where there only occasional fact-to-face business meeting in the home involving at maximum one or two visitors. Class II home occupation include all other home occupations, except as otherwise prohibited in this ordinance.

INSTITUTIONAL USE: An Institutional Use is an established organization, foundation, or society, having a public character, especially one dedicated to education; police or fire protection; municipal government; religion; leisure; or culture

LAKE LOT: A lot that abuts any lake or stream.

LANDSCAPING: The treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. Artificial plant materials shall not be counted toward meeting the requirements for landscaping. Various landscaping-related terms are defined as follow.

- A. **Berms:** A continuous, raised earthen mound, with a flattened top, and sloped sides, capable of supporting live landscaping materials, and with a height and width that complies with the requirements of this ordinance.
- B. **Grass:** Any of a family of plants with narrow leaves normally grown as permanent lawns in Oakland County, Michigan. As used in this Ordinance, "grass" refers to turf grass, not ornamental grass.
- C. **Greenbelt:** A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this ordinance.
- D. **Ground Cover:** Low-growing plants that form a dense, extensive growth after one complete growing season, and tend to prevent weeds and soil erosion.
- E. **Hedge:** A row of closely planted shrubs or low-growing trees which commonly form a continuous visual screen, boundary, or fence.
- F. **Hydro-Seeding:** A method of planting grass where a mixture of the seed, water, and mulch is mechanically sprayed over the surface of the ground.

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- G. **Interior Parking Lot Landscaping:** A landscaping area, located in the interior of a parking lot, in such a manner as, to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area.
 - H. **Mulch:** A layer of wood chips, dry leaves, straw, hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing and hold the soil in place, or aid plant growth.
 - I. **Nurse Grass:** Any of variety of rapidly-growing annual or perennial rye grasses used to quickly establish ground cover to prevent dust or soil height.
 - J. **Shrubs:** A self-supporting, deciduous or evergreen woody plant normally branches near the base, bushy, and less than fifteen (15) feet in height.
 - K. **Sod:** An area of turf grass-covered surface soil held together by matted roots.
 - L. **Tree:** A self-supporting woody, deciduous or evergreen plant with a well-defined central trunk or stem which normally grows to a mature height of fifteen (15) feet or more in Oakland County, Michigan.
 - 1. **Deciduous Tree:** A variety of tree that has foliage that is shed at the end of the growing season.
 - 2. **Evergreen Tree:** A variety of tree that has foliage that persists and remains green throughout the year.
 - 3. **Ornamental Tree:** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of twenty-five (25) feet or less.
 - 4. **Shade Tree:** For the purpose of this Ordinance, a shade tree is deciduous tree which has a mature crown spread of fifteen (15) feet or greater in Oakland County, Michigan, and has a trunk with at least five (5') feet of clear stem at maturity.
 - M. **Vine:** A plant with a flexible stem support by climbing, twining, or creeping along the surface, and which may require physical support to reach maturity.

LANE: Lane is a public or private thoroughfare that affords the principal means of access to an abutting property and having a right-of-way of less than sixty (60') feet.

LOADING SPACE: An off-street space, on the same parcel of property, with a building or group of buildings of temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

LOT: A lot is a contiguous piece or parcel of land occupied or to be occupied by a building and its accessory buildings. A lot record is a lot the dimensions of which are shown on a document or map on file with Register of Deeds or in common use by County or City Offices which actually exists as so shown, or any parts of such lot held in ownership or records separate from the remainder thereof.

LOT AREA: The total horizontal area within the lot lines of the lot, exclusive of any abutting public or private road easement or right-of-way, or the area of any lake. Where there is no defined easement for a private road, then the traveled portion of the road (i.e., paved or gravel) plus ten (10') feet on each side must be excluded from computations of the area of adjoining lots.

LOT, CORNER: A corner lot is a lot of which at least two adjacent sides abut for their full length upon a street or lane, provided that such sides intersect at an angle of not more than one hundred thirty five (135) degrees. Where a lot is on a curve, if tangents through the extreme point of the street line of such lot make an interior angle of not more than one hundred thirty five (135) degrees, it is a corner lot. In this case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above.

LOT COVERAGE: The part, or percent of the lot occupied by buildings or structures, including accessory buildings or structures, and permanent swimming pools. Projections beyond the face of the building (e.g., chimneys, bay windows, lower or upper floor decks, upper floors that cantilever beyond the footprint of the lower level) shall be included as lot coverage. Eaves and roof overhangs shall be included in lot coverage except that up to a twelve (12) inch eave of roof overhang, plus five (5) inches for a gutter, shall be exempt from the lot coverage computations.

LOT DEPTH: The mean horizontal distance from the front lot line to the rear lot line.

LOT, DOUBLE FRONTAGE: An interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, one street will be designed as the front street in the plat and on requests for the building permit.

LOT, INTERIOR: A lot other than a corner lot.

LOT, LINE: The property lines bounding the lot.

- A. **Front Lot Line.** In the case of a lot abutting one street or road, the front lot line shall mean the line separating the lot from public or private road easement or right-of-way. Where a lot fronts on a private road that does not have defined easement, the front lot line shall be based on an assumed easement that encompasses the traveled portion of the road, (i.e., paved or gravel) plus ten (10') feet on each side. In the case of corner lot or double frontage lot, the owner shall have the privilege of selecting the front lot line along either road, provided that such choice, in the opinion of the Building Official, will not have a detrimental impact on existing or planned development on adjacent properties. In the case of a lot abutting upon a road and a waterway, the line separating the lot from the road shall be designed as the front line; the line separating the lot from the water shall be designed as the "water line".
- B. **Rear Lot Line.** Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular or gore-shaped lot, a line ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the Building Official shall designate that rear lot line.
- C. **Side Lot Line.** Any lot line that is not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
- D. **Street or Alley Lot Line.** A lot line separating the lot from the right-of-way of a street or an alley.
- E. **Water Line.** In the case of a lot abutting upon a waterway, the water line shall mean the line separating the above-ground portion of the lot from water. Where the legal level of the waterway has been established, it shall serve as the water line for the purposes of this Ordinance.

LOT WIDTH: The horizontal distance between the side lot lines, measured at right angles to the side lot lines. Where the side lot lines are not parallel, the lot width shall be determined as follows:

Step 1: Determine the building line as enforced by the City pursuant to this Ordinance, deed restrictions, or other means.

Step 2: Determine the center of the building line.

Step 3: The lot width shall be the length of a line that intersects the center point identified in Step 2 and is the shortest distance between the side lot lines.

MANUFACTURED LANDSCAPE FEATURE: Any manufactured object used, primarily for ornamental purposes, in landscaping. A manufactured landscape feature may include, but is not limited to, statues, lawn ornaments, bird baths, fountains, lawn art, or other feature that if produced by hand or machine, including objects that are created from raw materials that occur in nature (such as statues created from stone, wood, or tree trunks).

MASSAGE PARLOR: Any place or establishment where a massage is made available. A massage is any method of treating the superficial parts of a patron for medical, hygienic, exercise or relaxation purposes by rubbing, stroking, kneading, tapping, pounding, vibrating or stimulating with hands or any instrument, or by the application of air, liquid or vapor baths of any kind whatever.

MICHIGAN CONSTRUCTION CODE: The state construction code, consisting of the Michigan Residential Code, the Michigan Building Code, the Michigan Mechanical Code, the Michigan Plumbing Code, the Michigan Electrical Code and the Michigan Uniform Energy Code.

MOBILE HOME: A structure, exceeding eight (8) body feet or more in width and thirty-two (32) or more body feet in length and transportable in one (1) or more sections, which is built on a chassis and designed to be used as a single family dwelling, with or without permanent foundation, when connected to the required utilities, and including the plumbing, heating, air-conditioning and electrical systems contained in the structure. Mobile home does not include a recreational vehicle or travel trailer.

MOBILE HOME PARK: A parcel of land under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home, and which is not intended for use as a temporary travel trailer park.

MOTOR VEHICLE REPAIR: General repair, engine rebuilding, rebuilding or reconditioning of a motor vehicle; collision service such as body, frame or fender straightening and repair; overall painting, but not including undercoating of automobiles unless conducted in a completely enclosed spray booth.

NONCONFORMING BUILDINGS: A nonconforming building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, and that does not conform to the provisions of the Ordinance in the zoning district in which it is located.

NONCONFORMING USE: A nonconforming use is a use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

PARKING SPACE: A rectangular area of not less than nine (9) feet wide and twenty (20) feet long, for each automobile or motor vehicle such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the storage or parking of permitted vehicles.

PARKING STRIP: A driveway, the width of, which may not exceed the width of the garage it serves and, in no case shall exceed twenty-four (24) feet in width.

PERMANENT LOCATION: A building or structure is considered to be in a permanent location, such that it cannot be easily moved from one place to another.

PLANNING COMMISSION: A seven (7) member body appointed by the Mayor, subject to approval by the City Council, pursuant to Ordinance 14.02 and Michigan Public Act 285 of 1931, as amended, for the purpose of developing a Master Plan for the development of the City, and carrying out other duties and responsibilities with respect to land use planning and zoning as outlined in this Ordinance and Ordinance 14.02.

PLAY STRUCTURES: A structure generally constructed of chiefly wood, metal and/or vinyl components that is designed for children to play on. A play structure may consist of by way of example, swings, climbing, climbing structures, slides, ladders, platforms, climbing walls, monkey bars, spiral climbers, or combinations thereof.

PUBLIC UTILITY: Any persons, firm, corporation, municipal department, or Council, duly authorized to furnish under federal, state, or local regulations a service that is of public consequence and need. The principal distinctive characteristics of public utility are that: (1) because of the nature of its business, it has characteristics of a natural monopoly, and (2) it provides a service to an indefinite public (or portion of the public) which has a legal right to demand and receive its service.

RECEPTION ANTENNA: An apparatus installed out-of-doors which is capable of receiving communications for radio and/or television purpose, including satellite reception antenna, but excluding such facilities that have been pre-empted from City regulation by applicable state or federal laws or regulations.

ROCK OUTCROPPING LANDSCAPE FEATURE: A rock outcropping landscape feature consisting of rocks placed intermittently on a sloped surface, together with other landscape elements such as trees and shrubs, to create a naturalistic appearance and to provide erosion control and bank stabilization. Rocks stacked in rows on each other, rather than intermittently, are considered walls, not rock outcropping.

SETBACK: The distance between a front, side, or rear lot line or water line and the above ground or below ground exterior surface of any building or structure or projection there-from. The minimum required setback is the minimum distance between a front, side or rear lot line or water line and the exterior surface of any building or structure or projections there-from in order to conform to the Minimum Yard Setback standards in the Schedule of Regulations. For the purposes of this definition, "exterior face" shall include overhanging bay windows or rooms, balconies, and other projections, unless specifically exempted from the setback requirement per Section 4.09.

SINGLE PARCEL OWNERSHIP: Possession of a parcel of property wherein the owner does not own adjoining vacant property or developed property.

SOLAR COLLECTOR: A device or combination of devices, structure or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy and that contributes significantly to a structure's energy supply.

SOLAR ENERGY SYSTEM: A solar energy system is an assembly consisting of solar collectors and related components, the purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating and cooling, generating electricity, or water heating.

- A. **Flush Mounted Solar Energy System:** A Flush Mounted Solar Energy System consisting of solar panels that are mounted flat against a roof with a depth of no greater than six (6) inches and with no tilt above the roof surface.
- B. **Ground Mounted Solar Energy System:** A Ground Mounted Solar Energy System is one that is either mounted on a framework that is attached to the ground or that is pole mounted.

STORY: That portion of a building, other than a basement, cellar or mezzanine, included between the surface of any floor and the floor next above it or, if there is no floor above it, the space between the floor and the ceiling next above it.

- A. **Ground Story.** The lowest story of a building which cannot be considered a basement or cellar. For the purpose of this Ordinance, a basement or cellar shall be counted as a story if more than fifty percent (50%) of its height is above the building grade from which the height of the building is measured. Furthermore, the lowest level is below the building grade and at least one side is open to the exterior by way of a window and/or door, and is above the finished grade on that side.
- B. **Mezzanine.** Shall be deemed a full story when it covers more than fifty percent (50%) of the story underneath said Mezzanine, or, if the vertical distance from the floor next below it to the floor next above it is twenty-four feet (24') or more.
- C. **Half Story.** The part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half of the floor area of said full story.
- D. **Attic.** An attic shall be considered a story if the floor area of the attic exceeds fifty percent (50%) of the floor area of the uppermost full story. In making this determination, only the portion of the attic having a clear height of at least seven (7) feet, six (6) inches shall be considered.

STREET: A street is a public or private thoroughfare which affords the principal means of vehicular access to abutting properties.

STRUCTURAL ALTERATION: Any change in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders or any change in the width or number of exits, or any substantial change in the roof.

STRUCTURE: Anything that is built, constructed or erected, having a permanent location on or under the ground, including attached parts and appendages.

SWIMMING POOL: Any artificially constructed, non-portable pool or container capable of being used for swimming, wading or bathing or any combination thereof, wholly outside a permanently enclosed and roofed building and designed to hold five thousand (5,000) gallons or more of water or a depth of two (2') feet or more at any point.

TEMPORARY BUILDING: A structure or shelter for temporary use for construction, exhibition, sales or storage purposes which shall be limited to such periods of time as further provided in this Ordinance or the Building Code or by special permission of the City Council.

TREASURER: The City Treasurer of the City of Orchard Lake Village.

USE: Is the purpose of which land or premises or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

WALL: A wall is an upright structure constructed of stone, brick, decorative block, or landscape timbers that is placed or constructed to enclose, divide, protect or define the boundaries of an area, or to retain an earthen embankment. The grade level of the soil being retained or landscape wall shall be no greater than six inches (6") below the top of the wall.

WIRELESS COMMUNICATION FACILITY: All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave facilities; ham; amateur radio facilities; satellite dishes; and, government facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

- A. **Attached Wireless Communication Facilities:** Wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established is not included in this definition.
- B. **Wireless Communication Support Structures:** Structure erected or modified to support wireless communication antennas, including but not limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

CO-LOCATION: The location by two (2) or more wireless communication providers of wireless communication provider facilities on a common structure, tower, or building, with the intent to reduce the total number of structures required to support wireless communication antennas in the City.

YARD: An open space on the same lot with a building unoccupied and unobstructed from the ground upward, except as otherwise permitted in this Ordinance. The Minimum Required Setback is the minimum depth of a front, rear, side, or waterfront yard necessary to conform to the required setback provisions of the Ordinance (see definition of "setback").

YARD, FRONT:

- A. An open space extending the full width of the lot, the depth of which is the horizontal distance between the front lot line and the nearest line of the principal building, unoccupied from the ground up except as hereinafter specified.

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- B. On corner lots, both yards facing a street shall be considered front yards for the purposes of determining required setbacks.

YARD, REAR: A yard extending the full width of the lot, the depth of which is the horizontal distance between the rear lot line and the rear line or lines of the principal building on the lot, and unoccupied from the ground upwards except as hereinafter specified (see illustration H).

YARD, SIDE: A yard between the side line of the lot and the nearest line of the principal building, extending from the front yard to the rear yard, or, in the absence of either such yard.

YARD, WATERFRONT: An open space extending the full width of the lot, the depth of which is the horizontal distance between the water line and the nearest line of the principal building, unoccupied from the ground up except as hereinafter specified.

ZONE OR ZONING DISTRICT: A portion of the City of Orchard Lake Village within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas and other requirements are established (see also DISTRICT).

ZONING BOARD OF APPEALS: The words, "Zoning Board of Appeals" or "Zoning Board" shall mean the City of Orchard Lake Village Zoning Board of Appeals.

(Ord. of 5-24-2021(1))

ARTICLE III LIST OF ZONES

Section 3.01 DISTRICTS.

The City of Orchard Lake Village is hereby divided into zoning districts known as follows:

Zone 1 Single Family Residential/Community Facilities

Zone 2 Single Family Residential/Community Facilities

Zone 3 Single Family Residential/Community Facilities

Zone 4 Single Family Residential/Community Facilities

Zone 5 Professional Office Zone

Zone 6 Local Business District

Section 3.02 MAP.

The boundaries of these zones are shown upon the map attached hereto and made a part of this Ordinance, which map is designated as the Zoning Map of the City of Orchard Lake Village. The Zoning Map attached hereto and on file in the office of the Clerk of the City of Orchard Lake Village and all notations, references, and other information shown thereon are a part of this Ordinance and have the same force and effect as said Zoning Map and all such notations, references, and other information shown thereon were fully set forth or described herein.

Except where references on said Map to a street or other designated line by the dimensions shown on said Map, the zone boundary lines follow lot lines or other center lines of the street or alley right-of-way or such lines extended, and the corporate limits of the City of Orchard Lake Village, as they existed at the time of the adoption of this Ordinance.

ARTICLE IV GENERAL PROVISIONS

Except as hereinafter specifically provided, the following general regulations shall apply:

Section 4.01 CONFLICTING REGULATIONS.

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations that are imposed or required by the provisions of any other law or ordinance, this Ordinance shall govern.

(Ord. of 5-24-2021(2))

Section 4.02 SCOPE.

No building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed, or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance.

Section 4.03 STREET, AND ALLEY RIGHTS-OF-WAY.

All street, lane and alley rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such street, lane and alley rights-of-way where the center line of a street, lane or alley serves as a zone boundary, the zoning of such street, lane or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such line.

Section 4.04 PERMITTED USES.

No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, designed or arranged for any purpose other than is permitted in the zone in which the building or land is located.

Section 4.05 PERMITTED AREA.

No building shall be erected, converted, enlarged, reconstructed or structurally altered, except in conformity with the area regulations of the zone in which the building is located.

Section 4.06 PERMITTED HEIGHT.

No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limitation hereinafter established for the zone in which said building is located, including roof structures, housing for elevator, stairway, tanks, steeples, skylights, stage lofts, screens, and ventilation fans or similar equipment required to operate and maintain the building. Flagpoles may exceed the height limitations specified in Article XIII.

Antennas shall not exceed the height requirements for the district in which they are located, unless a higher antenna is permitted by a state or federal law or regulation which pre-empts local regulations and except that reception antennas shall be subject to the restrictions in Section 4.15 (1).

The maximum height of a chimney and appurtenance thereto (such as a chimney cap or screen) on a residential structure shall not exceed the minimum chimney height specified in the adopted building or masonry code of the City by more than three (3) feet. However, the maximum height of a chimney and appurtenance thereto or smokestack on a non-residential structure shall be equal to the minimum chimney or smokestack height specified in the adopted building masonry code of the City.

Section 4.07 ZONING LOT.

Every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot as herein defined, and in no case shall there be more than one (1) such building on one (1) lot unless otherwise provided in this Ordinance

Section 4.08 LOTS, YARDS AND OPEN SPACES.

No space which for the purpose of a building or dwelling group has counted or calculated as part of a side yard, rear yard, front yard or other open space required by this Ordinance, may by reason of change in ownership or otherwise be counted or calculated to satisfy or comply with a yard, court or other space requirement of or for any other building. In any residential district, the front and rear yard requirements of double frontage lots shall be the same as prescribed for any single lot in the zone wherein the double frontage lot is located.

Section 4.09 YARD ENCROACHMENTS.

Except as otherwise provided in this Section, all projections such as outside stairways, fire escapes, porches, platforms, balconies, tennis courts, swimming pools, fences, boiler flues, solar energy systems, decks, and courtyards shall comply with the setback requirements for the district in which they are located. For the purposes of this requirement, porches with screens or removable storm window sash shall be considered enclosed projections.

Notwithstanding these requirements, yard encroachments shall be permitted subject to the following condition:

- A. **Fireplace, Chimneys, Cornices, and Driveways.** The following structures shall be permitted to extend into the required setbacks:
 - 1. One (1) fireplace or one (1) chimney, not more than eight (8) feet in width, projecting not more than twelve (12) inches into a required side yard setback.
 - 2. Cornices or overhangs that project no farther than eighteen (18) inches (including the gutter) into a required yard setback.
 - 3. Driveways (whether paved with asphalt, concrete or other suitable material) shall be permitted in any yard, except a waterfront yard. However, driveways may be permitted in the waterfront yard of parcels where the main access to the parcel is via a public road that is located along the lakefront.
- B. **Ground Level Unenclosed Projections and Decks.** Ground Level Unenclosed Projections (G.L.U.P.) and decks shall be permitted to encroach into the required setback areas as follow:
 - 1. G.L.U.P.S and decks shall be permitted to extend to twelve (12) feet into the required front, rear, or waterfront setback, subject to the following provisions:
 - a. G.L.U.P.S shall be permitted to extend up to twelve (12) feet into the fifty-five (55) foot setback from the water's edge in Residential Zone 1 and seventy-five (75) foot setback from the water's edge in Residential Zones, 2, 3 and 4.

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- b. Decks and G.L.U.P.S shall comply with height and area requirements in Article XIII, the Schedule of Regulations.
 - c. G.L.U.P.S may extend up to four (4) feet into a required side setback. Decks may not extend in to the required side yard setback.
 - d. No G.L.U.P.S or decks shall be located closer than thirty-five (35) feet to the legal level of the lake, as measured on the horizontal.
 - e. G.L.U.P.S and decks shall be subject to applicable lot coverage and open space requirements.
2. One (1) G.L.U.P. Shall be permitted on the waterfront of the property, subject to the following provisions:
- a. G.L.U.P.S that are located in the waterfront setback of the property shall not exceed five hundred (500) square feet in area.
 - b. The G.L.U.P. must be detached from the principle building and attached accessory structures.
 - c. The G.L.U.P. may not extend into a required side yard setback.
 - d. No G.L.U.P. shall be located closer than thirty-five (35) feet to the legal level of the lake, as measured on the horizontal.
 - e. A G.L.U.P. may include a deck that satisfies the definition of G.L.U.P.S in Section 2.02 (e.g., plus-or-minus three (3) inches of the adjacent ground level).
 - f. G.L.U.P.S and decks shall be subject to applicable lot coverage and open space requirements.
- C. **Lakeside Stairs.** Stairs and landing areas (not to exceed twenty (20) square feet in area) may be permitted to extend to the actual waterfront edge, as established by the legal lake level, where required by topography. Stair treads are to be limited to four (4) feet or less in width by fourteen (14) inches or less in depth.
- D. **Swimming Pools.** Ground level swimming pools, pool deck area and the required enclosure shall be permitted to extend into the required waterfront yard, subject to the following conditions:
- 1. **Maximum Waterfront Setback.** A ground level swimming pool, pool deck area and the required enclosure shall be permitted to extend up to fifty-five (55) feet from the water's edge in Residential Zone 1 and up to seventy-five (75) feet from the water's edge in Residential Zones 2, 3 and 4.
 - 2. **Minimum Side Setback.** Swimming pools shall not extend closer to the side lot line than any portion of the principle residence, or the minimum side yard setback required in the zone in which it is located in, whichever is greater.
 - 3. **Maximum Lot Coverage.** Swimming pool shall comply with the lot coverage requirements for accessory buildings and structures in Section 4.15, sub-section E.
- E. **Manufactured Landscape Features.** Manufactured landscape features shall be permitted in any single family district. Any such feature that exceeds three (3) feet in dimension (height, width, length, diameter, etc.) shall be subject to the following.
- 1. Manufactured landscape features shall be permitted to encroach into a required yard setback, provided that no such structure shall extend more than twelve (12) feet into the required front or rear yard setback, no more than four (4) feet into a required side yard setback, and no closer

than thirty-five (35) feet to the edge of any body of water as established by the legal level of the lake.

2. Up to three (3) features may be located between the road rights-of-way line and any portion of the principal building.
3. No such feature shall exceed twelve (12) feet in height, measured from ground level at the base of the landscaped feature to the highest point of the feature.
4. The combined coverage of all such landscape features in front of the dwelling shall not exceed twenty-five (25) square feet.
5. No such landscape feature shall be located where it would obstruct the vision of drivers or otherwise impede traffic.

F. **Retaining and Landscape Walls.** A retaining or landscaping wall, as defined in Section 2.02, may encroach into a required setback area, subject to the following conditions (as used in this sub-section, a "landscaping wall: is a low wall, used as an integral part of a landscaping plan, often to create or define planting areas"):

1. The wall shall not exceed three (3) feet in height, measured at any point on either side of the wall, from the grade level adjacent to the wall to the top of the wall.
2. A series of two (2) more-or-less parallel walls, each measuring up to three (3) feet in height, may be permitted within a required setback area for the purpose of retaining earth on a slope, provided that the walls are separated at least six (6) feet from each other by a flat area.
3. In no case shall any wall be located closer than thirty-five (35) feet to the water's edge, as established by the legal level of the lake.
4. In no case shall any wall be permitted where it would disrupt natural drainage patterns, except where it is demonstrated that a proposed change in drainage patterns will not have an adverse impact on adjoining properties or cause a threat to public safety.
5. Walls shall not be used to alter the overall natural topography of the land, and any land alteration shall comply with the City's Filling and Excavation Ordinance General Ordinance Chapter 18, Article VIII. For example, retaining walls could be used to create a terrace on a slope, but the direction of the slope and the drainage patterns should not be altered.
6. Walls shall comply with the regulations in Section 4.12 pertaining to maintaining visibility for drivers.
7. Notwithstanding the conditions above, replacement retaining and landscape walls that are proposed to be removed and reinstalled in the same location and at the same height shall not be required to meet the requirements outlined in this section.

G. **Stairwells and Window Wells.** Stairwells and window wells may be constructed to provide access to daylight and to maximize the utility of the lower level of homes. For the purpose of this subsection, a stairwell is a vertical shaft within which an exterior staircase is constructed to provide access from the lower level to exterior ground level. A window well is an exterior shaft or well that is constructed to allow daylight to filter into the lower level. Stairwells and window wells shall comply with the regulations in the following table:

	Stairwell Regulations	Window Well Regulations
Permitted Encroachment	Must comply with setback requirements.	May encroach up to three (3) feet into any setback; window wells with ladders

		may encroach an additional six (6) inches into any setback.
Maximum Size	None specified; size is regulated by setbacks. No encroachment allowed.	Maximum of three (3) feet wide by four (4) feet long if encroaching.
Guardrail Requirements *	Required in all instances.	Required if the wall is greater than thirty (30) inches in depth.
Lot Coverage	Must be counted in lot coverage calculations.	Not counted in lot coverage calculations if the floor of the well is a pervious surface; otherwise, must be counted in lot coverage calculations.

* A vegetative buffer, such as trees or shrubs, or other type of barrier may be used instead of a guardrail, subject to approval by the Building Official. Guardrails must meet Michigan Residential Code Specifications.

- H. **Play Structures.** Play structures as defined in Section 2.02, shall be permitted on waterfront parcels in any yard area, subject to the following conditions:
1. **Setbacks.** Play structures shall be subject to the following provisions:
 - a. **Side Setback.** Play structures shall comply with the side setback requirements for the districts in which they are located, plus ten (10) feet.
 - b. **Waterfront Setback.** Play structures shall be permitted to extend up to twenty-five (25) feet into the required waterfront setback. However, no play structure shall be located closer than thirty-five (35) feet to the legal level of the lake, as measured on the horizontal.
 - c. **Street Setback.** Play structures shall comply with the minimum street side setback required for all other structures.
 - d. **Where feasible,** play structures shall be located on a lot so as to avoid blocking the lakefront views of neighbors on adjoining lots.
 2. **Maximum Height.** Play structures shall not exceed twelve (12) feet in height. A safety rail may exceed the maximum height no more than three (3) feet.
 3. **Maximum Lot Coverage.** Play structures may occupy not more than 600 square feet. The area of the play structure shall be computed by measuring the area of the envelope required to enclose the components of the play structure. Play structures shall also comply with the lot coverage requirements for accessory buildings and structures in Section 4.15, sub-section E.

4. **Miscellaneous Provisions.**

- a. Play structures shall be kept and maintained in good and safe condition. Play structures that are no longer in use shall be dismantled.
- b. All materials in play structures will be a dark solid color, although wood used in play structures may be left in its natural color.

(Ord. of 8-20-2018(1))

Section 4.10 ESSENTIAL SERVICE, REGULATION BY LAW.

Essential services, as defined in Section 2.02, shall be permitted as authorized and regulated by franchise agreements and federal, state, and local laws and ordinances, it being in the intention of this ordinance to permit modification to regulations governing lot area, building or structure height, building or structure placement, and use of land in the City when strict compliance with such regulations would not be practical or feasible.

Although essential services may be exempt from certain regulations, proposals for construction of essential services shall still be subject to site plan review and special land use review, it being the intention of the City to achieve efficient use of the land and alleviate adverse impact on nearby uses or lands. Essential services shall comply with all applicable regulations that do not affect the basic design or essential operation of said services.

Section 4.11 USE OF YARD SPACES OVER OPEN AREAS FOR STORAGE.

No front or other yard shall be used for the storage material or equipment, e.g., lumber piles, crates, boxes, building blocks or other materials either discarded, unsightly or showing evidence of a need for repairs, in any open area that is visible from the street, public place or adjoining residential property; and should such use of land occur, it shall be declared to be a nuisance. In addition to penalties provided in Section 18.02 of the Zoning Ordinance, if such nuisance is not abated within ten (10) days after the owner of such land is notified by the City Clerk, then the city may perform the necessary work to eliminate the nuisance with reimbursement to the city within thirty (30) days after receiving notice of the amount due from the City Treasurer, then the amount shall become a lien upon said property.

Section 4.12 VISIBILITY.

No structure, wall, fence, shrubbery or trees shall be erected, maintained or planted on any lot which will obstruct the view of a driver of a vehicle approaching an intersection. Fences, walls, structures, or plantings located in the triangular area described below shall not be permitted to obstruct cross-visibility between a height of thirty (30) inches and eight (8) feet above the lowest point of the intersecting roads.

Unobstructed Sight Area

The unobstructed sight area triangle is described as follows:

The area formed at the corner intersection of two road rights-of-way lines, the two (2) sides of the triangular area being thirty (30) feet in length measured along abutting road rights-of-way lines, and the third side being a line connecting these two sides.

In the case of a rounded corner, the unobstructed area shall be an area formed by curved curb or roadway surface edge line and an arc with a radius of thirty (30) feet measured from the midpoint of the rounded corner of said lines extending from one street curb or roadway surface edge to the center street curb or roadway surface edge.

Section 4.13 DWELLING IN NON-RESIDENTIAL DISTRICTS.

No dwelling unit shall be erected in Zone 5 or 6.

Section 4.14 NUMBER OF BUILDINGS PER RESIDENCE.

In connection with each residence these shall be no more than one (1) principle building and two (2) accessory buildings.

Section 4.15 ACCESSORY BUILDINGS, STRUCTURES AND USES.

Accessory buildings, structures, and uses (as defined in Article II, Section 2.02), except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

- A. **Permitted Accessory Buildings and Structures.** Excepts as otherwise specifically permitted in this Ordinance, accessory, accessory buildings and structures shall be permitted only in Zones 1,2,3 and 4; except that signs in accordance with Article IV-A and rooftop mounted solar energy systems in accordance with Section I. shall be permitted Zones 5 & 6. Permitted accessory buildings and structures in Zones 1,2,3 and 4 are limited to those specified in the following table; except that the Zoning Board of Appeals may permit other accessory buildings and structures, but only if the proposed buildings or structures are not specifically "non-permitted" by Section 4.15, sub-section B.

In deciding whether a proposed accessory building or structure should be permitted, the Zoning Board of Appeals shall consider whether the building or structure will alter the essential character of an area, the Zoning Board of Appeals shall consider the established type and pattern of land uses, buildings, and structures in the area, the natural characteristics of the site and would be screened from view off the site.

Permitted Accessory Buildings	(Max. of Two (2) per residence, per Section 4.14
Detached Garage	No more than one (1) per residence. See Section 7.02B, 8.02B, 9.02B, and 10.02B
Storage Shed	No more than one (1) per residence
Gazebo	No more than one (1) per residence
Pump House	A pump house shall be counted as one of the two (2) Permitted Accessory Buildings only if it is greater than 16 sq.ft. or taller than 18 inches.
Dog House	A dog house shall be counted as one of the two (2) Permitted Accessory Buildings only if it is greater than 16 sq.ft. or taller than 48 inches.
Boat House	New boat houses are not permitted.
Permitted Accessory Structures	(number of permitted structures is not specified but is determined by achieving compliance with other zoning requirements)
Swimming Pool	See Section 7.02B, 8.02B, 9.02B, 10.02B, and 4.09 E
Play Structures	See Section 4.09 I
Fences	See Section 4.38
HVAC Equipment, Power Projections	See Section 4.15, subsection D.2
Sports Courts (for example, Tennis Courts, Basketball Courts, Handball Courts, etc.)	See illumination Control Ordinance (Ordinance 5.10) regarding lighting standards
Ground Level Unenclosed Projections	See Section 4.09B

Decks	See Section 4.09B
Lakeside Stairs	See Section 4.09C
Manufactured Landscape Features	See Section 4.09F
Retaining and Landscaping Walls	See Section 4.09G
Antenna Facilities	See Section 4.15G
Trash Dumpsters in Zones 5 and 6	See Section 4.31
Signs	See Article IV-A
Permanent Barbecues, Outdoor Kitchens	See Section 4.15H
Roof Mounted Solar Energy Systems	Roof-mounted solar energy systems are permitted provided that the solar panels are mounted flush to the surface of the roof and do not project above the peak of the roof or beyond any roof edge. A building permit shall be required for installation of roof mounted systems. Solar panels shall not be mounted on any roof that is steeper than a 12/12 pitch or on the face of any building.

- B. **Non-Permitted Accessory Buildings and Structures.** The following accessory buildings and structures are not permitted in Zones 1, 2, 3 and 4:

Non-Permitted Accessory Buildings and Structures

- Detached Car Ports
- Plastic Wrap Greenhouses
- New Boat Houses
- Summer Houses (only one (1) principal is on each lot)
- Detached Greenhouses
- Ground-Mounted Solar Energy Systems

- C. **Applicability of Other Codes and Ordinances.** Accessory buildings and structures shall be subject to all other applicable codes and ordinances regarding construction, installation and operations.

- D. **Setback and Location Requirements.** Except as otherwise specified in this Ordinance (for example, in Section 4.09), accessory buildings and structures shall comply with the following setback and location requirements:

1. **General Setback and Location Requirements.**

- a. **Detached Accessory Buildings and Structures.** Detached accessory buildings and structures shall comply with applicable setback regulations in Article XIII, the Schedule of Regulations, subject to the following conditions:
 - (i) On non-waterfront parcels, detached accessory buildings and structures shall be located to the rear or side of the principal structure.
 - (ii) On waterfront parcels, detached accessory buildings and structures shall be located on the side of the principal structure, provided that any such accessory building or structure shall be landscaped with a combination of deciduous and/or evergreen trees and shrubs to, at minimum, partially screen the building or structure from the road and integrate the accessory building or structure into the overall site.

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- b. **Attached Accessory Buildings and Structures.** Except as otherwise noted in this Section, accessory buildings and structures that are an integral part of the principal building or structure (such as an attached garage, a porte-cochere, or a garage that is attached to the principal building by a covered walkway) shall be considered a part of the principal building or structure for the purposes of determining conformance with area, setback, height, and lot coverage requirements. An accessory building or structure is considered an integral part of the principal building if interior access exists or if there is a roof connection between the two. An attached garage shall be considered an integral part of the principal building.
2. **Exceptions to the General Setback and Location Requirements.**
- a. **Sheds.** The minimum side and rear yard setback for sheds shall be three (3) feet. Any such structure shall be screened. Any such structure shall be screened on all encroaching sides with evergreen shrubs or other planting. The screening shall be subject to administrative review and approval.
 - b. **HVAC Equipment.** Freestanding heating, ventilation, and air-conditioning (HVAC) equipment and power generators may be located on any side of the principal structure, subject to the following conditions:
 - (i) HVAC Equipment and power generators shall comply with the minimum setback requirements applicable to the principal building. However, there shall be no setback requirement between the principal building and the HVAC equipment and power generators.
 - (ii) HVAC Equipment and power generators shall be screened with deciduous and/or evergreen trees and shrubs so that HVAC equipment and power generators are not visible from the road, adjacent residences, or any lake.
 - (iii) Power generators shall use natural gas as their fuel and shall be enclosed within a cabinet that is sufficiently insulated so that such devices comply with the noise standards in the Nuisance Ordinance and Noise Control Ordinance (Ordinance 9.03 and 9.10).
- E. **Lot Coverage.** The total ground floor area of attached and detached accessory buildings and structures, excluding attached garages, shall occupy no more than ten percent (10%) of the total area, subject to the following provisions:
- 1. **Detached buildings and structures.** The total ground area coverage of all detached accessory buildings and structures shall not exceed seventy-five percent (75%) of the ground floor area of the principal building.
 - 2. **Attached Garages.** The total ground floor area of all attached garages on a parcel shall not exceed fifty percent (50%) of the ground floor area of the principal building. Notwithstanding this provision, each house shall be permitted at least a 3-car garage.
- F. **Maximum Height of Accessory Buildings that Are Not an Integral Part of the Principle Building are subject to the following provisions:**
- 1. Except as noted in Section 4.15(D)(1)(b), accessory buildings shall comply with the following height regulations:
 - (i) Accessory buildings shall not exceed one (1) story, provided that the height of the accessory building or structure shall not exceed the height of the principle building or structure.

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- (ii) The maximum exterior wall height (measured from ground level to the underside of the eaves) shall not exceed fifteen (15) feet.
 - (iii) The roof pitch shall be compatible with the roof pitch on the principal building.
 - 2. Accessory structures, other than buildings, shall not exceed fifteen (15) feet in overall height.
 - G. **Reception antenna facilities.** In all zoning districts the installation of reception antenna facilities shall be permitted as an accessory use, subject to the provisions in this sub-section.
 - 1. **Purposes:** The purposes of this sub-section are as follows:
 - i. To provide reasonable regulations for the placement of reception antenna facilities.
 - ii. To promote safety and prevent dangers to persons and property resulting from accidents involving improperly installed antenna facilities.
 - iii. To maintain the high architectural and aesthetics standards of the City, so as to preserve property values.
 - 2. **General Requirements.**
 - i. Permits required by the adopted electrical code, if required, shall be obtained prior to installation of an antenna.
 - ii. All wiring to the antenna shall be installed underground.
 - iii. Antennas shall comply with the setback requirements for the districts in which they are located.
 - iv. There shall be no restriction on the number of antennas on each parcel.
 - 3. **Ground and Building-Mounted Antennas.**
 - i. To the maximum extent feasible, ground-and-tower-mounted antennas shall be screened from view from adjacent properties, from any public or private road, and from any lake by a screen wall, fence, evergreen plantings, or a combination thereof, provided that such screening does not prevent reception of an acceptable quality signal.
 - ii. Antennas mounted on a building or roof shall not extend higher than twelve (12) feet above the highest point of the roof within a ten (10') foot radius.
 - iii. Building or roof-mounted antennas shall be permitted on the front of a building only when no other option is available to provide acceptable quality signal reception.
 - 4. **Antennas Equal to or Greater than One Meter in Diameter.**
 - i. Antennas that are equal to or greater than one meter in diameter shall be permitted only on the side or in the rear of non-lakefront properties. Such antennas shall be permitted in the front yard or lakefront only when documentation is presented to demonstrate there is no other option available to provide acceptable quality signal reception, subject to Zoning Board of Appeals approval.
 - ii. Such antennas shall be screened from view from the road, from the lake and from adjacent residences with evergreen screening.
 - H. **Permanent Barbecues and Outdoor Kitchens:**
 - 1. **Definitions:** For the purposes of this Section, the following terms have the meaning as listed below:

- a. **Permanent Barbecue.** A permanent, immovable structure that is attached to the ground and is typically used for grilling or smoking food in preparation for consumption. A permanent barbecue is sometimes called a "built-in island barbecue." This definition of permanent barbecue is not intended to include portable barbecues that are not permanently attached to the ground, in-ground post barbecues, fire pits, or chimneys.
 - b. **Outdoor Kitchen.** An outdoor food preparation workspace, consisting of permanent barbecue and other features associated with a kitchen, such as counter tops, a sink, and cupboard space.
2. **Dimensional Requirements.** Permanent barbecues and outdoor kitchens shall comply with the following regulations:

Dimensional Requirement	Waterfront Properties	Non-Waterfront Properties
Maximum Height	5 ft.	5 ft.
Maximum Lot Coverage	32 sq./ft.	32 sq./ft.
Permitted Locations	Side Yards, Waterfront Yard	Side Yards, Rear Yards
Minimum Setbacks		
Side Yards	Must comply with Minimum side yard setback in Article XIII, footnote n	
Rear Yard	Not Applicable	Must comply with Ordinance standards
Waterfront Yard	May encroach up to 18 ft. into the required waterfront setback	Not applicable
Minimum distance between structure and house	Barbecue and Outdoor Kitchen: 5 ft.	Barbecue and Outdoor Kitchen: 5 ft.

- I. **Roof Mounted Solar Energy Systems in Zones 5 and 6.** Roof mounted solar energy systems in Zones 5 and 6 shall comply with the following regulations.

1. **Permit Required.** A building permit shall be required for installation of roof mounted systems.
2. **Mounting and Projection.**

Pitched Roofs:

- a. For the purpose of Section 4.15(l) only, a pitched roof is defined as roof that has a slope greater than one-inch (1") vertical to four feet (4') horizontal.
- b. Solar panels shall be mounted flush (within 6" of the roof line) and shall not project above the peak of the roof or beyond any roof edge.
- c. Solar panels shall not be mounted on any roof that is steeper than 12/12 pitch or on the face of any building.
- d. Solar panels shall be setback a minimum of two (2) feet from any roof edge.

Flat Roofs:

- a. For the purpose of Section 4.15(l) only, a flat roof is defined as a roof that has no greater slope than one inch (1") vertical to four feet (4') horizontal.
- b. Solar panels shall not project more than two (2) feet above the roof plane at its highest point and not more than six (6) inches at its lowest point.

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- c. Solar panel installation shall require site plan approval from the Planning Commission when angled mounted.
 - d. Solar panels shall be setback a minimum of two (2) feet from any roof edge.
3. **Height.** In no case is a roof mounted solar energy system in Zones 5 or 6 permitted to be installed in a manner which would exceed the maximum height restrictions applicable for the property.
 4. **Screening.** Architectural screening may be required if, in the determination of the Director of City Services, the roof mounted solar energy system is proposed in a location or manner that is reasonably expected to have a negative impact in terms of glare, noise, or visual impact to adjacent property owners and the effects can be mitigated by such means. Flush mounted solar panels shall not be subject to the screening requirements.

(Ord. of 9-21-2020(1) , Ord. of 9-21-2020(2))

Section 4.16 VEHICLE PARKING IN RESIDENTIAL DISTRICTS.

Vehicles shall be subject to the following parking regulations in residential districts (see parking requirements in Article VI):

- A. **Definitions:** For the purposes of this Section 4.16 the following definitions shall apply. The State Classification of Vehicles, which is published by the Michigan Secretary of State, shall be used where a more detailed identification of vehicles and body styles is required.
 1. "Commercial Vehicle" includes all motor vehicles used for the transportation of goods, wares or merchandise, and/or all motor vehicles designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or on any part of the vehicle or load so drawn.
 2. "Motor Home" means a motor vehicle constructed or altered to use or provide living quarters, including permanently installed cooking and sleeping facilities, and is used for recreation, camping or other non-commercial use.
 3. "Operable" when used in reference to a vehicle having motive power, means the engine can be started and the vehicle may be driven at any time.
 4. "Parking" shall mean stopping and leaving a vehicle.
 5. "Stake Truck" means a truck having a platform with stakes inserted along outside edges to retain load.
 6. "Trailer" means every vehicle with or without motive power, other than a pole-trailer, designed for carrying property (including, but not limited to, boats, jet skis, snowmobiles and other property) or persons and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.
 7. "Travel Trailer" means a vehicle, without motive power, designed to provide temporary living or sleeping quarters, and used for recreation, camping, or other non-commercial use. This definition of "travel trailer" is intended to include vehicles known as "fifth wheelers".
 8. "Truck Tracker": means a motor vehicle designed and used primarily for drawing other vehicles.
- B. **Parking in Residential Districts.** The following regulations shall apply to parking in residential districts. Vehicle parking that is not specifically permitted by these regulations is prohibited.
 1. **Permitted Parking.**

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- a. Operable passenger vehicles (includes sports utility vehicles SUV's and passenger vans) and operable pick-up trucks having a curb weight not exceeding seven thousand, five hundred (7,500) pounds and gross weight not exceeding thirteen thousand (13,000) pounds may be parked on a single family lot where such vehicle is regularly used by an occupant on the premises.
 - b. In addition to the parking permitted in the previous item (a), an operable commercial vehicle may be parked inside a fully enclosed building on a single family lot, provided that the vehicle shall have no flammable, toxic or hazardous materials, liquids or equipment that would threaten the safety of residents on the lot or on lots in the vicinity.
 - c. In addition to the parking permitted in the previous items (a) and (b), one (1) operable commercial vehicle may be parked outside on a single family lot subject to the following conditions:
 - i. The vehicle shall be parked on gravel or paved surface parking area, which surface shall comply with all required setback requirements.
 - ii. The area surrounding the parking space shall be landscaped sufficiently to provide year-round screening from adjacent residences and roads.
 - iii. The vehicle must be used as the principle means of transportation for a resident in that resident's employment or profession or must be the resident's sole means of motor vehicle transportation. The vehicle must not be a dump truck, stake truck, tank truck, flatbed truck, step van, panel truck, wrecker, car hauler, truck tractor, construction and landscaping vehicles and equipment, logging vehicle, bus, hearse, ambulance or limousine.
 - iv. No part of the vehicle shall exceed eight (8) feet in height measured from the ground.
 - v. The vehicle shall have no more than one (1) rear axle.
 - vi. The vehicle shall have no ladders, poles, storage boxes above the fender, external auxiliary fuel tanks, or other equipment attached to or mounted on the outside of the vehicle.
 - vii. The vehicle shall not exceed eight thousand, five hundred (8,500) pounds curb weight or thirteen thousand (13,000) pounds gross weight. The vehicle shall have no flammable toxic or hazardous materials, liquids or equipment that would threaten the safety of residents on the lot or lots in the vicinity.
 - viii. The provisions in this sub-section (1) shall not preclude the parking of commercial vehicles on a single-family lot for the sole purpose of rendering an immediate and/or current service on the lot (e.g., construction or repair, landscaping, cleaning, etc.)
 - ix. Parking or storage of trailers, parts, equipment, or materials related to operation of a commercial vehicle shall be prohibited in single-family residential districts.
2. **Mobile Homes.** Mobile homes shall comply with the requirements in Section 4.32.
 3. **Motor Homes and Travel Trailers.** No more than (1) motor home or travel trailer may be parked on a residential lot. Any motor home or travel trailer parked for more than thirty (30) consecutive days shall comply with required setbacks and shall be landscaped sufficiently to provide year-round screening

from road and adjacent properties. At no time shall a motor home that is parked be used for living or housekeeping purposes.

Section 4.17 LOTS ABUTTING LAKE OR STREAMS.

The following regulations shall apply to all lots which abut any lake or stream located within or partly within the City. For the purposes of this Ordinance, regulations which refer to a lake, river, stream or navigable waterway shall include any inlet, canal, cove or similar natural or man-made passage of water that is connected to a lake.

- A. The land area of the lake or stream lying below the established lake level mark shall not be filled nor shall soil or materials be removed without obtaining a license pursuant to City Ordinance No. 12.03.
- B. No structure, including a principle or accessory building shall be erected on a lot or parcel nearer than seventy-five feet (75') in Zones 2, 3, and 4 and fifty-five feet (55') in Zone 1 (as measured on the horizontal from the water line as established by the legal level of the lake) to the said lake, river, stream or other navigable waterway, except as is permitted in Section 4.09. In the event that there is an Established Residential Building Pattern along the waterway, then the required setback shall be determined in accordance with the standards in Section 4.36.

Section 4.18 USE OF WATER FRONTAGE.

No lot or parcel of land, improved or unimproved, bordering on a lake or stream shall be used as a means of providing persons with access to such lake or stream or be used for recreational purposes except in accordance with the following:

- A. The owner(s) of the parcel of land bordering on the lake or stream of the tenant-occupant of a dwelling located thereof may make use of said premises. So long as the use does not constitute a public nuisance or is not in violation of any Ordinance of the City, such person(s) together with their family and occasional guests may make use of said premises without limitation. As used in this sub-paragraph, owner(s) shall mean the owner(s) of the entire equitable interest in the parcel and not include the owner(s) of undivided interests.
- B. Persons having an interest in a parcel of land bordering on a lake or stream, other than those referred to in sub-section (A) above, may use such land for access and/or recreational purposes provided that such use shall be made only in accordance with the following:
 - i. No person, other than those above-identified in sub-paragraph (B), shall make use of said premises, unless they are either members of the immediate family of the persons identified in said sub-paragraph or occasional guests of said persons.
 - ii. No person having the right to use said parcel of land shall at any time have more than six (6) persons other than members of his/her family on the premises or using them for access to the water at any given time.
 - iii. Not more than one (1) owner or tenant-occupant shall make such use of each twenty (20') feet of natural lake or stream frontage, provided that this frontage requirement may be reduced by (1') foot for each ten (10') feet or fraction thereof of depth of the parcel and provided further that such required width shall not be less than five (5') feet for each owner or tenant-occupant.
 - iv. The depth of any parcel used pursuant to the provision of this Section shall be measured from the edge of any platted or un-platted road.
 - v. If the owner of the right to use parcel of land is other than an individual or individuals, such owner shall at no time have more than six (6) persons on the premises or using them for access to the water at any given time.

- vi. Such premises shall not be used as a means of access to any dock or boat storage area. No boat shall be stored or moored along the frontage of said premises nor shall any boats be moved to or from the water across said premises nor stored thereon.
- vii. The parking of automobiles closer than one hundred (100') feet to the water's edge is prohibited on any parcel of land under this Section to provide access to a lake or stream or for recreational purposes.
- C. At the time the City gives its final approval to any platted subdivision, the proprietor shall designate on the plat, or furnish a document in recordable form which does so, the lots by number which will, under the provision of this Section, have the right to use such frontage lot and those lots in the subdivisions, if any, which will not have such right.
- D. The frontage created by digging out and filling in shall be excluded from computing the lot frontage for purposes of this Section.
- E. Owners and occupants of lots contained in a recorded plat, which plat was created prior to March 25, 1956, and which plat set aside a portion of the platted premises for the use of owners occupants of the lots contained in the plat, and which lots comply with the original provisions of this Section, shall not be subject to the provisions of sub-section (B) above.
- F. Docks, boat hoists, rafts and other seasonal fixtures are permitted on waterfront lots or parcels, regardless whether a principle use or structure is located on the lot or parcel, subject to Section 4.17.

Section 4.19 LOT WIDTHS ON CURVED STREET OR LANES.

In all zones which require a stated minimum lot width, variances may be made as follows:

- A. In the case of a lot located adjoining and facing the outside to the curve of a curved street or lane line, wherein the lot lines diverge toward the rear, the measurement of lot width may be taken at the front building of the principle building parallel to the tangent of the curb at the center of the front lot line or in such a direction as to intersect the side lot lines at angles equal on both sides, provided, however, that in no case shall the width of the front yard at the street or lane be less than one-half (1/2) of the required lot width.
- B. In the case of a lot facing the inside curve of the street or lane so that the side lines converge toward the rear, the measure of lot width shall be taken at the rear building line of the principle building and in such a direction as to intersect the side lot lines at angles equal on both sides or at a 90 degree angle to a line equally bisecting the lot.

Section 4.20 DOUBLE FRONTAGE LOT DEVELOPMENT.

Any building erected on a lot that abuts upon a street or lane both in the front and in the rear shall be designed to present the appearance of a front on both streets and lanes. On the rear façade, the appearance of a front can be achieved to incorporating characteristics that are typically part of a front façade. Such characteristics may include, by way of example:

Value of Building Feature	Building Feature
3	Building articulation, rather than a completely flat façade, characteristics by at least two (2') foot minimum vertical offsets.
6	Use of quality building materials comparable to the front façade on at least fifty percent (50%) of the façade, excluding windows and doors.
6	Presence of a front porch that provides a sheltered entrance, rather than an open deck.

3	Presence of foundation planting and other landscaping comparable in number and species to the planting in the front.
6	Upgraded building entrance, such as a paneled entry door, cornice or pediment over the door, door surround, and/or sidelight on each side of the door (rather than a plain sliding glass patio door)
3	Window detailing, such as muntins separating the window panes, shutters, and/or bay windows.
2	Presence of masonry details, such as quoins or a belt course of brick.
2	Presence of formers.

The rear façade will not be approved unless it achieved a score of at least 15. The purpose of this regulation is to avoid the diminution of property values and neighborhood appearance that would result from a home having an inappropriately-designed rear façade along a street that is otherwise occupied by homes with their front facades facing said street.

Section 4.21 OCCUPANCY: GARAGE APARTMENTS, BASEMENT APARTMENTS AND ACCESSORY BUILDINGS USED FOR RESIDENTIAL PURPOSES.

No garage, basement, accessory building, temporary building now existing or in the future erected or placed on a lot or parcel shall be occupied or used for dwelling purposes. Expressly excepted from this regulation are living quarters for members of the family occupying the principle building located on the same lot and domestics servants employed by said family.

Section 4.22 BUILDING TO BE MOVED.

Any building or structure which has been wholly or partially erected on any premises that is moved into the City shall meet all appropriate Building Codes.

Section 4.23 EXCAVATIONS OR HOLES.

The construction, maintenance or existence within the City of Orchard Lake Village of any unprotected, unbarricaded, open or dangerous excavation, holes, pits or wells, or of any excavations, holes or pits which constitute or are reasonably likely to constitute a danger or menace to public health, safety or welfare, are hereby prohibited; provided, however, that this Section shall not prevent any-excavation under a permit issued pursuant to this Ordinance or the Building Code of the City of Orchard Lake Village, where such excavation are properly protected and warning signs posted in such manner as may be approved by the Building Official and, provided further that this Section shall not apply to streams, natural bodies of water or to ditched, streams, reservoirs or other major bodies of water created or existing by authority of the State of Michigan, County of Oakland, City of Orchard Lake Village, or other governmental agency. (See also City Ordinance No. 12.04, the Landfill Ordinance).

Section 4.24 LANDFILLS AND EXCAVATIONS.

The use of land for the excavation, removal, filling or depositing of any type of earth material, topsoil, gravel, rock, garbage, rubbish or other wastes or by-products, is not permitted in any zone except under a certificate from, and under the supervision of the Building Official in accordance with a topographic plan, approved by the City Engineer, submitted by the fee-holder owner of the property concerned, pursuant to the City's General Ordinance Chapter 18, Article VIII. The topographic plan shall be drawn at a scale of not less than fifty (50') feet equals one (1) inch and shall show existing and proposed grades and topographic features and such other data as may from time to time be required by the City Engineer. Such certificate may be issued in appropriate cases upon the filing with

the application of a cash bond or surety bond by a surety company authorized to do business in the State of Michigan running to the City in an amount as established by the City Engineer which will be sufficient in amount to rehabilitate the property upon default of the operator of such excavating or filling operation, and to cover court costs and other reasonable expenses. This regulation does not apply to normal soil removal for basement, septic system or foundation work when a building permit has previously been issued by the Building Official. Costs of a permit to fill and excavate shall be established by the City Council.

Section 4.25 RESTORING UNSAFE BUILDINGS.

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any conforming building or structure declared unsafe by the Building Official.

Section 4.26 CONSTRUCTION BEGUN PRIOR TO ADOPTION OF ORDINANCE.

Nothing in this Ordinance shall be deemed to require any change in the plans, construction or designed use of any building upon which actual construction was lawfully begun prior to the adoption of this Ordinance, and upon which building actual construction has been diligently carried on, and provided further, that such building shall be completed within one (1) year from the date of passage of this Ordinance.

Section 4.27 VOTING PLACE.

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

Section 4.28 APPROVAL OF PLATS.

No proposed plat of a new subdivision shall hereafter be approved by the City Council unless the lots within such plat equal or exceed the minimum size and width requirements set forth in the various districts of this Ordinance, and unless such plat fully conforms with the statutes of the State of Michigan and City Ordinance No. 14.04, Subdivision Regulations.

Section 4.29 RESERVED.

(Repealed Sign Regulations, Article IVA).

Section 4.30 PROTECTIVE SCREENING OF RESIDENTIAL DISTRICT FROM ABUTTING NON-RESIDENTIAL USE, INCLUDING ADJACENT TO ALLEYS.

In order to provide adequate protective screening for residential areas adjacent or near non-residential areas, the following regulations shall apply:

1. **Adjacent Residential Property.** Where a Zone 5 or 6 use abuts directly upon a residentially zoned district, one of the following three (3) methods for protective screening shall be required:

Protective Screening Methods	Standards for Protective Screening Methods
i. Landscaped Greenbelt	Refer to 4B.02.E, Protective Screening of Non-Residential Uses from Adjacent Residentially-Zoned or Used Land, for standards.

ii. Landscaped Berms	Refer to 4B.02.E, Protective Screening of Non-Residential Uses from Adjacent Residentially-Zoned or Used Land, for standards.
iii. Obscuring Wall	Refer to 4B.07, Obscuring Walls and Fences, for standards.

2. **Residential Property Across Alley.** Any Zone 5 or 6 land on which a drive-in business, open air display, commercial parking lot or other similar use is conducted, and which is adjacent to a residentially zoned district located across a public alley of not less than twenty feet (20') in width, shall be separated along its entire length by either a building housing a permitted use or by a solid obscuring wall subject to the standards in Section 4B.07, Obscuring Walls and Fences. Said obscuring wall shall be located, preferably, on the residential side of the public alley, subject to approval of the wall location by the Planning Commission.

(Ord. of 5-24-2021(3))

Editor's note(s)—Ord. of May 24, 2021(3) changed the title of § 4.30 from "protective screening" to read as herein set out.

Section 4.31 TRASH CONTAINERS.

Outside permanent trash containers shall be permitted in Zone 5 and 6 provided that they comply with the following requirements:

1. Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principle buildings nearby.
2. A solid ornamental screening wall or fence shall be provided around all sides of trash containers which shall be provided with a gate for access and be of such height as to completely screen said containers, the maximum height of which shall not exceed eight (8') feet.
3. The trash container(s), the screening wall or fence and the surrounding ground area shall be maintained in a neat and orderly appearance, free from rubbish, waste paper or other debris. This maintenance shall be the responsibly of the owner of the premises upon which the containers are placed.
4. There shall be compliance with all City, County and State Health Ordinances and Statutes.

Section 4.32 REGULATIONS FOR MOBILE HOMES LOCATED OUTSIDE OF MOBILE HOME PARKS.

1. While mobile homes offer an alternative to conventional single family housing in such areas as structural design, facility arrangement and cost, they can have potential adverse impacts on a residential neighborhood because of marked differences from single family housing and design, placement, structure and site size, and fire and wind resistance. Generally, mobile homes value have restricted to locations within mobile home parks, positioned at areas specifically zoned for them, in order to assure compatibility with nearby residential uses. However, through the application of certain standards, mobile homes and mobile home sites may be designed to more closely resemble nearby conventional housing and be permitted outside mobile home parks and within residential zoning districts. This Section presents specific conditions and standards whereby mobile homes may be located outside of mobile home parks.

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2. Mobile homes may be located outside of mobile home parks provided that they are located in zoning districts which permit them and further subject to site plan approval by the Planning Commission in accordance with Section 4.33.
 3. To insure compatibility in appearance with single-family housing in the neighborhood, a mobile home shall meet the following design requirements:
 - a. **ROOF-** Must be pitched, minimum 3:12 slope, shingled, with a minimum roof overhang of not less than six (6") inches on all sides. The roof must be permanently attached to the mobile home and supported by the mobile home rather than by external supports. Additions and accessory buildings may have flat roofs, but unattached accessory buildings must satisfy the same roof requirements as the mobile home.
 - b. **EXTERIOR WALLS-** Must have wood, aluminum or vinyl siding and/or brick facing for all exterior walls, including additional and accessory buildings. All siding must be placed in the same direction, except that minor variations for styling purposes may be approved by the Planning Commission.
 - c. **INTERIOR WALLS-** Must be of dry wall construction and a minimum of four (4") inches thickness.
 - d. **EAVE TROUGHS-** Must be provided where appropriate.
 - e. **CEILING HEIGHT-** Minimum seven and one half (7 ½') feet for all rooms.
 - f. **ENTRY STEPS-** Must be permanently attached on a frost-free foundation similar to single family houses and connected to exterior doors or to porches connected to said door areas where a difference in elevation requires same.
 - g. **DOORS/WINDOWS-** Must be similar in design to single-family housing; a minimum of two (2) exterior doors is required.
 4. Except as otherwise noted herein, minimum construction standards for a mobile home shall be those of the Mobile Home Construction and Safety Standards Act of 1974 (Title VI of PUB L. 93-383, 88 Stat. 700, 42 S.C. 5401, et seq.).
 5. A mobile home must be installed on a permanent foundation. At minimum, this shall include a forty-two (42") inch cement block foundation with cement footings around the complete outside perimeter of the mobile home. A basement, satisfying the same standards as for single family housing, in accordance with applicable City-adopted codes and ordinances, may be substituted for equivalent portions of the forty-two (42") inch foundation. If the foundation or basement does not meet the manufacturer's specifications for pillar placement and imposed load capacity, adequate additional support shall be provided as specified in R125.1602 of the Michigan Administrative Code. Wheels and axles shall be removed. A crawl space of not less than twenty-four (24") inches shall be provided between the floor of the mobile home and the ground level. The crawl space shall not be utilized for storage purpose.
 6. A mobile home, prior to any addition, shall have a minimum length of no less than sixty (60') feet. That portion of the mobile home facing a public street shall have a minimum width of twenty-four (24') feet. The minimum floor area requirements for the zoning district in which the mobile home is located shall be complied with. Any additions to a mobile home must either be constructed by a licensed mobile home manufacturer or satisfy the applicable City-adopted BOCA Basic Building Code and ordinances for single family residences. Any addition must be similar in appearance, materials and foundation to the mobile home itself. Any addition to a mobile home is subject to the same procedures on this Section as for the mobile home itself.
 7. A mobile home shall be anchored by an anchoring system meeting the standard and specifications of R125.1605 of the Michigan Administrative Code.

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8. The minimum requirements for lot width and area, lot coverage, building height and yard setbacks shall be the same as those required of single family housing in the zoning district wherein the mobile home is located and shall be for safety purposes twenty (20') feet from any dwelling unit on an adjoining lot.
 9. All utility and service lines, including water, telephone, electricity, heating and cooking fuels and television service, shall be located underground. Utility and service lines, except for electrical and natural gas, shall be designed for permanent attachment to the mobile home using, wherever feasible, the same designs and specification as for single family housing in accordance with applicable City-adopted codes and ordinances. A utility area containing a clothes washer and dryer is required along with appropriate hookup for such facilities. Where the Planning Commission deems that said code and ordinance requirements are not feasible for mobile homes, the Planning Commission may permit standards as described in R125.1603 and R125.1932 to R125.1940 of the Michigan Administrative Code. An exterior faucet is required.
 10. Electrical service installation shall be in accordance with R125.1932 and R125.1933 of the Michigan Administrative Code. The electrical service pedestal shall be screened from view from the adjoining street and/or lake by the mobile home itself or by opaque ornamental fencing.
 11. Natural gas service installation shall be in accordance with R125.1934 of the Michigan Administrative Code. The natural gas service pedestal shall be screened from view from the adjoining street and/or lake by the mobile home itself or by opaque ornamental fencing.
 12. If permitted by the Planning Commission, fuel oil systems shall comply with R125.1939 of the Michigan Administrative Code. Liquefied petroleum gas containers and fuel oil tanks, if permitted by the Planning Commission, shall be installed, mounted and secured in compliance with the National Fire Protection Association's current standard. Above ground fuel tanks/containers shall be screened from view from adjoining street and/or lake by the mobile home itself, by enclosure in a storage shed or by opaque ornamental fencing.
 13. A garage, storage shed and/or basement, or combinations thereof containing at least four hundred and eighty (480) square feet of floor area, shall be located on the same site as the mobile home and be constructed according to the same standards as for the mobile home itself or for single family housing in accordance with applicable City-adopted codes and ordinances. Occupancy of the mobile home shall not be allowed until mobile home and garage, storage shed and/or basement, or combinations thereof are completed. Above ground fuel oil and gas tanks are not permitted.
 14. A mobile home site shall comply with the same City-adopted codes as for single family housing, and ordinances relative to sidewalk, driveway and parking placement, sizing and construction.
 15. A mobile home site shall comply with the same City-adopted codes and ordinances relative to fencing as for single family housing.
 16. No garbage or refuse may be stored outdoors unless it is placed on a concrete slab having a minimum area of nine (9') square feet and screened from the adjoining street by either the mobile home itself or by opaque ornamental fencing.

Section 4.33 SITE PLAN REVIEW.

The site plan review procedures in this section are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the standard contained in this Ordinance and other applicable ordinances and State and Federal laws, to achieve efficient use of the land, to protect natural resources, and to prevent adverse impact on adjoining or nearby properties.

1. **Applicability:** Submission of a site plan shall be required in conjunction with any proposal to construct, move, relocate, convert, or structurally alter a building in any zoning district.

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2. **Procedures and Requirements:** Site plans shall be submitted in accordance with the following procedures and requirements:
- a. **Application Forms and Documentation.** The application for site plan review shall be made on the forms and according to the guidelines provided by the Building Official. The application materials, required fee, and three (3) folded copies of the site plan shall be submitted to the Building Official. If Planning Commission review is required, then ten (10) additional folded copies of the site plan shall be submitted at least fifteen (15) days prior to the meeting at which review is requested.
 - b. **Site Plan Preparation.** The site plan shall be prepared in the manner specified in this section and on the site plan application form. A site plan which does not meet the stipulated requirements shall be considered incomplete and shall not be eligible for formal review.
 - c. **Distribution of Plans.** The site plans and application shall be distributed to the Planning Commission and other appropriate City Official for review. If deemed necessary by the Building Official, the plans may also be submitted to the City Planning Consultant, City Engineer, or other qualified professionals for review.
 - d. **Planning Commission Review.** The Planning Commission Review and approval shall be required for site plans except those involving a single family detached dwelling or accessory building or use thereto.
 - i. **Review and Revision.** The Commission shall review the site plan in relation to applicable standards and regulations, and in relation to the intent and purpose of this Ordinance. If the Commission determines that revisions are necessary to bring the site plan into compliance with applicable standards, the applicant shall be given the opportunity to submit a revised plan.
 - ii. **Determination.** The Planning Commission shall make a determination on a final plan based on the requirements and standards in this Ordinance. The Commission is authorized to grant approval, grant approval subject to conditions, or reject a site plan, as follows:
 1. **Approval.** Upon determination that a site plan is in compliance with the standards and requirements of this Ordinance, the Commission shall approve the plan.
 2. **Approval Subject to Condition.** Upon determination that a site plan is in compliance, except for minor modifications, the conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain approval from other agencies.
 3. **Denial.** Upon determination that a site plan does not comply with the standards and regulations set forth in this Ordinance, or requires extensive revision in order to comply with said standards and regulations, the Planning Commission shall deny site plan approval.
 - iii. **Review of Single Family Site Plans.** Building Official review and approval shall be required for the site plans involving a single family detached dwelling or accessory building or use thereon. The Building Official shall follow the same review procedures outlined in sub-section 2, above. Following initial review of the site plans, the Building Official may request a review of the plans by the City Planner, City Engineer, or other professionals prior to making a final determination. In accordance with sub-section 2, the Building Official is authorized to grant approval subject to condition, or reject a single family site plan.

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- iv. **Recording of Site Plan Action.** Each action taken with reference to a site plan review shall be recorded in the minutes of the Planning Commission, where appropriate, and in the file established by the Building Department for each site plan. The grounds for action taken upon each site plan shall also be recorded.
 - v. **Variations.** Requests for variances may be initiated by the petitioner to the Zoning Board of Appeals, following review of the proposed variances by the Planning Commission, or following review by the Building Official if a single family dwelling is involved.
 - vi. **Building Permit.** Following approval of the site plan, the Building Official shall issue a building permit, subject to:
 - 1. Submission of proper engineering and construction plans.
 - 2. Acquisition of all other applicable City, County, or State permits.
 - 3. Compliance with any conditions that were made a part of site plan approval, including obtaining any required variances.
 - 4. Where required, obtaining Special Use Approval from the City Council.
 - vii. **Expiration of Site Plan.** If a building permit has not been obtained for at least twenty-five percent (25%) of the gross floor area of the building within six (6) months after approval of the site plan, the site plan approval becomes null and void and a new application for site plan review shall be required. The Building Official may grant a six (6) month extension, upon written request from the applicant, if it finds that the approval site plan adequately represents current conditions on and surrounding the site.
 - viii. **Revocation of Site Plan Approval.** Approval of a site plan may be revoked by the Building Official if construction is not in conformance with the approved plans.
 - ix. **Performance Guarantee.** The Planning Commission or Building Official may require that a performance guarantee be deposited with the City to ensure faithful completion of improvements, in accordance with Section 15.09.
 - x. **Revision to Approval Plans.**
 - 1. **General Requirements.** Revisions to an approval plan involving any use other than a single family use shall require the review and approval of the Planning Commission. Revisions to an approved site plan involving a single family use shall require the review and approval of the Building Official.
 - 2. **Minor Revisions.** Notwithstanding the above general requirements, minor revisions to an approved site plan may be reviewed and approved by the Building Official. Minor revisions are changes that do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demands for public services, or compliance with the minimum standards set forth in Article XIII.
3. **Application Data Requirements.** The following information shall be included with any site plan submitted where applicable:
- a. **Site Plan Descriptive and Identification Data.** Site plans shall consist of an overall plan for the entire development, drawn to a scale of not less than one (1") inch = 50 feet, or other scale approved by the Building Official. The following descriptive and identification information shall be included on all site plans:
 - i. Applicant's name, address, and telephone number.

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- ii. Name and address of property owner, if different from applicant.
 - iii. Title blocks indicating the name of the development.
 - iv. Scale, north point, and dates of original submission and revision.
 - v. Location map drawn to scale with north point.
 - vi. Legal and common description of property.
 - vii. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared plan.
 - viii. Zoning classification of petitioner's parcel and all adjoining parcels.
 - ix. Notation of any variances that have been or must be secured.
 - 1. Net acreage (minus rights-of-way) and total acreage, to the nearest 1/10 acre.
 - 2. Total square feet of floor area of any proposed buildings.

b. **Site Data.**

- i. Existing lot lines, building structures, parking areas, and other improvements on the site and on adjoining sites.
- ii. Proposed front, side, rear, and waterfront setback dimensions.
- iii. Footprint of buildings on adjacent parcels and front and waterfront setback dimensions for the adjacent buildings.
- iv. Existing and proposed topography on the site at two foot contour intervals, referenced to a U.S.G.S. benchmark.
- v. Dimensions and centerlines of existing and proposed roads and road rights-of-way.
- vi. Acceleration, deceleration, and passing lanes, where required.
- vii. Proposed location of driveway entrance and on-site driveways.
- viii. Location of existing drainage courses, floodplains, lake and streams, with elevations.
- ix. Location of existing and proposed interior sidewalks and sidewalks in the rights-of way.
- x. Exterior lighting locations and method of shielding lights from shining off of the site.
- xi. Trash receptacle locations and method of screening if applicable.
- xii. Parking spaces, typical dimensions of spaces, indication of total number of spaces.
- xiii. Method of surfacing of parking lots, driveways, and other vehicle maneuvering areas.
- xiv. Information to calculate required parking in accordance with Zoning Ordinance standards.
- xv. Landscape plan indicating: the location, type, size and number of shrubs, trees, and other live plant material, location of lawn areas and indication whether they will be seeded or sod, and location of underground irrigation system.
- xvi. Cross-section of proposed berms.
- xvii. Location, sizes, and species of existing trees having a diameter at breast height (d.b.h.) of three inches (3") or greater, before and after proposed development. D.B.H. is the diameter in inches of a tree measured at 4 ½ feet above existing grade.

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- xviii. Location and description of all easements for public rights-of-way, utilities, access, shared access, and drainage.
 - xix. Designation of fire lanes.
 - xx. Loading/unloading areas.
- c. **Building and Structure Details.**
- i. Locations, height, and outside dimensions of all proposed buildings and structures.
 - ii. Building floor plan.
 - iii. Building façade elevations, drawn to a scale of 1 inch = 4 feet, or another scale approved by the Building Official. Elevations of proposed buildings shall indicate type of building material, roof design, projections, canopies, awnings and overhangs, screen walls and accessory building, and any outdoor or roof-mounted mechanical equipment.
 - iv. Total floor area and building coverage.
 - v. Building height and number of stories.
 - vi. Proposed fences and walls, including typical cross-section and height above the ground on both sides.
 - vii. Location, size, height, and lighting of all proposed signs.
- d. **Information Concerning Utilities, Drainage, and Related Issues.**
- i. Primary and back-up locations of proposed sanitary sewer lines.
 - ii. Location of well sites or water mains and hydrants.
 - iii. Location of storm sewers and other drainage facilities, including open drains and retention/detention basins.
 - iv. Location of gas, electric, and telephone lines.
 - v. Indication of proposed site grading and drainage patterns, including proposed topography and finish grades of all buildings, driveways, walkways, and parking lots.
 - vi. Location of floodplains and wetlands, if applicable.
 - vii. Soil erosion and sedimentation control measures.
- e. **Other Required Data.** Other data may be required if deemed necessary by the Building Official or Planning Commission to determine compliance with provisions in this Ordinance.
4. **Standards for Site Plan Approval:** The following criteria shall be used as a basis upon which site plans are reviewed and approved:
- a. **Adequacy of Information.** The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.
 - b. **Site Design Characteristic.** All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of parcel, the character of uses on adjoining parcels, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development of surrounding property for uses permitted by this Ordinance.

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- c. **Appearance.** Landscaping, earth berms, fencing, signs, walls, and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby development.
 - d. **Functional Considerations.** In commercial districts the nature, locations, height, size and site layout shall be such that it will be a harmonious part of the district in which the use is located, taking into account prevailing shopping habits, convenience and access by patrons, the physical and economic relationship of one type of use to another, characteristic grouping of uses in commercial district, and other similar economic and functional considerations.
 - e. **Compliance with District Requirements.** The site plan shall comply with district requirements for minimum floor area, building height, lot size, setbacks, and all other requirements set forth in the Schedule of Regulations, Article XIII.
 - f. **Preservation of Natural Areas.** The landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal alteration to natural drainage courses, and the amount of cutting, filling and grading.
 - g. **Emergency Vehicle Access.** All buildings or groups of buildings shall be so arranged as permit convenient and direct emergency vehicle access.
 - h. **Ingress and Egress.** Every structure or dwelling unit shall be so arranged as to permit convenient and direct emergency vehicle access.
 - i. **Pedestrian Circulation.** Site plans involving non-residential uses shall provide a pedestrian circulation system which is insulated as completely as is reasonably possible from the vehicular circulation systems.
 - j. **Drainage.** Appropriate measures shall be taken to insure that the removal of surface waters will not adversely affect adjoining properties or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of drainage facilities, and the prevention of erosion.
 - k. **Soil Erosion and Sedimentation.** The proposed development shall include measures to prevent soil erosion and sedimentation.
 - l. **Exterior Lighting.** Exterior lighting shall be designed so that it is deflected away from adjoining properties and so that it does not impede the vision of drivers on adjacent streets. (See the Illumination Control Ordinance, Ordinance 5.10B.).
 - m. **Screening.** Off-street parking areas, loading and unloading areas, and outside refuse storage areas visible from adjacent homes or from public roads shall be screened by walls or landscaping of adequate height.
 - n. **Health and Safety Concerns.** Any use in any district shall comply with Federal, State, County and Local health and pollution laws and regulations with respect to noise, dust, smoke and other air pollutants, vibration, glare and heat, fire and explosive hazard, gases, electromagnetic radiation, radioactive materials, and toxic and hazardous materials.
 - o. **Sequence of Development.** All development phases shall be designed in logical sequence to ensure that each phase will independently function in a safe, convenient, and efficient manner without being dependent upon subsequent improvements in a later phase or on other sites.
 - p. **Coordination with Adjacent Sites.** All site features including circulation, parking, building orientation, landscaping, lighting, utilities, common facilities, and open space shall be coordinated with adjacent properties.

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- q. **Barrier-Free Access.** All developments shall comply with applicable Federal and State laws and regulations regarding barrier-free access.
 - r. **Woodland and Tree Preservation.** The site plan shall demonstrate compliance with the Woodland, Tree, and Vegetation Preservation Ordinance.

Section 4.34 GREENBELTS AND SCREENING WALLS.

Repealed 3/22/2001

Section 4.35 RESERVED.

Repealed 7/22/2010

Section 4.36 ESTABLISHED RESIDENTIAL BUILDING PATTERN.

The following standards apply wherever an Established Residential Building Pattern is specified as the basis for determining required setbacks. The intent of these regulations is to ensure uniformity in terms of setbacks, to protect existing views for all residents, to provide setbacks that generally follow the natural contour of the waterfront or curve of the road, and to avoid the appearance of crowded housing along a waterway or street front.

1. **Determination that an Established Residential Building Pattern Exists.** The Building Official shall have the authority to determine if an Established Residential Building Pattern exists in a particular location. The Building Official may consult with the Planning Consultant or other experts as authorized by the mayor. In making such a determination, the Building Official shall examine the general alignment and orientation of houses, existing setbacks of houses, contour of the waterfront and/or road, and similar considerations that may reflect the presence of an existing uniform setback pattern.
2. **Waterfront Setback.** The required waterfront setback shall be based on the Established Residential Building Pattern (ERBP), if the Building Official determines that such a pattern exists. The ERBP for a particular parcel shall be determined by drawing a straight line between the adjacent homes on each side of the subject parcel, provided that the adjacent houses are within five hundred (500') feet of the subject parcel. This straight line is the required waterfront setback on the subject parcel.

The following criteria shall be used to determine where the straight ERBP line should be drawn:

- a. On the exterior face of each adjacent home identify the point that is closest to the water's edge. Connect these two points to establish the ERBP line. The water's edge shall be based on the legal water level of the lake or other body of water.
- b. Boat houses, swimming pools, tennis courts, decks, patios, porches and similar accessory structures or attachments shall be disregarded when determining the ERBP.
- c. If an adjacent house in Zone 2, 3, and 4 is closer than 75 feet to the water's edge or if an adjacent house in Zone 1 is closer than 55 feet, or if there is no adjacent house within five hundred (500') feet, then the following criteria shall be used to determine the point from which the straight ERBP line should be drawn:
 - i. Draw a line more-or-less parallel to the side lot lines bisecting said adjacent parcel.
 - ii. Locate the point on the bisecting line that is 75 feet from the water's edge in Zone 2, 3, or 4, or 55 feet from water's edge in Zone 1.

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- d. If the Building Official determines the ERBP does not exist, then the minimum required waterfront setback on the subject parcel shall be 75 feet in Zones 2, 3, and 4, and 55 feet in Zone 1.
3. **Front Setback.** The required front setback shall be based on the Established Residential Building Pattern along the road, or the minimum front setback specified in Article XIII, whichever is greater. The Established Residential Building Pattern along the road shall be equal to ninety percent (90%) of the average front yard setbacks of the immediate adjacent dwellings within two hundred (200') feet on each side of the subject parcel on the same side of the street, subject to the following requirements:
 - a. In no case shall the front yard setback exceed the Established Residential Building Pattern computed above by more than ten percent (10%). This requirement shall apply to non-waterfront parcels only. For the purposes of this subsection only, the front yard setback shall be the distance between the front lot line and the nearest exterior building wall, provided that the building wall shall enclose interior building space (for example, a wing wall or a wall that delineates an open courtyard shall not be used to determine setback for the purpose of this subsection). See Section 4.09 for yard encroachments.
 - b. In the event that one of the adjacent parcels is vacant, the minimum front yard setback specified in Article XIII shall be used to calculate the Established Residential Building Pattern along the road.
 - c. The front setback of an adjacent structure shall be measured at the shortest distance between the structure's exterior surface or projection and the front lot line.

Section 4.37 CONDOMINIUM DEVELOPMENT.

Condominium developments shall be permitted subject to the following requirements:

1. **Regulatory Intent and Applicability.** All condominium projects shall comply with the requirements of this section and all other applicable regulations of this Ordinance. The intent of this section is to review and regulate proposed condominium developments in the same manner and subject to the same standards that other similar non-condominium projects are reviewed and regulated in the City. Accordingly, condominium projects shall be subject to the following regulations:
 - A. **Site Condominiums.** Site condominiums shall be subject to all applicable requirements for the zoning district in which condominiums are located. These regulations shall be applied by requiring the site condominium unit and a surrounding limited common element to be equal in size to the minimum lot size and lot width requirements for the district in which the project is located. The site condominium unit shall be equivalent to the area of the lot where a principle building can be constructed and there shall be a limited common element associated with each site condominium unit which shall be at least equivalent to the minimum yard area requirements. In addition, site condominium projects shall comply with applicable design and construction requirements set forth in Section 6 and 7 of the Plat and City's Subdivision Control Ordinance, Ordinance No. 4.01, (as amended, including requirements for street, blocks, lots, and utilities).
 - B. **Detached Condominium.** Detached condominiums shall be subject to all applicable requirements for the zoning districts in which the condominiums are located. These regulations shall be applied by requiring that the detached condominium units comply with the requirements governing minimum distance between buildings, attachment of buildings, and other applicable requirements for the district in which the projects shall not exceed the maximum permitted density for the districts in which the project is located, as determined on the basis of minimum lot size standards in Article XIII. In addition, detached condominiums shall be subject to all

applicable requirements for the zoning district in which the condominiums are located, including minimum floor area requirements, regulation governing the distance between buildings, attachment of buildings, and other requirements as set in this Ordinance.

- C. **Attached Condominiums.** Attached condominiums shall be subject to all applicable requirements for the zoning district in which the condominiums are located, including minimum floor area requirements, regulations governing the distance between buildings, attachment of buildings, and other requirements as set forth in this Ordinance.

2. **Review Procedures.**

- A. **Condominium Projects Involving New Construction.** Prior to the recording of the Master Deed, condominium projects involving new construction or expansion to include additional land in a new phase shall undergo site plan review pursuant to Section 4.33 of this Ordinance. The procedures outlined in Section 4.33, sub-section B, shall be complied with, except that the City Council shall take final action on any site condominium or detached condominium proposal, following recommendation by the Planning Commission.
- B. **Condominium Project Not Involving New Construction.** Site plan review shall not be required for a condominium project which involves only the conversion of an existing approved development to condominium form and which does not involve any new construction. However, prior to recording the Master Deed, the applicant shall submit copies of the Master Deed, restrictive covenants, and condominium bylaws to the office of the City Clerk for review and approval by the City Attorney.
- C. *Revision to an Approved Master Deed.* Prior to revision to an approved and/or recorded Master Deed, restrictive covenants, or condominium bylaws, copies of the proposed revised documents shall be submitted to the City Clerk for review and approval by the City Council, following recommendation by the City Attorney. The Master Deed shall contain provisions to the Master Deed and other condominium documents.
- D. **Public Hearing Requirements.** A public hearing shall be held only if such a hearing would have been required for the same project if it had not been proposed to be a condominium project. For example, a public hearing shall be required if the condominium project involves a special land use, in which case the public hearing requirements in Article XIV shall be complied with.
- E. **Review by Outside Agencies and Consultant.** Condominium projects involving new construction shall require the review and approval of the following agencies and consultant prior to final approval by the City.
 - i. The Oakland County Road Commission, if any part of the subject includes or abuts a street or road that is under the jurisdiction of the County.
 - ii. The City Engineer and the City's Department of Public Works.
 - iii. Agencies having jurisdiction over the proposed water and sanitary systems, including where applicable the Oakland County Health Department, the Michigan Department of Natural Resources, and the Michigan Department of Health.
 - iv. Other State, County, or local agencies having jurisdiction over specific aspects of the project, such as wetlands, storm drainage, soil erosion and sedimentation, and utilities.
- F. **Notice to the City.** Pursuant to Section 71 of Public Act 59 of 1978, as amended, written notice shall be provided to the City not less than ten (10) days before taking reservations under a preliminary reservation agreement for a unit in a condominium project, recording of a Master Deed for a project, or beginning construction of a proposed condominium project.

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3. **Application Requirements.** In addition to the requirements in Section 4.33 of this Ordinance and the requirements specified on the Site Plan Review checklist, the information listed below shall be included on or attached to all condominium site plans.
- A. The name, address, and telephone number of:
 - i. All persons with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, leaseholder, or land contracts vendee).
 - ii. All engineers, attorneys, architects or registered land surveyors associated with the project.
 - iii. The developer or proprietor of the condominium project.
 - B. The purpose of the project (for example, residential, commercial, industrial, etc.)
 - C. Number of condominium units to be developed.
 - D. A site plan, drawn to scale, which shows the layout and boundaries of condominium units, limited common elements, and general common elements.
 - E. Condominium documents, including the proposed Master Deed, restrictive covenants, and condominium bylaws.
 - F. A schedule for completing the condominium project, including the phasing or timing of all proposed improvements.
 - G. Condominium subdivision plan requirements, as specified in Section 66 of Public Act 59 of 1978, as amended, and Rule 401 of the Condominium Rules promulgated by the Michigan Department of Commerce, Corporation and Securities bureau.
 - H. In the case of proposed site condominium or detached condominium project, the following information shall be submitted.
 - i. Proposed name of the development.
 - ii. An area map showing the general relationship of the proposed development to the surrounding area within one-half mile, drawn at a scale of not less than one (1") inch = 800 feet. The area map shall show the topography drawn at two (2') feet contour intervals, based on U.S.G.S. datum.
 - iii. Property lines of adjacent tract of subdivided or un-subdivided land shown in relation to the tract being proposed for development, including those areas across abutting roads.
 - iv. Location, width, and names of existing streets, private roads and public easements within or adjacent to the tract being proposed for development, including those areas across abutting roads.
 - v. Location of existing sewer, water mains, storm drains, and other underground and above ground utilities within or adjacent to the tract being proposed for development.
 - vi. Layout of proposed streets indicating proposed street names, rights-of-way widths, cross-sections, and connections to adjoining streets.
 - vii. Location of alleys, easements and walkways within or adjacent to the tract being proposed for development.
 - viii. Information concerning the proposed sanitary sewer system, including the location of sewer lines.

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- ix. Information concerning the proposed water supply system, including the location of water supply lines and wells, where applicable.
 - x. Proposed storm water and drainage system, including retention and detention areas.
4. **Master Deed, Condominium Bylaws, "As-Built" Survey and Mylar Copy.** Upon approval of the site plan for a condominium project involving new construction, the condominium project developer or proprietor shall furnish the City with the following:
- A. One (1) copy of the recorded Master Deed.
 - B. One (1) copy of any Condominium Bylaws and restrictive covenants.
- Upon completion of the project, the condominium project developer or proprietor shall furnish the City with the following:
- i. Two (2) copies of an "as built survey".
 - ii. One (1) copy of the site plan on a Mylar sheet of at least thirteen by sixteen (13" × 16") inches with an image not to exceed ten and one-half by fourteen (10 ½" × 14") inches.
- The as-built survey shall be reviewed by the City Engineer for compliance with City Ordinance. Fees for this review shall be established by the City Council.
5. **Issuance of Permits.** A building permit for a structure in a proposed condominium project shall not be issued until evidence of a recorded Master Deed has been provided to the City. However, the Building Official may issue permits for site grading, erosion control, installation of public water and sewage facilities, and construction of roads prior to recording of the Master Deed. No permit issued or work undertaken prior to recording of the Master Deed pursuant of this Section shall grant any rights or any expectancy interest in the approval of the Master Deed.
6. **Monuments Required.** All condominium projects shall be marked with monuments as required by the Condominium Rules promulgated by the Michigan Department of Commerce, Corporation and Securities Bureau.
7. **Temporary Occupancy.** The Building Official may allow occupancy of a condominium project before all improvements required by this Ordinance are installed, provided that a bond is submitted that is sufficient in amount and type to provide for the installation of all improvements without expense to the City, before expiration of the Temporary Occupancy Permit.
8. **Performance Guarantee.** The Planning Commission, City Council, or Building Official may require that a performance guarantee be deposited with the City to insure faithful completion of improvements, in accordance with Section 15.09. Improvements that shall be covered by the performance guarantee include, but are not necessarily limited to: landscaping, open space improvements, streets, and sidewalks.
9. **Continued Maintenance.** The Master Deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities, with regard to maintenance of the property in accordance with the approved site plan on a continuing basis. The Master Deed shall further establish the means of permanent financing required maintenance and improvement activities which are the responsibility of the condominium association. Failure to maintain an approved site plan shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

Section 4.38 FENCES.

A. Enforcement.

1. **Application.** An application for a fence permit shall be submitted on forms provided by the Building Official. The application shall be accompanied by a site plan, drawn to scale, which shall be prepared by a registered surveyor. The plan shall be dimensioned and show the location of the proposed fence. In addition, stakes shall be in place on the property to designate property lines. The application shall be accompanied by payment of a fee, the amount of which shall be established from time to time by the City Council.
2. **Review of Application.** The Building Official shall review the application for a fence proposal to determine compliance with the zoning ordinance and applicable City Codes.
3. **Permit.** Following review and approval of a fence application, the Building Official shall have the authority to issue a fence permit.
4. **Existing Fences.** An existing fence shall not be altered or relocated except in conformity with the provisions of this ordinance and subject to a permit being issued. However, a permit shall not be required for ordinary servicing or repainting of an existing fence.

B. General Requirements.

1. **Applicable Codes.** All fences constructed in the City of Orchard Lake Village shall be constructed in accordance with the requirements of the State of Michigan Residential Code and/or the Michigan Building Code.
2. **Fence Materials.** Fences that carry electric current are prohibited. Fences containing exposed nails, spikes, broken glass or barbed wire are also prohibited.
3. **Obstruction to Use of Adjoining Property.** A fence shall not be erected where it would prevent or unreasonably obstruct the use of an adjacent property, nor shall a fence be erected where it would obstruct or prevent the safe use of an existing driveway that provides access to the adjacent property. In enforcing this requirement, the Building Official may require a fence to be set back a minimum distance from a driveway or property line.
4. **Obstruction of Sight.** No fence shall be erected that would obstruct the view while approaching an intersection of two roads or the intersection of a road and a driveway.
5. **Fence Maintenance.** Fences shall be maintained in good condition. Rotten or broken components shall be replaced, repaired, or removed, and surfaces shall be painted, stained or similarly treated.
6. **Fences Enclosing Utility Facilities.** In the interest of public safety, it is necessary to control entry into facilities, stations, and yards housing utilities and to protect resources that are vital to the well-being of the general public. Therefore, utilities are permitted to fence their facilities as necessary, regardless of the zoning district in which they are located, subject to review and approval by the Building Official.

C. Fences in Residential Districts

1. **Location.** Permitted fence locations are noted in the following chart:

Location	Permitted?
Front Yard	No
Side Yard, not on a corner	Yes
Side Yard, corner lot, on	No the side facing the street
Rear Yard	Yes
Lakefront	Fence may be no closer to the lake than any portion of the residence

Fences shall be located on the parcel of land owned by the person constructing the fence. However, a fence may be constructed on the property line if agreed to in writing by the adjoining property owner.

2. **Height.** Fences shall not exceed four (4) feet in height above grade in residential districts.
3. **Fences Enclosing Public Areas.** Fences that enclose parks, playgrounds, and similar public areas located within developed residential areas shall not exceed six (6) feet in height.
4. **Entrance Gates.** An entrance gate may be permitted within the required front setback to control driveway ingress and egress onto a parcel of property, subject to the following conditions:
 - a. **Front Setback.** Entrance gates may be permitted in the front setback only on residentially-zoned properties that abut Commerce Road or Pontiac Trail. Such gates shall be set back at least twenty-five (25) feet from the nearest edge of road pavement, provided that any such gate shall be located entirely on private property, outside of the road right-of-way. Entrance gates on roads other than Commerce Road and Pontiac Trail shall comply with the minimum front yard setback requirements for the district in which they are located or the Established Residential Building Pattern (ERBP), whichever is greater.
 - b. **Side Setback.** Entrance gates and pillars shall be set back a minimum of one (1) foot from any side property line, provided that a certified property line survey shall be required if an entrance gate is proposed within five (5) feet of a side property line.
 - c. **Materials.** Entrance gates shall be constructed of wrought iron or shall have the appearance of wrought iron. The gates shall be anchored on each side of the driveway to a pillar, which shall be constructed of stone, brick, or similar masonry materials, but not including exposed concrete block.
 - d. **Dimensions.** Gates and pillars shall not exceed a height of six (6) feet. The footprint of any pillar shall not exceed fifteen (15) square feet. Entrance gates shall have vertical pickets no wider than one (1) inch, and pickets shall be spaced a minimum of four (4) inches apart. The horizontal support rails shall be no wider than four (4) inches. Pillars shall be located a sufficient distance apart to provide a minimum opening of fifteen (15) feet when the gates are open.
 - e. **Opacity.** Gates shall have maximum opacity of twenty percent (20%), i.e., the gate shall not obstruct vision to a greater extent than 20% of its total area.
 - f. **Colors.** Gates shall be black in color. Street numbers attached to a gate or pillar may be any color desired, but must comply with the adopted Building Code and or adopted Property Maintenance Code.
 - g. **Lighting.** A light fixture may be attached to the top of any pillar, provided that the fixture height is not greater than two (2) feet, and provided further that the fixture complies with the Illumination Control Ordinance, General Ordinance, Chapter 18, Article VI.
 - h. **Permit Required.** Prior to construction of an entrance gate and pillar, plans shall be submitted to the Building Official for review and to obtain proper permits. Details concerning proposed footing and/or foundation shall be provided to demonstrate that the pillars will be structurally stable, giving consideration to the weight of the gates, depth of the frost line, character of the soils, and other pertinent structural concerns.
 - i. **Security Devices.** Any security entrance gate shall comply with the following requirements:
 - i. Security entrance gates that are locked shall have coded electronic touch pad controls.

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- ii. Codes for such touch pad controls shall be filed with the City of Orchard Lake Police Department, and the owner, possessor, or occupant of the property in question shall insure that the Police Department has the current code at all times.
 - iii. The touch pad control system shall provide a method of preventing the gate from closing during the utilization by emergency providers, police or fire agencies.
 - iv. The touch pad control system shall have a battery back up to insure the gate can be operational during power outages.
5. **Swimming Pool Fences.** Fences surrounding swimming pools shall be subject to the requirements in the adopted Building Code.
- D. **Fences in Non-Residential Districts.**
- 1. **Location.** Fences shall be permitted in the side or rear yards of non-residential districts, provided that no fence shall extend toward the front of the lot any further than any portion of the principal structure.
 - 2. **Height.** Fences in non-residential districts shall not exceed six (6) feet in height.
- E. **Natural Fences and Natural Barriers.** The purposes of the regulations in this sub-section are to permit use of trees, shrubs, and other plant materials to enclose or screen areas, without impeding scenic views of public lands or waterways from adjacent properties. Natural fences and barriers shall comply with applicable regulations in the Landscaping Ordinance, General Ordinance Chapter 18, Article X.
- 1. **Natural Fences and Barriers in the Waterfront Yard.** Natural fences and barriers shall be permitted in the area between a dwelling unit and the water's edge, subject to the following:
 - a. Natural fences shall be allowed to grow no higher than thirty (30") inches and shall not be planted closer than thirty-five (35') feet to the water's edge.
 - b. Subject to the provisions in the following subsection 2.a., natural barriers shall not extend closer than thirty-five (35) feet to the water's edge, except that replacement of plantings within an existing natural barrier shall be permitted regardless of the setback from the water's edge.
 - 2. **Natural Fences and Barriers in the Side Yard on Waterfront Property.** Natural fences and barriers may be permitted in the side yard of waterfront parcels, subject to the following conditions:
 - a. Where there are dwelling units on adjacent parcels, such fence or barrier may extend from the corner, as projected perpendicular to the property of the dwelling that is closest to the road, to the corner as projected perpendicular to the property line of the dwelling unit that is closest to the water.
 - b. Such fence or barrier shall be permitted without restriction on height.
 - c. Such fence or barrier shall be located totally on the parcel of land owned by the person responsible for the planting. However, such fence or barrier may be planted on the property line if agreed to in writing by adjoining property owners.
 - d. Such fence or barrier shall be maintained in a neat and orderly appearance on both sides by the person responsible for the plantings, unless the owner of the adjacent property agrees to share the maintenance responsibility.

(Ord. of 5-20-2019)

Section 4.39 SIDEWALKS—GENERAL REQUIREMENTS.

- A. **Sidewalks Required.** For all developments in Zone 5 and 6, a new public sidewalk or safety path shall be constructed by the developer or property owner in accordance with City Engineering Standards along any road rights-of-way. In the event that sidewalks or safety paths already exist, they shall be repaired or constructed as necessary.
- B. **Location and Width.** Sidewalks shall be five (5') feet in width and shall be located one (1') foot off the property line if the road rights-of-way is greater in width than the existing rights-of-way, in which case the sidewalk shall be located one (1') foot inside the planned rights-of-way. The Planning Commission may modify this requirement in consideration of the location of utilities, existing landscaping, or other site features.
- C. **Design Standards.** Sidewalks shall be constructed of concrete in accordance with established engineering standards of the City. Sidewalks need not to be continuous across driveways. However, where a sidewalk abuts a driveway, road, or crosswalk, the sidewalks should be sloped to meet the grade of the abutting driveway, road or crosswalk to provide a continuous paved surface.
- D. **Alignment with Adjacent Sidewalks.** Sidewalks shall be aligned horizontally and vertically with existing sidewalks on adjacent properties. The Planning Commission may modify this requirement if existing adjacent sidewalks are not constructed in conformance with the standards set forth herein.
- E. **Signage.** The Planning Commission may require installation of signage for the purposes of safety where it is necessary to separate vehicular traffic of the presence of the sidewalks.
- F. **Maintenance.** The owner of the property which fronts on the sidewalks shall be responsible for maintenance of the sidewalk, including patching cracked or deteriorated pavement, snow removal, and removal of grass and other debris.

The property owner shall be liable for damages in the event that a person is injured while using a sidewalk that said property owner has not properly maintained.

- G. **Permits.** It shall be the responsibility of the owner or developer to secure any required permits from the Road Commission of Oakland County to allow sidewalk construction in the road rights-of-way, when necessary.

Section 4.40 WIRELESS COMMUNICATION FACILITIES.

- A. **PURPOSE AND INTENT.** It is the intent of the City of Orchard Lake Village to carry out the will of the United States Congress and the State of Michigan by permitting facilities needed to operate wireless communication facilities. It is further the intent of the City to provide for such authorization in a manner that will retain the integrity of residential areas and the character, property values, and aesthetic quality of the community at large.

The City Council of the City of Orchard Lake Village finds that the presence of numerous tower structures, particularly if located in or near residential areas, would decrease the attractiveness and destroy the character and integrity of the community. This, in turn, would have an adverse impact upon property values.

Therefore, it is necessary to minimize the adverse impact from the presence of numerous tall towers having low architectural and aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance of property values, and further recognizing that this economic concern is an important part of the public health, safety and welfare.

These regulations have been drafted in recognition that the adverse impact of towers is greater in Orchard Lake Village because the City contains only four square miles, of which forty-two percent (42%) is occupied by open

water and thirty-eight percent (38%) is occupied by residential uses. There is a limited amount of non-residential land so it is not feasible to erect towers without adversely affecting the attractiveness and appeal of residential areas and natural features.

It is further the purpose of this Section to:

1. Provide adequate sites for wireless communication facilities.
2. Ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.
3. Comply with the requirements concerning wireless communication facilities set forth in Michigan Public Act 110 of 2006, as amended, the Michigan Zoning Enabling Act.
4. Promote the public health, safety and welfare.
5. Provide a means to obtain adequate information about plans for wireless communication facilities so the City can effectively plan for such facilities.
6. Minimize the adverse impacts of wireless communication facilities by requiring removal of unused or unnecessary facilities in a timely manner.
7. Minimize the negative visual impact of wireless communication facilities on neighborhoods, community landmarks, historical sites and buildings, the natural beauty of the City, and public rights-of-way. This contemplates the establishment of as few wireless communication towers as reasonably feasible, maximum use of towers through colocation, and avoidance of lattice towers.
8. Protect the City so that, in comparison to surrounding communities, it does not proportionately bear the burden of providing wireless communication facilities.

B. **AUTHORIZATION TO INSTALL WIRELESS COMMUNICATION FACILITIES.** Wireless communication facilities shall be permitted subject to the regulations and conditions set forth herein.

C. **DEFINITIONS.**

1. **Class A Facilities.** Wireless communications equipment is a permitted use of property and is not subject to special land use approval or any other zoning approval if all of the following requirements are met:
 - a. The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
 - b. The existing wireless communications support structure or existing equipment compound is in compliance with the City Zoning Ordinance or was approved by the City Planning Commission.
 - c. The proposed collocation will not do any of the following:
 - 1) Increase the overall height of the wireless communications support structure by more than twenty (20) feet or ten percent (10%) of its original height, whichever is greater.
 - 2) Increase the width of wireless communications support structure by more than the minimum necessary to permit colocation.
 - 3) Increase the area of the existing equipment compound to greater than 2,500 sq. ft.
 - d. The proposed collocation complies with the terms and conditions of any previous final approval by the Planning Commission and City Council.
2. **Class B Facilities.** Wireless communications equipment is subject to special land use approval, in accordance with Section 15.08 of the Zoning Ordinance, if the equipment does not meet requirements "c" and "d" under Class A Facilities, but the equipment meets all of the following requirements:

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- a. The wireless communications equipment will be colocated on an existing wireless communications support structure or in an existing equipment compound.
 - b. The existing wireless communications support structure or existing equipment compound is in compliance with the City Zoning Ordinance or was approved by the City Planning Commission.
3. **Class C Facilities.** Wireless communication equipment is subject to special land use approval, in accordance with Section 15.08 of the Zoning Ordinance if the proposal does not involve colocation alone (e.g., a new facility).
 4. **"Colocate"** means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound.
 5. **"Equipment compound"** means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.
 6. **"Wireless communications equipment"** means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.
 7. **"Wireless communications support structure"** means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.
- D. **APPROVAL PROCEDURES.** The following procedures have been established to achieve approval of a proposed wireless communications facility:
1. **Class A Facilities.** Class A Wireless communication equipment proposals require no zoning approval. However, plans for Class A improvements shall be submitted to the City. Depending on the scope of improvements, building and/or electrical permits may be required.
 2. **Class B Facilities.** Class B wireless communication equipment proposals require special land use approval. Accordingly, such proposals are subject to the procedures and requirements in Sections 4.33 and 15.08 and the following special procedures and requirements.
 - a. The applicant shall submit a \$1,000 fee with the application and plans.
 - b. Within 14 days of submittal, the Director of City Services or his/her designee shall determine if the application is administratively complete.
 - c. The final decision by the City Council shall be incorporated into a Statement of Conclusions.
 - d. Special land use review must be completed within sixty (60) days after the application is considered administratively complete.
 3. **Class C Facilities.** Class C wireless communication equipment proposals require special land use approval. Accordingly, such proposals are subject to the procedures outlined for Class B Facilities, except that in subsection D(2)d the special land use review must be completed not more than ninety (90) days after the application is considered administratively complete.
- E. **REQUIREMENTS AND CONDITIONS.** All applications for wireless communication facilities shall be reviewed in accordance with the standards in this Ordinance that apply generally to site plan review and special land use review, and subject to the following requirements and conditions. If approved, such facilities shall be constructed and maintained in accordance with such requirements and conditions and any additional conditions imposed by the Planning Commission and City Council.

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1. **Public Health and Safety.**Facilities and/or support structures shall not be detrimental to the public health, safety and welfare.
 2. **Harmony with Surroundings.**Facilities shall be located and designed to cause minimal visual distraction, minimize impact on driver visibility, maximize aesthetic appearance, and achieve harmony with surroundings. Wherever feasible, facilities shall be designed to be concealed.
 3. **Compliance with Federal and State Requirements.**Wireless communication facilities shall comply with applicable federal and state requirements, including requirements promulgated by the Federal Aviation Administration (FAA), Federal Communication Commission (FCC), and Michigan Aeronautics Commission, as well as requirements set forth in the Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended). Wireless communication support structures shall comply with all applicable building codes.
 4. **Maximum Height.**Applicants shall demonstrate a justification for the proposed height of the support structure, including an evaluation of alternative designs that may result in lower heights. The maximum height of a new or modified support structure shall be the minimum height demonstrated to be necessary for reasonable communications by the service provider (and by other entities that may wish to colocate on the structure). The buildings, cabinets, and other accessory structures shall not exceed the maximum height for accessory structures in the zoning district in which the facility is located.
 5. **Minimum Setbacks.**The minimum setback of a new or modified support structure from any residential zoned district or existing or proposed right-of-way or other publicly traveled road shall be no less than the total height of the structure and attachments thereto.
 - a. Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the support structure shall comply with the required setbacks for principal buildings specified in the Schedule of Regulations for the zoning district in which the facility is located.
 - b. Buildings and facilities accessory to the wireless communication facility (other than the support structure) shall comply with the required setbacks for principal buildings specified in the Schedule of Regulations for the zoning district in which the facility is located.
 6. **Access.**Unobstructed permanent access to the support structure shall be provided for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. The permitted type of surfacing, dimensions and location of such access route shall be subject to approval by the Planning Commission, based on evaluation of the location of adjacent roads, layout of buildings and equipment on the site, utilities needed to service the facility, proximity to residential districts, disturbance to the natural landscape, and the type of vehicles and equipment that will visit the site.
 7. **Division of Property.**The division of property for the purpose of locating a wireless communication facility shall be permitted only if all zoning requirements, including lot size and lot width requirements are met.
 8. **Equipment Enclosure.**If an equipment enclosure is proposed as a building or ground-mounted structure, the building design shall be "residential" in character, having a roof with gable and brick exterior. The structure shall comply with the setbacks and other requirements specified for principal buildings in the Schedule of Regulations for the zoning district in which the facility is located. If an equipment enclosure is proposed as a roof appliance on a building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building.
 9. **Design Objectives.**The support structure and all accessory buildings shall be designed to minimize distraction and visual impact, minimize impact on driver visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. Support structures shall not have lights unless required

otherwise by the Federal Aviation Administration (FAA) or Michigan Bureau of Aeronautics. No signs or logos visible from off-site shall be permitted on a support structure.

10. **Fencing.** Wireless communication facilities shall be enclosed by a fence having a height of six (6) feet. Barbed wire is not permitted.
11. **Structural Integrity.** Wireless communication facilities and support structures shall be constructed and maintained in structurally sound condition, using the best available technology, to minimize any threat to public safety.
12. **Maintenance.** A plan for the long term, continuous maintenance of the facility shall be submitted. The plan shall identify who will be responsible for maintenance, and shall include a method of notifying the City if maintenance responsibilities change.

F. REMOVAL.

1. A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
 - a. When the facility has not been used for one hundred eight (180) days or more. For purpose of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
 - b. Six (6) months after new technology is available at reasonable cost, as determined by the City Council, which permits the operation of the communication system without the requirement of the support structure.
2. The situations in which removal of a facility is required, as set forth in paragraph (1) above, may be applied and limited to portions of a facility.
3. Upon the occurrence of one or more of the events requiring removal, within thirty (30) days the property owner or persons who had used the facility shall apply for any required demolition or removal permits, and proceed with and complete the demolition, removal, and site restoration.
4. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the City may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and/or enforced from or under the security posted.
5. Security shall be posted, subject to the requirements in sub-section (H)(4), to assure proper removal.

- G. BUSINESS LICENSE REQUIREMENTS.** A business license is required to operate a wireless communication facility in the City of Orchard Lake Village. The owner or operator of such a facility shall apply for such a license in accordance with the procedures and requirements in the City's Licensing Ordinance, Ordinance No. 10.01.

H. APPLICATION REQUIREMENTS.

1. **Site Plan and Special Land Use Review.** If required, a site plan prepared in accordance with Section 4.33 shall be submitted, showing the location, size, screening and design of all buildings, outdoor equipment, and structures, including towers. If special land use review is required, approval procedures and standards in Section 15.08 shall be followed. Class B and Class C proposals shall be accompanied by a \$1,000 review fee.

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2. **Landscape Plan.**A landscape plan shall be submitted with Class B and Class C proposals illustrating the number, species, location, and size at the time of planting of all proposed trees and shrubs. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure.
 3. **Structural Specifications.**Structural specifications for the support structure and foundation shall be submitted for review. The structural specifications shall state the number of various types of antennae capable of being supported on the structure. Structural plans shall be sealed by a registered professional engineer having proper credentials. Structural plans shall be subject to review and approval by the City Engineer.
 4. **Security.**The application shall include a description of security to be posted immediately upon issuance of a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as previously noted. The applicant may choose any of the following forms of security: a) Cash, b) Surety bond, or c) Letter of credit.

In addition, the applicant shall annually submit a written commitment in a form approved by the City Attorney and recordable at the office of the Oakland County Register of Deeds, that accomplishes the following: a) Provides a commitment from the applicant and the owner of the property to remove the facility in a timely manner as required herein, b) Requires that the property be restored to the condition it was in prior to installation of the facility, and c) Acknowledges that the applicant and owner shall be responsible for the payment of any costs and attorney's fees incurred by the City in securing removal. In the event that a facility is sold, security and a written commitment as described herein shall be required of the new owner.

5. **Service Area Documentation.**Class C proposals shall include a map showing existing and known proposed wireless communication facilities in the City and in surrounding areas to help determine need for the facility and colocation potential. If such information is on file with the City, the applicant shall be required only to update as needed. Any such information that is a trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy {MCL 15.243(l)(g)}. This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the City.
6. **Contact Person.**The application shall include the name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

Section 4.41 BOAT STORAGE.

The requirement in this Section shall apply to boats of any type (motor craft or sailboat) that are over fourteen (14') feet in length. No more than two (2) boats shall be stored on any residentially-zoned lot or parcel, provided that no such boat shall exceed thirty (30') feet in length and ten (10') feet in height, and provided further that, where feasible, such boats shall be stored in a location that is screened from view from the road. Boats may be stored on trailers.

Section 4.42 OPEN SPACE RESIDENTIAL DEVELOPMENT OPTION.

1. For the purpose of this section, "eligible parcels" shall mean any undeveloped and residentially-zoned parcels of land. "Open space option" shall mean the development option described in this section.

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2. Eligible parcels of land may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of land than could otherwise be developed under the provisions of this Ordinance if all of the following apply:
 - a. Not less than twenty percent (20%) of the land area of the eligible parcels will remain perpetually in an undeveloped state by means of a conservation easement, restrictive covenant, or other legal means that runs with the land.
 - b. The open space option has not previously been exercised with respect to the subject parcels.
 3. The development of the land under the open space option is subject to all other applicable ordinance, laws, and rules.

Section 4.43 OUTDOOR DINING.

- A. **Purpose.** The City Council of the City of Orchard Lake Village has determined that the establishment of outdoor dining will promote the public interest by creating an attractive pedestrian environment of its businesses during the day and evening and will foster a pleasant and distinctive ambience within the City. The purpose of this Section is to establish appropriate regulations, to regulate this activity, and to ensure that the health, safety, and welfare of the City are protected.
- B. **Definition.** "Outdoor Dining" means any outdoor eating area or similar food service accessory to a restaurant or business providing food and/or drink.
- C. **Permitted Uses.** Outdoor dining is a permitted use when accessory to a restaurant, subject to site plan review. Retail food establishments that do not provide table service may operate outdoor dining where patrons carry their food from inside the premises to tables located outside are also subject to site plan review.
- D. **Application for a Permit.** An application for an outdoor dining permit shall be on a form provided by the City and shall require at least the following:
 - a. The name, mailing address, and telephone number of the applicant and the owner of the property (if different from the applicant).
 - b. A drawing to scale of the site indicating the following:
 - i. The layout and dimensions of the proposed outdoor dining facility.
 - ii. The points of ingress and egress.
 - iii. The proposed locations of tables.
 - iv. Chairs.
 - v. Serving equipment.
 - vi. Railing, refuse containers, and awnings.
 - vii. Umbrellas and other facilities to be included in the seating area.

The plan should indicate the nearest restroom facilities intended to serve the outdoor dining area. If electricity is to be provided, the locations of electrical lines and fixtures shall be noted, if the proposed outdoor dining facility is to be on a sidewalk, then the drawing must also include the locations of existing nearby public improvements, including street signs, street lights, mail boxes, trees, planting boxes, etc.
 - c. A copy of a valid Health Division permit.
 - d. If alcohol is to be served, a copy of a valid State of Michigan liquor license.

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- e. Application and permit fees.
 - f. The Building Official shall review the site plan and related documents to determine compliance with the Building Code and Zoning Ordinance.
 - g. A permit may be issued by the Building Official upon approval of a site plan by the Planning Commission. The site plan shall be prepared in accordance with this sub-section.
- E. **Period of Validity.** Permits shall remain valid for a period of one (1) year from the date of issuance. A permit may be renewed for subsequent one (1) year periods, subject to Building Official approval, provided that the outdoor dining facility has maintained compliance with the terms and conditions of the original approval, as well as with the regulations contained in this section of the Zoning Ordinance, Section 4.43, Outdoor Dining, in effect at the time of renewal, or in the case of a new owner/operator, reapplication must be made to the City. In the event that an outdoor dining facility has not maintained compliance, the renewal of the permit shall require a new site plan approval under the Zoning Ordinance then in effect.
- F. **Safety and Access.**
- a. An outdoor dining facility shall not obstruct any fire exit fire escape, or other required means of ingress and egress.
 - b. Outdoor dining facilities located on a sidewalk shall maintain an unobstructed sidewalk width of at least five (5') feet.
 - c. Outdoor dining facilities shall not be permitted to obstruct the sight distance of vehicular or pedestrian traffic.
 - d. Outdoor dining facilities shall not interfere with any public service facility, such as a mailbox or street furniture (e.g. public benches, planters, etc.).
 - e. Outdoor dining facilities shall not be located within fifty (50') feet of any residentially zoned property.
- G. **Indemnification, Insurance.** The owner of an outdoor dining facility shall indemnify and hold harmless the City and its agencies and employees from any liability arising from the existence of the facility and shall provide insurance protecting the City and public from such claims, as deemed appropriate by the City Attorney.
- H. **Barrier Free Access.** An outdoor dining facility shall at all times comply with applicable Federal, State and City laws and regulations concerning accessibility and non-discrimination of service.
- I. **Hours or Operation.** Outdoor dining facility operations must end at or before the close of business, or by 11:00 p.m., whichever is earlier.
- J. **Alcohol Consumption.** The sale and consumption of alcoholic beverages in an outdoor dining establishment shall be restricted by the liquor license governing the restaurant. Any seating area where alcoholic beverages are to be served, sold, or consumed shall be enclosed by a railing and shall be supervised at all times by an employee of the restaurant. No alcoholic beverages may be removed from the outdoor dining area, except to the interior of the restaurant or as may be otherwise permitted by law.
- K. **Quality of Furnishings.** Outdoor furnishings, objects and finishes shall be of quality design, materials, and workmanship, both to ensure the safety and convenience of users and to enhance the visual and aesthetic quality of the environment, subject to approval of the site plan.
- L. **Signs.** No sign shall be allowed at any outdoor dining facility except for :
- a. One menu board sign, not to exceed six (6) square feet, which may display within the area of the outdoor dining. The sign can be mounted on an easel or other easily removable fixture and it must be stored indoors each night.

b. The menu board sign shall be constructed of durable, weather-resistant materials, such as but not limited to:

- i. Stainless steel or aluminum frame.
- ii. Lexan or Plexiglas cover.
- iii. Slate or porcelain board.

Cardboard signs are prohibited.

- M. **Public Health Measurers.** Refuse containers must be provided and serviced. All outdoor dining areas shall be cleared of trash, debris and litter at the time of closing each day. No soiled food service equipment, utensils or tableware may be kept in the outdoor dining area.
- N. **Seasonal Removal.** Tables, chairs, and other furnishings may be left in place, not stocked, but all other outdoor dining accessories shall be removed or stored indoors whenever outdoor dining is not in seasonal operation, but in all cases such other dining accessories shall be stored during the period between December 1st and March 1st of the following year.
- O. **Storage.** Outdoor storage of food and beverages shall be prohibited.
- P. **Outdoor Lighting.** Outdoor lighting shall be subdued and downward focused. No wall pack fixtures shall be used. Lighting shall be shut off each night when dining is completed. (See Illumination Control Ordinance).
- Q. **Area Limitation.** The outdoor seating area may not occupy an area in excess of twenty (20%) percent of the gross floor area of the permitted use.
- R. **Miscellaneous Provisions.** Outdoor dining facilities shall be located on an impervious surface or on an approved pervious paving surface. Outdoor dining shall not be permitted in required parking areas.

ARTICLE IV-A SIGNS

Section 4A.01 PURPOSE.

The purpose of these sign regulations is to establish requirements for signs and other displays that are needed for identification or advertising, subject to the following objectives:

- A. **Safety.** The requirements with regard to placement, installation, maintenance, size and location of signs are intended to minimize distractions to motorists, maintain unobstructed vision for motorists, protect pedestrians, and otherwise minimize any threat to public health or safety.
- B. **Aesthetics.** Signs should enhance the aesthetic appeal of the City. Thus, these regulations are intended to:
 - a. Regulate signs that are out-of-scale with surrounding buildings and structures.
 - b. Prevent an excessive accumulation of signs.
 - c. Encourage signs that enhance the appearance and value of the business districts.
- C. **Equal protection and fairness.** These regulations are designed to be fair to each property owner by establishing uniform standards that provide adequate exposure to the public for all property owners.
- D. **Land-use planning objectives.** The placement and design of signs should further the land-use planning objectives of the City, and protect neighborhood character and the value of surrounding properties.

Section 4A.02 SCOPE OF REQUIREMENTS.

No sign may be erected, relocated, enlarged, structurally changed, painted, or altered in the City unless in conformance with the standards and procedures set forth in this Article, including the issuance of a permit except as otherwise provided herein.

Section 4A.03 DEFINITIONS.

Words and phrases used in this Article shall have the meanings set forth in this section. Words and phrases not defined in this section but defined in Article II shall be given the meaning set forth in Article II. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

ACCESSORY SIGN: A sign that pertains to the use of the premises on which it is located.

ADD-ON SIGN: A sign that is attached as an appendage to another sign or sign support, and is intended to draw attention to the goods or services available on the premises.

ANIMATED SIGN: A sign using lights, moving parts, or other means to depict action, create an image of a living creature or person, or create special effect or scene (see also "Flashing Sign").

AWNING SIGN: A sign that is painted on, printed on, or attached flat against the surface of an awning.

BANNER SIGN: A sign made of fabric, cloth, paper, or other non-rigid material that is typically not enclosed in a frame.

BULLETIN BOARD: A type of "changeable copy" sign which displays the name of an institution, school, library, community center, fraternal lodge, golf course, country club, park or other recreational facility, and which displays announcements of its services and activities upon the premises.

BUSINESS CENTER: Two (2) or more contiguous stores or contiguous businesses (See also SHOPPING CENTER).

BUSINESS CENTER SIGN: A sign that gives direction, name and identification to a business or shopping center and that typically does not contain any additional information regarding individual stores, businesses, institutions, organizations, or industries located within the business or shopping center.

BUSINESS SIGN: A sign that directs attention to a business or profession or to a product, service or activity sold or offered upon the premises where such sign is located and may include a business shopping center sign.

CANOPY SIGN: A sign painted on, printed on, or attached to the surface of a canopy.

CHANGEABLE COPY SIGN (AUTOMATIC): A sign on which the message changes automatically (for example, electronic or electric time and temperature signs).

CHANGEABLE COPY SIGN (MANUAL): A sign on which the message is changed manually (for example, by physically replacing the letters).

COMMUNITY SPECIAL EVENT SIGN: Signs and banners, including decorations and displays celebrating a traditionally-accepted patriotic or religious holiday, or special municipal, non-profit association, or school activities.

CONSTRUCTION SIGN: A temporary sign identifying the designer, contractors and subcontractors, and material suppliers participating in construction on the property on which the sign is located.

CYLINDRICAL SIGN: A sign that is in the shape of a cylinder or barrel. A cylindrical sign has a footprint that is more-or-less the shape of a circle.

DIGITAL BILLBOARD: A sign that advertises a good or service that is located away from where the sign is located.

DIRECTIONAL OR INFORMATIONAL SIGN: A sign that is intended to direct the flow of vehicular and pedestrian traffic to, from, and within a development site.

ELECTION SIGN: A temporary sign relating to matters or candidates to be voted on in a local, state, or national election or referendum.

ELECTRONIC MESSAGE CENTER (EMC) SIGN: Electronic Message Centers (EMCs) are computerized or programmable electronic signs that allow messages to be changed remotely. Such signs are capable of storing multiple messages for display at varying times and intervals. EMCs may use but are not limited to incandescent lamps, light emitting diodes (LEDs), or liquid crystal display (LCD).

- A. **ELECTRONIC DISPLAY SIGN:** An Electronic Message Center Sign where the message is displayed in text, graphics, or video display format.
- B. **ELECTRONIC CHANGEABLE COPY SIGN:** An Electronic Message Center Sign where the message is composed solely of text, and includes no graphic display (e.g. static images, with or without text) nor video display (moving images, with or without text).

FESTOON: A string of ribbons, tinsel, small flags, pinwheels or lights, typically strung overhead in loops.

FLASHING SIGN: A sign designed with an intermittent or sequential flashing light source.

FREESTANDING SIGN: A sign that is erected upon or supported by the ground.

GASOLINE-PRICE SIGN: A sign that is used to advertise the price of gasoline. In the event that the brand identification sign is attached to or is a part of the sign advertising price, that portion of the sign used for advertising price shall be considered the gasoline price sign.

GROUND SIGN: See "Pedestal Sign".

IDENTIFICATION SIGN: A sign containing the name of a business operating on the premises where the sign is located, the type of business, the owner or resident, and/or the street address and that typically sets forth no other advertisement display.

ILLEGAL SIGN: A sign that does not meet the requirements of this ordinance and which has not received legal nonconforming status.

ILLUMINATED-SIGN: A sign that is lit by artificial light by either emission or reflection.

INCIDENTAL SIGN: A small sign, emblem, or decal that is no more than one (1) square foot in area that is used to inform the public of goods, facilities, or services available on the premises. Examples of incidental signs include credit card signs, signs indicating the hours of business, no smoking signs, signs used to designate bathrooms, and signs providing information on credit cards and business affiliations.

INFLATABLE SIGNS: A temporary sign consisting of a non-porous bag or balloon inflated with a gas.

INFORMATIONAL SIGN: See "Directional Sign".

MANSARD: A slope roof or roof-like façade. Signs mounted on the face of a mansard roof shall be considered wall signs.

MARQUEE SIGN: A sign attached to or supported by a marquee structure.

MOVING-SIGN: A sign in which the sign itself or any portion of the sign moves or revolves. A "rotating sign" is a type of moving sign. Such motion does not refer to the method of changing the message on the sign.

MURAL: A design or representation which is painted or drawn on the exterior surface of a structure and which does not advertise a business, product, service, or activity.

NAMEPLATE: A non-electric on-premises identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

NEON SIGN: See "Outline Tubing Sign".

NONCOMMERCIAL: Not related to or connected with trade or commerce in general.

NONCONFORMING SIGN: (1) A sign which is prohibited under the terms of this Ordinance, but was erected lawfully and was in use on the date of enactment of this Ordinance, or amendment thereof. (2) A sign which does not conform to the requirements of this Ordinance, but for which a variance has been granted.

OBSELETE SIGN: A sign that advertises a product that is no longer made, a business that is no longer in operation, or an activity or event that has already occurred.

OFF-PREMISE ADVERTISING SIGN: A sign which contains a message unrelated to a business or profession conducted or to a commodity, service, or activity sold or offered upon the premises where such sign is located. A "billboard" is a type of off-premise advertising sign.

OUTLINE TUBING SIGN: A sign consisting of illuminated tubing.

PARAPET: The extension of a false front or wall above a roof line. Signs mounted on the face of a parapet shall be considered wall signs.

PEDESTAL SIGN: A three-dimensional, self-supporting, base-mounted freestanding sign, consisting of two (2) or more sides extending up from the base, and upon which a message is painted or posted. A pedestal sign may also consist of a base-mounted cylindrical structure upon which a message is painted or posted.

PENNANT: A triangular, tapering flag, several of which are typically strung together on or across a site or a building for the purpose of attracting the attention of persons.

POLE SIGN: A type of freestanding sign that is elevated above the ground on a pole.

POLITICAL SIGN: A temporary sign used to express an idea or opinion on a topic that is frequently political but not tied to a scheduled election.

PORTABLE SIGN: A sign designed to be moved easily and not permanently affixed to the ground or to a structure.

PROJECTING-SIGN: A sign, other than a flat wall sign, that projects more than twelve (12") inches from the face of the building or structure upon which it is located. A projecting roof sign is one that projects beyond the face or exterior wall surface of the building upon which the roof sign is mounted.

PUBLIC SIGN: A sign erected in the public interest by or upon orders from a local, state, or federal public official. Examples of public signs include: legal notices, safety signs, traffic signs, memorial plaques, signs of historical interest, and similar signs.

REAL ESTATE SIGN: A temporary sign that makes it known that real estate upon which the sign is located is for sale, lease, or rent.

REAL ESTATE DEVELOPMENT SIGN: A sign that is designed to promote the sale or rental of lots, homes, or building space in a real estate development (such as a subdivision or shopping center) which is under construction.

RESIDENTIAL ENTRANCEWAY SIGN: A sign that marks the entrance to a subdivision, apartment complex, condominium development, or other residential development.

ROOF LINE: The top edge of a roof or building parapet, whichever is higher, excluding cupolas, pylons, chimneys, or similar minor projections.

ROOF SIGN: Any sign that extends above the roof-line or is erected over the surface of the roof.

ROTATING-SIGN: See "Moving Sign".

SANDWICH-SIGN: The sign that consists of two boards upon which a message is posted, and which are hinged at the top and are open at the bottom so that the boards can lean against each other when placed on the ground.

SHOPPING CENTER: A complex consisting of stores and shops of various kinds, typically with shared parking (see also BUSINESS CENTER).

SIGN: Any device, structure, fixture, placard placed which uses words, numbers, figures, graphic designs, illumination, logos or trademarks for the purpose of informing or attracting the attention of persons.

SIGN FACE: That portion of the sign on which the message is posted or appears.

TEMPORARY SIGN: A sign not constructed or intended for long-term use. Examples or temporary signs include signs that announce a coming attraction, a sale or bargain, a new building under construction, a community or civic project, or other special events that occur for a limited period of time.

TIME AND TEMPERATURE SIGN: Signs that display the current time and/or temperature.

UNDER-HANGING SIGNS: Signs which are located on the underside of a roof structure which extends out over a walkway adjacent to a building.

VEHICLE SIGNS: Signs painted or mounted on the side of a vehicle, including signs on the face of a truck trailer.

WALL SIGN: A sign attached parallel to and extending not more than twelve (12") inches from the wall of a building. Painted signs, signs that consist of individual letters, cabinet signs, and signs mounted on the face of a mansard roof shall be considered wall signs.

(Ord. of 5-21-2018(1))

Section 4A.04 ENFORCEMENT.

A. Plans, Specifications, and Permits.

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1. **Permits.** It shall be unlawful for any person to erect, relocate, enlarge, or structurally change a sign or other advertising structure, unless specifically exempted by these regulations, without first obtaining a permit in accordance with the provisions set forth herein. A permit shall require payment of a fee, which shall be established by the City Council.
 2. **Applications.** Application for a sign permit shall be made upon forms provided by the Building Official. The following information shall be required:
 - a. Name, address, and telephone number of the applicant.
 - b. Location of the building, structure, or lot on which the sign is to be attached or erected.
 - c. Position of the sign in relation to nearby buildings, structures, and property lines.
 - d. Plans and specifications showing the dimensions, lettering style, color, materials, method of construction, method of illumination, and method of attachment to the building or the ground.
 - e. Copies of stress sheets and calculations, as required by the Building Code.
 - f. Name and address of the person, firm, or corporation owning, erecting, and/or maintaining the sign.
 - g. Information concerning required electrical connection.
 - h. Insurance policy or bond, as required in this Article.
 - i. Written consent of the owner and/or lessee of the premises upon which the sign is to be erected.
 - j. In any application for an entranceway sign, the Building Official shall require that appropriate provisions have been made to ensure continued maintenance of the sign and toward this end, may require a maintenance agreement with the City.
 - k. Other information required by the Building Official to make the determination that the sign is in compliance with all applicable laws and regulations.
 3. **Review of Application.**
 - a. Planning Commission Review. Sign proposed submitted in conjunction with proposed construction of a new building or addition to an existing building shall be reviewed by the Planning Commission as a part of the required site plan review. Proposed sign shall be shown on the site plan.
 - b. Building Official Review. The Building Official shall review the sign permit application for any sign proposed on a site or existing building where no other new construction is proposed.
 - c. Issuance of a Permit. Following review and approval of a sign application by the Planning Commission or Building Official, as appropriate, the Building Official shall have the authority to issue a sign permit.
 4. **Exceptions.** A new permit shall not be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing of the message on the sign where the sign is designed for such changes (such as lettering on a marquee or numbers on a gasoline price sign). Furthermore, a permit shall not be required for certain exempt signs listed in Section 4A.05, subsection A. However, an electrical permit shall be required for all signs that make use of electricity.
 5. **Correction of Violations.**
 - a. If the Building Official finds that any sign is in violation of this ordinance, he shall notify one or more of the responsible persons to correct the violations by repair, removal or other action, within a timetable established by the Building Official.

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- b. The notice provided in Subsection (a) may be accompanied or followed by a written order, sent to the responsible persons, requiring correction of violations by repair, removal or other action within thirty (30) days.

Where there is imminent danger to public safety, immediate removal or action may be required, pursuant to this Ordinance or other applicable Ordinance.

- c. For purposes of this Section, responsible persons includes persons who own, erect or maintain a sign, the owner and/or operator of the business to which a sign pertains and the owner and/or operator of the building, structure or premises upon which the sign is located.

B. Inspection and Maintenance.

1. **Inspection of New Signs.** All signs which a permit had been issued shall be inspected by the Building Official when erected. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable Zoning Ordinance and Building Code Standards.
2. **Inspection of Existing Signs.** The Building Official shall have the authority to routinely enter onto property to inspect existing signs.
3. **Maintenance.** All signs shall be maintained at all times in a safe, secure, and aesthetically attractive manner. Exposed surface shall be cleaned and painted as necessary. Broken and defective parts shall be repaired or replaced. Tattered, faded, or torn window signs shall be removed.
4. **Signs in Violation of Ordinance Declared a Public Nuisance.** Any sign that is erected, constructed, maintained, enlarged, altered, moved or converted in violation of any of the provisions of this chapter is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

- C. **Removal of Obsolete Signs.** Any sign that identifies a business that is no longer in operation, or that identifies an activity or event that has already occurred, or a product that is no longer made, shall be considered abandoned and shall be removed by the owner, agent, or person having use of a building or structure. Upon vacating a commercial or industrial establishment, the proprietor shall be responsible for removal of all signs used in conjunction with the business. However, where a conforming sign structure and frame are typically reused by a current occupant in leased or rented building, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied, provided that the sign structure and frame are maintained in good condition. In the case of an obsolete EMC, all of the above shall apply, as well as termination of electrical service to the sign.

D. Liability Insurance.

1. **Insurance for Certain Signs.** If any wall sign, projecting sign, or roof sign is suspended over a public street or property, or if any vertical distance of such a sign above the street is greater than the horizontal distance from the sign to the street right-of-way line such that the sign is capable of falling or being pushed onto public property, then the owner of such a sign shall maintain a public liability insurance policy, approved by the City Attorney, in the amount set by resolution of the Council. The policy shall indemnify the owner from all damages suites or actions of any nature brought or claimed against the owner for or on account of injuries or damages to person's property received or sustained by any person through any act of omission or negligence of the owner, his servants, agents, or employees regarding such sign. The policy shall contain a clause whereby the policy cannot be canceled until after a written notice of intention to cancel has been filed with the City Clerk at least ten (10) days prior to the date of cancellation. The policies shall be renewed annually on or before the first day of May of each year and certificates of renewal or

new policies shall be filed with the City Clerk. In lieu of an insurance policy, an owner may present satisfactory proof to the City Attorney that the owner is financially capable of self-insurance in the amounts required by resolution of the Council. Nothing in this section shall be interpreted to grant approval to signs suspended over public property or other signs not in compliance with the regulations in this Ordinance or other applicable ordinance.

2. **Insurance for Sign Erector.** Before engaging or continuing in the business or erecting, repairing or dismantling signs, poster boards or other display signs in the City, persons engaged in such activity shall first furnish the City with proof that they are licensed and insured in accordance with the Reciprocal Electrical Council Incorporated (R.E.C.I.) and the National Electrical Code (NEC).
- E. **Appeal to the Zoning Board of Appeals.** Any party who has been refused a sign permit for a proposed sign or received a correction or removal order for an existing sign may file an appeal with the Zoning Board of Appeals, in accordance with Article XVI of the Zoning Ordinance.

Section 4A.05 GENERAL PROVISIONS.

- A. **Permitted Exempt Signs.** A sign permit shall not be required for the following signs, which shall be permitted subject to applicable provisions herein, except that an electrical permit is required for all signs that use electricity.
 1. Address numbers with a numeral height no greater than six (6") inches for residences and eighteen (18") inches for businesses. All such signs shall comply with the sign design standards in Section 4A.06, including the illumination standards.
 2. Memorial signs or tables in cemeteries.
 3. Signs on a bus, truck, trailer, or other vehicle while operated and used for transport in the normal course of a business, provided that the primary use of the vehicle displaying the sign shall not be for the purpose of advertising a business on the premises where the vehicle is parked. (See parking requirements for commercial vehicle, Section 6.01(p)).
 4. Public signs, including the authorized signs of a government body or public utility, including traffic signs, legal notices, railroad crossing signs, warnings of a hazard, and similar signs. Public emergency signs may be erected subject to approval by the Building Official.
 5. Flags bearing the official design of a nation, state, municipality, educational institution, or noncommercial organization.
 6. Incidental signs, subject to Section 4A.08 (k) and provided that total of all such signs shall not exceed one (1) square foot.
 7. Traffic control signs which conform to the requirements of the Michigan Manual of Uniform Control Devices.
 8. Permanent signs on vending machines, gas pumps, or ice containers indicating only the contents of such devices, provided that the sign area of each device shall not exceed three (3) square feet.
 9. Real estate signs which advertise the rental, sale or lease of the property on which they are located, subject to requirements in Section 4A.05, subsection C.
 10. Portable real estate "open house" signs with an area no greater than three (3) square feet.
 11. "Help wanted" signs soliciting employees for the place of business where posted, provided further that only wall or window signs shall be permitted as an incidental sign for this purpose.

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12. Any sign which is located completely within an enclosed building, and which is not visible from outside or similar material.
 13. A plaque or sign designating a building as a historic structure, and providing the name of the building and date of construction. Such a sign may be cut into a masonry surface or constructed of bronze or similar material.
 14. "No Trespassing," "No Hunting" and "No Dumping" signs.
 15. Signs used to direct vehicular or pedestrian traffic to parking areas, loading areas, or to certain buildings or locations on the site, subject to the following conditions:
 - a. Directional signs shall not contain logos or other forms of advertising.
 - b. Directional signs shall not exceed three (3) square feet in area, or four (4') feet in height.
 - c. Directional signs may be located in the front setback area.
 16. Temporary window signs, subject to the requirements in Section 4A.05, subsection C.
 17. Emergency "Exit" signs and similar signs required by the Building Code, Fire Code or other applicable code.
 18. Signs that indicate an establishment is "Open" or "Close," provided that no such sign shall exceed three (3) square feet in area.

B. Prohibited Signs. The following signs are prohibited in all districts:

1. Any sign not expressly permitted.
2. Signs which incorporate animated flashing, moving, rotary, and scrolling messages; however, time and temperature signs shall be permitted.
3. Banners, pennants, festoons, spinners, and streamers, unless specifically, permitted elsewhere in this Ordinance.
4. String lights used for commercial purposes, other than holiday decorations. Holiday decorations shall be permitted for a period not exceed sixty (60) days.
5. Moving signs, including any sign that has any visible moving parts, visible revolving parts, visible mechanical movement, except for properly operating EMC signs (See 4A.06.B) or other visible movement caused by normal wind current.
6. Any sign or sign structure which:
 - a. Is structurally unsafe.
 - b. Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment.
 - c. Is capable of causing electric shock to persons who come in contact with it; or
 - d. Is not kept in good repair, such that it has broken parts, missing letters, or non-operational lights.
7. Any sign erected on a tree or utility pole, except signs of a government or utility.
8. Obsolete signs, as specified in Section 4A.03.
9. Portable signs, except where expressly permitted in this Ordinance.
10. Signs affixed to a parked vehicle or truck trailer that is being used principally for advertising purposes, rather than for transportation purposes.

11. Any sign that obstructs free access to or egress from a required door, window, fire escape, driveway or other required exit from a building or premises.
12. Any sign which by reason of its size, location, content, coloring, or manner or illumination, constitutes in the opinion of the Chief of Police and/or his/her designee, a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, by distracting drivers, or by obstructing, or detracting from the visibility of any traffic sign or control device on public streets and roads.
13. Any sign that uses the words "Stop", "Look", or "Danger", or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.
14. Any sign unlawfully installed, erected, enlarged, altered, moved or maintained.
15. Roof signs.
16. Projecting signs.
17. Sandwich signs.
18. Signs on street furniture including, but not limited to, signs on benches and trash receptacles.
19. Real estate signs no longer valid due to the sale, rental, or lease of the property.
20. Off-premise advertising signs.
21. Add-on signs.
22. Any lighting when used as a border to define the edge or features of a building
23. Outline tubing signs in residential districts.
24. Freestanding and pedestal signs that have more than two (2) faces
25. Cylindrical signs.
26. Balloons or inflated devices of any kind whether containing written material or not.
27. Illuminated signs and signs with reflective surfaces in residential districts, except permitted nameplate and street address signs, traffic control and directional signs, residential entranceway signs. Signs for permitted principal nonresidential uses in residential districts (such as churches) may be illuminated, and permitted nameplate and street address signs and traffic control and directional signs may have reflective surfaces.

C. **Temporary Signs.** Temporary signs shall be permitted as specified in the following table, except that permitted temporary signs in residential districts shall not be illuminated or have reflective surfaces.

**TEMPORARY SIGN STANDARDS
(Section 4A.05, Subsection C.)**

Type of Sign	Districts Permitted	Type of Sign Permitted	Maximum Size	Maximum Height	Maximum Number Per Parcel	Permit Required	Required Setback	Per Du
Construction Sign	All	Freestanding or wall	16 sq. ft.	5 ft.	1	No	(A)	Issu Blo To of
Real estate-Sale or	Residential	Portable freestanding	4 sq. ft.	3 ft.	1(B)	No	(A)	Re wit

Lease of business or vacant lot									day con of lea
Real estate-Sale or Lease of business or vacant lot	Office, Commercial	Portable Freestanding or wall	12 sq. ft.	5 ft.	1(B)	No	(A)		Re wit day con of lea
Real estate-Sale or within 4 or more lots dwelling units	Residential	Portable freestanding	16 sq. ft.	5 ft.	1(C)	No	(A)		Re day all lot or
Grand Opening Sign	Commercial	Freestanding or wall	16 sq. ft.	5 ft.	1	Yes	(A)		30
Garage Sale Sign	Residential	Freestanding or wall	4 sq. ft.	5 ft.	2	No	(A)		4 Co Da
Community Special Event Sign	All	(D)	(D)	5 ft.	(D)	Yes	(A)		Du Eve
Election Sign	All	Freestanding or wall	16 sq. ft.	5 ft	None specified	No	(A)		14 aft ele (Ex suc pri car tha cer the ele bal
Political Sign	All	Freestanding or wall	16 sq. ft.	5 ft	None specified	No	(A)		
Temporary Window	Commercial and Office	Paper or Fabric	(E)	Not Applicable		No			Ma dis

								per day
Banner Sign	Commercial	Plastic or Fabric	16 sq ft	Not Applicable	1	Yes	(A)	No exc we

*Footnotes

- A. The temporary sign shall be setback a minimum of ten (10') feet from the traveled portion of the road and permission of placement of the sign must be obtained from the property owner abutting the road.
- B. On a corner two (2) signs, one (1) facing each street shall be permitted. On a lakefront lot two (2) signs, one (1) facing the road and one (1) facing the lake shall be permitted.
- C. One (1) sign shall be permitted for each access road into the development, provided that such signs are spaced at least five hundred (500') feet apart.
- D. Community Special Event signs may include ground or wall signs, banners, pennants, or similar displays; the Building Official may issue a permit for such signs following review and approval of the number, size, and height by the Mayor.
- E. The total area of all window signs, temporary and permanent, shall not exceed two (2) square feet in office districts, and shall not exceed twenty-five percent (25%) of the total window area in commercial districts. The area of permanent window signs shall be subtracted from the permitted area of all wall signs.
- F. Temporary window signs that are faded, yellowed, ripped or otherwise damaged shall be removed immediately.
- G. The Building Official may require a performance bond to assure proper removal of temporary signs upon expiration of the permitted duration.
- H. Regardless of the number of contractors, sub-contractors, etc. only one sign is permitted.

Section 4A.06 SIGN DESIGN STANDARDS.

- A. **Construction Standards:** All signs shall be designed and constructed in a safe and stable manner in accordance with the City's adopted building code, electrical code, and other applicable codes and ordinance. All electrical wiring associated with a freestanding sign shall be installed underground.
- B. **Illumination:**
 - 1. **General Requirements.** Signs shall be illuminated only by steady, stationary, shielded light source directed solely at the sign, or internal to it.
 - 2. **Non-Glare, Shielded Lighting.** Use of glaring, unshielded, or undiffused lights or bulbs shall be prohibited. Lights may be shaded so as not to project onto adjoining properties or streets.
 - 3. **Traffic Hazard.** Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.
 - 4. **Bare Bulb Illumination.** Illumination by bare bulbs or flames is prohibited.
 - 5. **EMCs:** An EMC must have a photocell to allow dimming of illuminance (brightness) in response to a decrease in ambient light. The illuminance of an EMC during periods of decreased ambient light shall be measured per table 4A.06(5) listed below. The difference between off and solid message measurements shall not exceed 0.3 foot-candles. Message change frequency of an EMC or any portion of an EMC shall not be less than six (6) seconds, and duration of the changeover shall be less than or equal to one second. Scrolling of the messages or sudden lighting intensity changes is prohibited.

Illumination Table 4A.06 (5)

Area of Sign (sq. ft.)	Measurement Distance (ft.)
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8	28
10	32
12	35
15	39
18	42
20	45
22	47
25	50
28	53
30	55
32	57
35	59
38	61
40	63
42	65
45	67
48	69

C. **Location.**

1. **Within a Public Right-Of-Way.** No sign shall be located within, project into, or overhang a public right-of-way, except as otherwise permitted herein.
2. **Compliance with Setback Requirements.** All signs shall comply with setback requirements for the district in which they are located, except as otherwise permitted herein.
3. **Sight Lines for Motorists.** Signs shall comply with the requirements for unobstructed motorist visibility in Section 4.12.

D. **Measurement.**

1. **Sign Area.** Sign area shall be computed as follows:
 - a. General Requirements. Where a sign consists of a generally flat surface or sign face on which lettering and other information is affixed, the sign area shall be computed by measuring the entire face of the sign.
 - b. Individual Letters. Where a sign consists of individual letters and logo affixed directly to a building, canopy, awning, or other building surface, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.
 - c. Freestanding Sign. The area of a double-faced freestanding sign shall be computed using only one (1) face of the sign provided that
 1. The outline and dimensions of both faces are identical.
 2. The faces are back-to-back so that only one face is visible at any given time. The area of a double-faced sign shall be computed using the area of the larger face if the two (2) faces are of unequal area.
 - d. Pedestal Sign. The area of a double-faced pedestal sign shall be computed by measuring the entire vertical surface of a face upon which the letters and logo are attached. Pedestal signs having more than two (2) back-to-back faces shall be prohibited.

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2. **Sign Height.** The height of a freestanding sign shall be measured at the face of the sign structure, from grade level to the top-most portion of the sign structure. Where the grade is not even, grade level shall be measured at the lowest point along the face of the sign structure. Fill shall not be permitted for the purpose of achieving a taller sign than otherwise would be permitted.
 3. **Setback and Distance Measurements.** The following guidelines shall be used to determine compliance with setback and distance measurements:
 - a. The distance between two signs shall be measured along a straight horizontal line that represents the shortest distance between the two signs.
 - b. The distance between a sign and parking lot or building shall be measured along a straight horizontal line that represents the shortest distance between the outer-edge of the parking lot or building.
 - c. The distance between a sign and a building or property line shall be measured along a straight horizontal line that represents the shortest distance between the sign and the building or property line.
- E. **Sign Design Features.** The following standards shall apply to signs in office and commercial districts:
1. **Location.** Signs shall not cover architectural details such as arches, transom-windows, molding, columns, capitals, sills, cornices and similar details.
 2. **Materials.** Sign material shall complement the construction materials and architectural style of the building façade.
 3. **Lettering Style.** Lettering style used shall be clean and simple to assure readability and shall be in harmony with the style on each sign.
- F. **Electronic Message Center Signs.** Where permitted by this Ordinance electronic message center signs shall comply with the following regulations:
1. **Only Changeable Copy Signs Permitted.** Only electronic changeable copy signs shall be permitted as defined in Section 4A.03.
 2. **Prohibited Electronic Signs.** The following signs shall be prohibited: electronic display signs, which display static pictures with or without text and video display signs, which display moving pictures with or without text.
 3. **Frequency of Message.** Copy change shall not be more frequent than one per six (6) seconds, and the duration of the changeover shall be less than or equal to one second.
 4. **Color.** A color rendering of the display shall be provided for consideration by the Planning Commission during the site plan review or the Building Official during administrative review.
 5. **Illumination.** Glare shall be controlled in such a manner to maintain an appropriate level of contrast during the day and night. An automatic dimmer shall be required to control brightness at night, reduce driver distraction and reduce light trespass into residential areas. A photometric plan that identifies the proposed illumination (in footcandles) shall be provided. Illumination levels shall not exceed 0.5 footcandles at the property line, measured five (5) feet above the ground.
 6. **Motion—Animation.** Scrolling text, flashing, whirling or dissolving transitions, or any other type of motion associated with an electronic sign shall be prohibited.
 7. **Permitted Locations.** Electronic changeable copy signs may only be located along the following roads: Orchard Lake Road, Commerce Road, Pontiac Trail and Long Lake Road.

(Ord. of 5-21-2018(2))

Section 4A.07 RESIDENTIAL DISTRICT SIGNS.

The following signs shall be permitted in all districts zoned for residential use:

- A. **Nameplate and Street Address.** A nameplate sign and street address shall be permitted in accordance with Section 4A.05, subsection a.
- B. **Temporary Signs.** Real estate signs, garage sale signs, and other temporary signs shall be permitted in accordance with Section 4A.05, subsection c.
- C. **Residential Entranceway or Identification Signs.** Permanent residential entranceway or identification signs shall be permitted in accordance with the following regulations:
 - 1. There shall be no more than one (1) such sign located at each entrance to a sub-division or other residential development.
 - 2. The maximum size for such sign shall be twenty-five (25) square feet.
 - 3. The maximum height for such sign shall be five (5') feet.
 - 4. Such signs shall be set back a minimum distance of ten (10') feet from any property line or right-of-way line.
- D. **Signs for Institutional Uses.** See Article XIV, SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL.

Section 4A.08 NONRESIDENTIAL DISTRICT SIGNS

The following signs shall be permitted in districts zoned for nonresidential use:

- A. **Signs for Residential Districts Uses in a Nonresidential District.** Signs for nonconforming residential district uses in a nonresidential district shall be governed by the sign regulations for residential district uses set forth in Section 4A.07.
- B. **Signs for Nonconforming Nonresidential Uses.** Signs for nonconforming nonresidential uses in an office or commercial district (for example, a nonconforming commercial use in an office district) shall be governed by the sign regulations that are appropriate for the type of use, as specified in this Section.
- C. **Nameplate and Street Address.** A nameplate and street address shall be permitted in accordance with Section 4A.05, subsection A.
- D. **Temporary Signs.** Real estate signs and other temporary signs shall be permitted in accordance with Section 4A.05, subsection C.
- E. **Wall Signs.** Wall signs shall be permitted in office and commercial districts subject to the following regulations:
 - 1. **Number.** One (1) wall sign shall be permitted per street frontage on each parcel. However, in the case of a business or shopping center, one (1) wall sign shall be permitted for each tenant having an individual means of public access. Tenants who occupy a corner space in a multi-tenant structure shall be permitted to have one (1) sign on each side of the building. Where several tenants use a common entrance in a multi-tenant structure, only one (1) wall sign shall be permitted, but the total sign area should be allocated to all tenants.
 - 2. **Size.** The total area of a wall sign shall not exceed two (2) square feet per lineal foot of building frontage, provided that no such sign shall be larger than forty-eight (48) square feet in area. In

the case of a multi-tenant business or shopping center, these size requirements shall apply to each business individually. Awning signs shall be subtracted from the permitted area of wall signs. In the case of a corner business, the permitted sign area shall be computed independently for each side of the building.

3. **Location.** One wall sign may be located on each side of a building that faces a street.
 4. **Vertical Dimensions.** The maximum vertical dimension of any wall sign shall not exceed one third ($\frac{1}{3}$) of the building height.
 5. **Horizontal Dimensions.** The maximum horizontal dimension of any wall-mounted sign shall not exceed two-thirds ($\frac{2}{3}$) the width of the building.
 6. **Height.** The top of a wall sign shall not be higher than whichever is lowest:
 - a. The maximum height specified for the district in which the sign is located.
 - b. The top of the sills at the first level on windows above the first story.
 - c. The height of the building facing the street on which the sign is located.
- F. **Freestanding Signs.** Freestanding pedestal signs shall be permitted in office and commercial districts subject to the following regulations:
1. **Number.** One (1) freestanding sign shall be permitted per street frontage on each parcel. However, only one sign shall be permitted on lots having frontage on more than one street if a single sign can be located such that it is clearly visible from both streets. In multi-tenant business or shopping centers the sign area may be allocated for use by individual tenants.
 2. **Size of the Sign Face.** The permitted size of the sign face shall be based on the lineal feet of the street frontage, as noted in the following chart:

Lineal feet of street frontage	Maximum Dimensions of Sign Face	Maximum Area of Sign Face **	Maximum Area of EMC Sign
250 ft. or less	4 ft. high x 6 ft. Wide	24 sq. ft.	18 sq. ft.
Greater than 250 ft.	4 ft. high x 8 ft. wide	32 sq. ft.	24 sq. ft.

**Up to seventy-five percent (75%) of the area of the sign face may be an electronic message center (EMC), which shall meet the requirements of Section 4A.06(F).

3. **Sign Type.** A freestanding sign may have a static display or may be an EMC, but a combination of both types is not permitted.
4. **Sign Ratio.** It is the intent of this ordinance and regulations to permit freestanding signs that are rectangular in shape. Therefore, signs shall adhere to the following height-to-width ratio of 1:2 to 2:3.
5. **Setbacks.** Freestanding signs shall comply with all of the following setback requirements:
 - a. Minimum setback from front and side property lines: 5 ft.
 - b. Minimum setback from edge of any sidewalk: 5 ft.
 - c. Minimum setback from any driveway: 5 ft.
 - d. Minimum setback from any residential district: 50 ft.

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6. **Height.** The maximum height of the sign and sign support structure shall be six (6) feet (see Section 4A.06(d)(2) regarding height measurement).
 7. **Sign Structure.** The sign structure consists of a base and columns that encase and support the sign. The sign structure shall comply with the following regulations:
 - a. Dimensions.
 - i. The base shall have a height of two (2) feet.
 - ii. The columns on each side of the sign shall have a maximum width of one (1) foot.
 - b. Materials. The sign structure shall be constructed of masonry materials (brick, stone, slate, limestone, but not cinder block). Concrete masonry units (CMUs) may be used for the base only.
 - c. Design. Freestanding signs shall be mounted on a masonry base. On each side of the base there shall be a vertical masonry column, which shall extend to the full height of the sign. The columns and sign may have a masonry top, which must include a limestone cap.
 - d. Landscaping. One of the purposes of the sign regulations, as stated in Section 4A.01, is to enhance the aesthetic appeal of the City and its business districts. Through its research the Planning Commission has found that appearance of freestanding signs can be upgraded substantially with landscaping around the sign. Consequently, landscaping shall be required in conjunction with all new freestanding sign construction. Such landscaping shall comply with the following minimum requirements:
 - i. Sign landscaping shall complement the landscaping proposed elsewhere on the site.
 - ii. Evergreen plant material is required so as to provide year round visual interest; deciduous plant material is also permitted.
 - iii. Foundation plantings are required to "anchor" the sign to the ground. Such plants may consist of evergreen or deciduous shrubs.
 - iv. Plants shall be selected that will not obscure the sign face when the plants are mature.
 - v. Landscaping shall be maintained in a healthy, neat, and orderly condition, free from refuse and debris. Unhealthy and dead plant material shall be replaced immediately upon notice from the Building Official, unless the season is not appropriate for planting, in which case the plant material shall be replaced at the beginning of the next planting season.
- G. **Awnings and Canopies.** Signs on awnings and canopies in commercial and office districts shall be permitted, subject to the following standards:
1. **Compliance with Size Requirements for Wall Signs.** The area of signs on awnings or canopies shall be subtracted from the permitted area of wall signs.
 2. **Projection.** Limitations imposed by this Ordinance concerning projection of signs from the face of a wall or building shall not be applied to awning and canopy signs, provided that such signs shall comply with the setback requirements for the district in which they are located.
 3. **Illumination.** Back-lit awning or canopy signs shall be prohibited.

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4. **New Awning.** Nothing in this section or article shall be constructed to permit the construction or placement of new awnings otherwise prohibited by this Ordinance.
- H. **Gasoline Price Sign.** Gasoline price signs shall be permitted subject to the following standards:
1. **Number.** In addition to other permitted signs, gasoline filling stations shall be permitted one (1) gasoline price sign per street frontage.
 2. **Size.** Gasoline price signs shall not exceed more than ten (10) square feet in area.
 3. **Setback.** Gasoline price signs shall comply with the setback and height requirements specified for freestanding signs in the district in which the signs are located.
- I. **Temporary Signs.** Temporary signs shall be permitted in accordance with Section 4A.05, subsection C.
- J. **Gasoline Filling Stations.** Gasoline filling stations shall be permitted to display the following incidental signs.
1. Lettering or insignia on a gasoline pump specifying the brand of gasoline sold, lead warning sign, and any other information required by law, provided that the total of all such signs shall not exceed three (3) square feet on each pump.
 2. A single non-illuminated double-faced sign not exceeding four (4) square feet in area shall be permitted on each gasoline pump island. Such signs may extend a maximum of two (2') feet above the pumps.
- K. **Incidental Signs.** Temporary signs shall be permitted in accordance with Section 4A.05, subsection C.
- L. **Window Signs.** Temporary and permanent window signs shall be permitted on the inside in commercial and office districts provided that the total combined area of such signs (including incidental signs) shall not exceed two square feet (2) in office districts and shall not exceed twenty-five (25%) percent of the total window area in commercial districts. Temporary window signs shall comply with the requirements in Section 4A.05, subsection C. The area of permanent window signs shall be subtracted from the permitted area for wall signs.
- M. **Time and Temperature Signs.** Time and temperature signs shall be permitted in commercial and office districts, subject to the following conditions:
1. **Frequency of Message Change.** The message change shall not be more frequent than once every three (3) seconds.
 2. **Size.** The area of these types of signs shall be included within the maximum sign area permitted on the site.
 3. **Number.** One (1) such sign shall be permitted per street frontage.
- N. **Under-Hanging Signs.** One (1) under-hanging sign shall not exceed two (2) square feet in area. The area of under-hanging signs shall be subtracted from the permitted area for wall signs.
1. **Vertical Clearance.** A minimum vertical clearance of eight (8') feet shall be provided between the bottom edge of the sign and the surface of the sidewalk.
 2. **Orientation.** Under-hanging signs shall be designed to serve pedestrians rather than vehicular traffic.
 3. **Size.** Under-hanging signs shall not exceed two (2) square feet in area. The area of under-hanging signs shall be subtracted from the permitted area of the wall signs.
- O. **Outline Tubing Signs.** Outline tubing signs, also known as neon signs, are permitted in commercial districts subject to the following conditions:

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1. **Construction.** Such signs shall be encased and shielded as specified by the Building Official, provided that the sign shall be fully encased if any portion of the sign is eight (8') feet or less above grade.
 2. **Maximum Size.** Except where used on a freestanding sign, outline tubing signs shall be considered wall signs or permanent window signs for the purposes of determining compliance with maximum standards.

(Ord. of 5-21-2018(3))

ARTICLE IV-B LANDSCAPING, SCREENING, AND WALLS

Section 4B.01 INTENT AND SCOPE OF REQUIREMENTS.

- A. **Intent.** Landscaping enhances the visual image of the City, preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual distraction associated with certain uses. Screening is important to protect less intensive uses from the noise, light, traffic, litter and other impacts of more intensive, nonresidential uses. Accordingly, these provisions are intended to set minimum standards for the design and use of landscaping, greenbelts, and screening. More specifically, the intent of these provisions is to:
 1. Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way, and,
 2. Protect and preserve the appearance, character, and value of neighborhoods which abut non-residential areas, parking areas, and other intensive use areas, thereby protecting the public health, safety and welfare.
- B. **Scope of Application.** Unless otherwise noted, the regulation and standards in this Article shall apply to any proposed expansion or new development of a non-residential use. A building permit shall not be issued until the required landscape plan is submitted and approved, and a certificate of occupancy shall not be issued unless provisions set forth in this section have been met or a performance guarantee has been posted in accordance with the provisions set forth in Section 15.09.
- C. **Minimum Requirements.** The requirements in this Article are minimum requirements, and under no circumstances shall they preclude the developer and the City from agreeing to more extensive landscaping.
- D. **Design Creativity.** Creativity in landscaping design is encouraged.

Accordingly, required trees and shrubs may be planted at uniform intervals, at random, or in groupings, depending on the designer's desired visual effect and equally important, the intent of the City to coordinate landscaping on adjoining properties.

Section 4B.02 GENERAL LANDSCAPING REQUIREMENTS.

All lots or parcels of land located in Zone 5 or Zone 6, and all non-residential uses developed in residential zoning districts, shall comply with the following landscaping requirements:

- A. **General Site Requirements.** All developed portions of the site shall conform to the following general landscaping standards, except where specific landscape elements, such as a greenbelt, berm, or screening are required:

1. All unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material, which shall extend to any abutting pavement edge. Grass areas in the front of all non-residential uses shall be planted with sod.
2. A mixture of evergreen and deciduous trees shall be planted on non-residential parcels at the rate of one (1) tree per 3,000 square feet or portion thereof of any unpaved open area for which specific landscaping requirements do not appear later in this Article. Required trees may be planted at uniform intervals, at random, or in groupings.

B. Landscaping Adjacent to Roads. All non-residential developments shall comply with the following requirements for landscaping adjacent to roads (see diagram).

1. **Dimensions and Location.** Landscaping areas adjacent to the road shall have a minimum width of twenty (20') feet where feasible. The Planning Commission may modify the width requirement to accommodate landscaping on sites that have shallow depth, small setbacks, or other constraints. A five (5') foot wide sidewalk may be located within the required landscape area.
2. **Planting Requirements:**

Type	Requirements
Deciduous or Evergreen	1 per 40 lineal feet of road frontage
Ornamental tree	1 per 100 lineal feet of road frontage
Shrubs	8 per 40 lineal feet of road frontage

For the purposes of computing length of road frontage, openings for driveways and sidewalks shall not be counted. Trees and shrubs may be planted at uniform intervals, at random, or in groupings.

Examples of Landscaping Adjacent to Roads Length of Road Frontage:	
Required Number of Plants	
Deciduous or Evergreen Trees	230 ft./40 ft. = 6
Ornamental Trees	230 ft./100 ft. = 3
Shrubs	230 ft./14 ft. = 46
Total	55

C. Berms. A berm may be used to screen off-street parking from view of the road or as a method of screening non-residential uses from adjacent residentially-zoned or used land, subject to the following standards.

1. **Dimensions.** Berms shall be a maximum of three (3') feet in height. Berms shall be measured from the grade of the parking lot or flat ground adjacent to the berm, and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3') feet horizontal (33 percent slope), with at least a two (2') foot flat area on top. Berms may undulate in height, subject to review and approval of berm design as shown on the site plan.
2. **Protection from Erosion.** Berms shall be planted with sod, ground cover, or other suitable live plant material to protect it from erosion so that it retains its height and shape. The use of railroad ties, cement blocks, and other types of construction materials to retain the shape and height of a berm shall be prohibited unless specifically reviewed and approved by the Planning Commission.
3. **Required Plantings.**

- a. Berms located in the front yard of non-residential parcels. Berms located in the front yard of non-residential parcels shall be landscaped in accordance with the requirements for Landscaping Adjacent to Roads, Section 4B.02, and subsection B.
 - b. Berms used for screening other than in the front yard. Berms used for screening other than in the front yard shall be landscaped in accordance with the requirements for Protective Screening of Non-Residential Uses from Adjacent Residentially-Zoned or Used Land, Section 4B.02, subsection E.
4. **Measurement of Berm Length.** For the purposes of calculating required plant material, berm length shall be measured along the exterior edge of the berm.
- D. **Greenbelts.** Where required, greenbelts shall conform to the following standards:
1. **Measurement of Greenbelt Length.** For the purposes of calculating required plant material, greenbelt length shall be measured along the exterior edge of the greenbelt.
 2. **General Planting Requirements.**
 - a. **Grass or Ground Cover Requirements.** Grass, ground cover, or other suitable live plant materials shall be planted over the entire greenbelt area.
 - b. **Tree and Shrubs Requirements.** Except where the greenbelt is used for protective screening, a minimum of one (1) deciduous or evergreen tree shall be planted for each thirty (30) lineal feet or portion thereof of required berm, or, alternatively, eight (8) shrubs may be substituted for each required tree. Trees and shrubs may be planted at uniform intervals, at random, or in grouping.
 - c. **Distance Used for Screening.** Plant materials shall not be placed closer than four (4') feet from the right-of-way line where the greenbelt abuts a public sidewalk.
 3. **Landscaped Greenbelts Used for Protective Screening.** Greenbelts used for protective screening shall be landscaped in accordance with the requirements for Protective Screening of Non-Residential Uses from Adjacent Residentially-Zoned or Used Land, Section 4B.02, subsection E.
- E. **Protective Screening of Non-Residential Uses from Adjacent Residentially-Zoned or Used Land.** Screening in the form of a landscaped berm, landscaped greenbelt, or obscuring wall, or any combination of the three methods deemed satisfactory by the Planning Commission, shall be required wherever a non-residential use in a commercial, office, or industrial district abuts directly upon land zoned or used for residential purposes, subject to the following

Protective Screening Methods	Standards for Protective Screening Methods
i. Landscaped Berms	<ul style="list-style-type: none"> • Grouping and Maturity Requirements. Evergreen trees and shrubs shall be planted and grown consistent with the requirements in the Plant Material Spacing Relationship Chart found at Section 4B.02(E)(1). Within five (5) years after the initiation, erection or alteration of a commercial activity or structure, the said trees and shrubs will provide a continuous and uninterrupted sight barrier the full length of said berm to a height, inclusive of the berm, of not less than ten feet (10'). • Additional Plantings. Deciduous plant materials may be additionally used provided that a complete visual barrier is maintained throughout the year.
ii. Landscaped Greenbelt	<ul style="list-style-type: none"> • Grouping and Maturity Requirements. Evergreen trees and shrubs shall be planted and grown consistent with the requirements in the Plant Material Spacing Relationship Chart

	found at Section 4B.02(E)(1). Within five (5) years after the initiation, erection or alteration of a commercial activity or structure, the said trees and shrubs will provide a continuous and uninterrupted sight barrier the full length of said greenbelt to a height of not less than ten feet (10') and width not less than eleven feet (11').
	<ul style="list-style-type: none"> • Additional Plantings. Deciduous plant materials may be additionally used provided that a complete visual barrier is maintained throughout the year.
iii. Obscuring Wall	Refer to Section 4B.07, Obscuring Walls and Fences and 4B.02.E.1 for installation requirements.

1. **Plant Material Spacing.** Landscape berms and landscape greenbelts constructed satisfy protective screening requirements shall be planted with materials that adhere to following spacing

Plant Materials Types spacing (on-Center)	TO						
	FROM	Large Evergreen Tree	Narrow Upright Evergreen	Deciduous Canopy Tree*	Deciduous Subcanopy Tree*	Large Shrub (6-15+' Tall)	Small Shrub (0-5.9' Tall)
	Large Evergreen Tree	Min. 15 ft. Max. 25 Ft.	Min. 12 ft.	Min. 20 ft.	Min. 15 ft.	Min. 15 ft.	Min. 10 ft.
	Narrow Upright Evergreen	Min. 12 ft.	Min. 2.5 ft Max. 10 ft.	Min. 15 ft.	Min. 10 ft.	Min. 5 ft.	Min. 3-5 ft.
	Deciduous Canopy Tree*	Min. 20 ft.	Min. 15 ft.	Min. 20 ft.	Min. 15 ft.	Min. 5-7 ft.	Min. 3-5 ft.
	Deciduous Subcanopy Tree*	Min. 15 ft.	Min 10 ft.	Min. 15 ft.	Min. 10 ft.	Min. 5-7 ft.	Min. 3-5 ft.
	Large Shrub	Min. 15 ft.	Min. 5 ft.	Min. 5-7 ft.	Min. 5-7 ft.	Min. 5 ft.	Min. 3 ft.

	(6-15+' Tall)					Max. 10 ft.	Max. 6 ft.
	Small Shrub (0-5.9' Tall)	Min. 10 ft.	Min. 3-5 ft.	Min. 3-5 ft.	Min. 3-5 ft.	Min. 3 ft. Max. 6 ft.	Min. 3 ft. Max. 6 ft.

* Fastigate/columnar trees may require closer spacing to achieve required opacity to study and approval by Planning Commission

2. Wherever protective screening is required adjacent to residentially zoned or used property, the screening must be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the screening. In all cases, the screening must be erected or planted and grown, and maintained, as an effective obscuring wall or screen of evergreen trees and shrubs by the owner or his agent at the time any commercial activity or structure is erected or initiated.
 3. **None Compliance with Landscaped Protective Screening Requirements.** In the event the owner, or his agent, of land on which said protective screening is or should be located as provided herein, fails to plant, grow or maintain said landscaped protective screen as a continuous sight barrier, and/or fails to replace, in kind, trees or shrubs which may die, and/or permits the landscaped protective screen to become in a state of obvious neglect or disrepair to the detriment of adjoining or abutting residential property the City Clerk, upon direction from the City Council, shall notify the owner of said land of said owner's obligation to maintain said landscaped protective screen in the manner prescribed. Said notice shall be by certified mail return receipt requested. If said owner or his agent fails to comply with the notice within thirty (30) days after receipt thereof, the City Council is authorized to arrange for such maintenance and/or replacement, and the amount of expense so incurred shall constitute a debt to the City of Orchard Lake Village by the owner so failing to comply with the order. The City Clerk shall notify said owner of said amount by certified mail, return receipt requested. In the event said amount owing or any part thereof remains unpaid thirty (30) days after receipt of said notice, delinquent in payment to the City Council at its next regularly scheduled meeting. The City Council shall cause an assessment roll to be prepared by the City Assessor in the same manner as other special assessments are made under the Charter of City of Orchard Lake Village. The unpaid amount shall become a lien upon said lands from and after the report and certification by the City Clerk to the City Council and may be collected in the manner set forth for special assessments in the City Charter.
 4. **Screening of Equipment.** Mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, satellite dish antennae, and similar equipment shall be screened on at least three (3) sides. Insofar as practical, said screening shall exceed the vertical height of the equipment being screened by at least six (6) inches within two (2) years of planting.
- F. **Parking Lot Landscaping.** In addition to required screening, all off-street parking areas containing greater than fifteen (15) spaces shall also provide landscaping as follows:
1. **Landscaping Ratio.** Off-street parking areas containing greater than fifteen (15) spaces shall be provided with at least ten (10) square feet of interior landscaping per parking space. Whenever possible, parking lot landscaping shall be designed to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area.

- 2. **Minimum Area.** Landscaped areas in parking lots shall be no less than five (5') feet in any single dimension and no less than one hundred and fifty (150) square feet in area. Landscaped areas in or adjacent to parking lot shall be protected with curbing or other means to prevent encroachment of vehicles.
 - 3. **Other Landscaping.** Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements.
 - 4. **Required Planting.** Requirements for plant material shall be based on the location, size, and shape of the parking lot landscaped area. A minimum of one (1) tree shall be planted per three hundred (300) square feet or fraction thereof of interior landscaped area. Each interior landscaped area shall be covered by living plant material, such as sod, shrubs, ground cover, or trees. Planting within parking lots shall comply with the requirements for unobstructed sight distance set forth in Section 4.12. The landscape plan shall indicate the types, sizes, and quantities of plant material proposed for such area.
- G. **Landscaping of Rights-of-way.** Public rights-of-way located adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable live ground cover, and shall be maintained by the owner or occupant of the adjacent property as if the rights-of-way were part of the required landscaped areas or greenbelts. No planting except grass or ground cover shall be permitted closer than three (3') feet from the edge of the road pavement, unless the agency having jurisdiction over the road has a different requirement.
- H. **Maintenance of Unobstructed Visibility for Drivers.** No landscaping shall be established or maintained on any parcel or in any parking lot that will obstruct the view of drivers. Accordingly, all landscaping shall comply with the provisions concerning visibility set forth in Section 4.12.
- I. **Potential Damage to Utilities.** In no case shall landscaping material be planted in a way which will interfere with or cause damage to underground utility lines, public road, or other public facilities. Species of trees whose roots are known to cause damage to public roadways, sewers, or other utilities shall not be planted closer than fifteen (15') feet to any such roadways, sewers, or utilities. Trees shall be set back from overhead utility lines as indicated in the following chart:

Tree Height	Minimum Distance from Center of Trunk or Nearest Utility Line
Up to 15 feet	10 ft.
15 to 25 feet	20 ft.
Over 25 feet	30 ft.

- J. **Landscaping of Divider Medians.** Where traffic on driveways, maneuvering lanes, private roads, or similar vehicle access-ways is separated by a divider median, the median shall be curbed and have a minimum width of ten (10') feet. A minimum of one (1) deciduous or evergreen tree shall be planted for each thirty (30) lineal feet or portion thereof of median. Trees may be planted at uniform intervals, at random, or in groupings, but in no instance shall the center-to-center distance between trees exceed sixty (60') feet.
- K. **Irrigation.** All required landscaping shall be served by an in-ground irrigation/sprinkler system. At minimum, during June through August the irrigation system shall be used to provide established plants at least one (1") inch of water per application per week (2 applications per week on sandy soils). Newly planted trees and shrubs shall be watered more frequently, as needed, to assure their longevity.

(Ord. of 5-24-2021(5))

Section 4B.03 STANDARDS FOR LANDSCAPE MATERIALS.

Unless otherwise specified, all landscape materials shall comply with the following standards:

- A. **Plant Quality.** Plant materials used in compliance with the provisions of this Ordinance shall be nursery grown, free of pests and diseases, hardy in Oakland County, in conformance with the standards of the American Association of Nurserymen, and shall have passed inspections required under state regulations.
- B. **Non-Living Plant Material.** Plastic and other non-living plant materials shall not be considered acceptable to meet the landscaping requirements of this Ordinance.
- C. **Plant Material Specification.** The following specification shall apply material proposed in accordance with landscaping requirements of this Ordinance.
 1. **Deciduous Shade Trees.** Deciduous shade trees shall be a minimum of three (3') inches in caliber measured twelve (12") inches above grade with the first branch a minimum of four (4') feet above grade when planted.
 2. **Deciduous Ornamental Trees.** Deciduous ornamental trees shall be a minimum of two and one-half (2 ½") inches in caliber measured six (6") inches above grade with a minimum height of four (4') feet above grade when planted.
 3. **Evergreen Trees.** Evergreen trees should be a minimum of (6') feet in height when planted. Furthermore, evergreen trees shall have a minimum spread of two and one-half (2 ½') feet, and the size of the burlapped root ball shall be at least ten (10) times the caliper measured six (6") inches above grade.
 4. **Shrubs.** Shrubs shall be a minimum of two and one-half (2 ½') feet in height when planted. Low growing shrubs shall have a minimum spread of twenty-four (24") inches when planted.
 5. **Hedges.** Hedges shall be planted and maintained so as to form a continuous, unbroken, visual screen within two (2) years after planting, barring unusual growing conditions, such as drought or disease. Hedges shall be a minimum of two (2') feet in height when planted.
 6. **Vines.** Vines shall be a minimum of thirty (30") inches in length after one growing season.
 7. **Ground Cover.** Ground cover used in lieu of turf grasses in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.
 8. **Grass.** Grass area shall be planted using species normally used for turf grass and grown as permanent lawns in Oakland County. Ornamental grass is not permitted where grass is required in this ordinance. Grass, sod, and seed shall be clean and free of weeds, pests, and diseases. Grass may be sodded, plugged, sprigged or seeded. When grass is to be established by a method other than complete sodding or seeding, nurse grass seed shall be sown for immediate effect protection until complete coverage is otherwise achieved. Straw or other mulch shall be used to protect newly seeded areas. Grass areas in the front of all non-residential areas shall be planted with sod.
 9. **Mulch.** Mulch used around trees, shrubs, and vines shall be a minimum of three (3") inches deep, and installed in a manner as to present a finished appearance.
 10. **Undesirable Plant Material.** Use of the following plant material (or their clones or cultivars) is not encouraged because of susceptibility to storm drainage, disease, and other undesirable characteristics:

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- i. Aspen.
 - ii. Box Elder.
 - iii. American and Chinese Elm.
 - iv. Tree of Heaven.
 - v. European Barberry.
 - vi. Northern Catalpa.
 - vii. Poplar.
 - viii. Willow.
 - ix. Silver Maple.
 - x. Cottonwood.
 - xi. Nut Bearing Horse Chestnut.

Section 4B.04 INSTALLATION AND MAINTENANCE.

The following standards shall be observed where installation and maintenance of landscape materials are required:

- A. **Installation.** Landscaping shall be installed in a sound, workmanlike manner to ensure the continued growth of healthy plant material. Trees, shrubs, hedges, and vines shall be generously mulched at the time of planting.
- B. **Installation or Perimeter Landscaping.** Landscaping along the perimeter shall be installed prior to construction, except where such landscaping would be destroyed during construction.
- C. **Seeding and Sodding.** Lots or parcels shall be seeded with grass or sodded within ninety (90) days after occupancy.
- D. **Protection from Vehicle.** Landscaping shall be protected from vehicles through use of curbs. Landscaping areas shall be elevated above the pavement to a height adequate to protect the plants from snow removal, salt, and other hazards.
- E. **Off-Season Planting Required.** If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season, in accordance with Section 15.09.
- F. **Maintenance.**
 1. Landscaping required by this Ordinance shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead plant material shall be replaced immediately upon notice from the Building Official, unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season.
 2. All landscaped areas shall be served by an in-ground irrigation/sprinkler system. Trees, shrubs, and other plantings and lawn areas shall be watered regularly throughout the growing season.
 3. All constructed or manufactured landscape elements, such as but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired, replaced, or removed.

Section 4B.05 TREATMENT OF EXISTING PLANT MATERIAL.

The following regulations shall apply to existing plant material:

- A. **Consideration of Existing Elements in the Landscape Design.** In instances where healthy plant material exists on a site prior to its development, the Planning Commission may permit substitution of such part material in place of the requirements set forth previously in this Article, provided such substitution is in keeping with the spirit and intent of this Article and the Ordinance in general. Existing hedges, berms, walls, or other landscape elements may be used to satisfy the requirements set forth previously, provided that such existing elements are in conformance with the requirements of this section.
- B. **Preservation of Existing Plant Material.** A tree survey shall be submitted that identifies the location, caliber, and species of all protected trees on the site, pursuant to the requirements in Section 12.07.05 of the Woodland, Tree and Vegetation Preservation Ordinance. Protected trees to be removed shall be identified on the tree survey. Prior to issuance of any building or grading permits, all protected trees that are proposed to be destroyed, mutilated, or removed shall be physically tagged and numbered to allow inspection by the City. During construction, trees shall be protected from damage in accordance with the measures specified in Section 12.07.12 of the Woodland, Tree and Vegetation Preservation Ordinance. In the event that trees intended to be protected are destroyed, mutilated, or damaged during construction, the trees shall be replaced according to the replacement plan requirements specified in Section 12.07.11 of the Woodland, Tree and Vegetation Preservation Ordinance.

Section 4B.06 MODIFICATION TO LANDSCAPE REQUIREMENTS.

In consideration of the overall design and impact of a specified landscape plan, and in consideration of the amount of existing plant material to be retained on the site, the Planning Commission may modify the specific requirements outlined herein, provided that any such adjustment is in keeping with the intent of this Article and Ordinance in general. In determining whether a modification is appropriate, the Planning Commission shall consider whether the following conditions exist:

- A. Topographic features or other unique features of the site create conditions such that strict application of the landscape regulations would result in a less effective screen than an alternative landscape design.
- B. Parking, vehicular circulation, or land use are such that required landscaping would not enhance the site or result in the desired screening effect.
- C. Public benefit intended by the landscape regulations could be better-achieved with a plan that varies from the strict requirement of the Ordinance.

Section 4B.07 OBSCURING WALLS AND FENCES.

- A. **Obscuring Wall Standards.** Where permitted or required by this Ordinance, obscuring walls shall be subject to the following requirements:
 - 1. **Location.** Unless otherwise required elsewhere in this Ordinance, the obscuring wall shall comply with the setback requirements for the district in which it is located. Except in the following instances:
 - i. Where underground utilities interfere with placement of the wall at the property line, the wall shall be placed on the utility easement line located nearest the setback line.
 - ii. Subject to Planning Commission approval, required walls in a nonresidential district may be located on the side of an alley right-of-way closest to the adjacent residential zone when

mutually agreed upon by affected property owners and residents. The continuity of the required wall shall be considered by the Planning Commission in reviewing such requests.

2. **Corner Clearance.** Obscuring walls shall comply with the specification for maintenance of visibility for drivers, Section 4.12.
3. **Substitution or Waiver.**
 - a. As a substitute for a required obscuring wall, the Planning Commission may, in its review of the site plan, approve the use of the other existing or proposed living or man-made landscape features (such as closely spaced evergreens) that would produce substantially the same result in terms of screening, durability, and permanence. Any such substitute screening shall comply with the applicable requirements in Section 4B.02.
 - b. If a fence is approved by the Planning Commission as a suitable substitute for a required obscuring wall, the fence shall be constructed of redwood, cedar, or No. 1 pressure-treated wood. Chain link fences shall not be permitted for screening purposes.
4. **Wall Specifications.** Required walls shall be constructed of quality masonry material that is architecturally compatible with the materials use on the front façade of the principle structure on the site, such as face brick, decorative block, or poured concrete with simulated brick or stone patterns.
5. **Height Requirements.** Walls used for screening purposes shall be six (6') feet in height above grade, measured on the sides of the wall facing out.
6. **Required Maintenance of Yards.** When a wall as permitted or required by this Section is constructed along the building setback line, the yard area required by Article XIII shall be landscaped and maintained by the owner of the land upon which the wall sits in accordance with this Article.

(Ord. of 5-24-2021(4))

ARTICLE V NONCONFORMING USES, BUILDINGS, STRUCTURES AND LOTS

Section 5.01 NONCONFORMING REGULATED.

Any lawful use of the land and/or of building existing at the time adoption of Ordinance No. 92, March 25, 1956, or this Ordinance or amendments thereto, and located in a district in which it would not be permitted as a new use under the regulation of this Ordinance, is hereby declared to be a "nonconforming use" and not in violation of this Ordinance, provided, however, that a nonconforming use shall be subject to, and the owner comply with, the regulations in this Section. Further, nonconforming structures and nonconforming lots of record also shall be subject, and the owner shall comply with, the regulations in this Section.

Section 5.02 NONCONFORMING USES OF LAND.

Where at the time of adoption of Ordinance No. 92, March 25, 1956, or this Ordinance or amendments thereof, lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a State Equalized valuation exceeding five hundred dollars (\$500.00) the use may be continued so long as it remains otherwise lawful, provided:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land that was occupied at the time of adoption of Ordinance No. 92.
- B. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than occupied by such use at the effective date of adoption or amendment of this Ordinance.

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- C. If any such nonconforming use of land ceases for any reason for a period of more than one (1) year, such land shall conform to the regulation specified by this title for the district in which such land is located.
 - D. No structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

Section 5.03 NONCONFORMING USES OF STRUCTURE.

If a lawful use involving individual structures with a State Equalized Valuation of five hundred dollars (\$500.00) or more, or if structure and premises in combination, exists at the time of adoption of Ordinance No. 92, March 25, 1956, or this Ordinance or amendments thereto that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Ordinance in the zone in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any nonconforming use of structure, or structure and premises, may be changed to another non-conforming use provided that the proposed use is equally appropriate to the zone as the existing nonconforming use, as determined by the Zoning Board of Appeals. Whenever a nonconforming use has been changed to a use permitted to a zone of greater restrictions, it shall not thereafter be changed to a nonconforming use.
- D. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the entire structure shall eliminate the nonconforming status.
- E. Any use which is a lawful accessory use shall become a nonconforming use and subject to provisions of the Section at such time as the principle use to which the accessory use was incidental terminated of the accessory use, because of a sale of the land or building containing the principle use or for other reason, is no longer incidental to a principle permitted use.

Section 5.04 NONCONFORMING LOTS OF RECORD.

The following regulations shall apply to nonconforming residential lots:

- A. Instance where Zoning Board of Appeals action is not required:
 - 1. Any residentially zoned lot that was of record at the time of adoption of this Ordinance that does not meet the requirements of this Ordinance or amendments thereto for overall lot area, lot width, road frontage, and/or lake frontage, shall be considered conforming for single family residential purposes provided the area, width, and frontages are not less than seventy-five percent (75%) of that required by the Ordinance.
 - 2. The lot area and lot width requirement specified in the Schedule of Regulations shall not be applicable to any lot of record in Zone 1 and 3 created by a plat recorded prior to March 25, 1956, provided that said lot contains at least ten thousand (10,000) square feet and has a road frontage of not less than sixty-five (65') feet. For the purpose of this provision only, lots whose method of ingress and egress is by way of an easement rather than a public or private street or lane, said easement shall be considered a public or private street or lane for determining road

frontage. The purpose of this provision is to permit utilization of a recorded lot that lacks adequate area and/or width provided reasonable living standards can be provided.

3. Proposals to add onto or modify an existing home on a nonconforming lot shall not require Zoning Board of Appeals action, provided that any proposed expansion complies with the minimum dimensional requirements of the Ordinance.
- B. Instance where Zoning Board of Appeals action is required:
1. A proposal to construct a new home on a nonconforming lot where the nonconforming lot cannot satisfy the criteria in sub-section A.2 above.
 2. Proposals to divide a lot where one or more of the resulting lots would be nonconforming with respect to lot area, lot width, road frontage, and/or Lake Frontage.
- C. Nonconforming Contiguous Lots under the Same Ownership. Where two or more adjacent lots are in single ownership and, where one or both of the individual lots do not meet the requirements in the Schedule of Regulations (Article XIII) for lot width or area, then the lots involved shall be considered to be a single zoning lot for purposes of this Ordinance. No portion of said zoning lot shall be built upon, sold or divided in any manner that diminishes compliance with lot width and area requirements in Article XIII of this Ordinance.

Section 5.05 NONCONFORMING STRUCTURES.

Where a lawful structure exists at the date of adoption of Ordinance No. 92, March 25, 1956, or this Ordinance or amendments thereto that could not be built under the terms of this Ordinance by reasons of restrictions on area, lot coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming structure may be enlarged or altered in a way that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- B. Should such structure be moved for any reason whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 5.06 REPAIRS AND MAINTENANCE.

On any nonconforming structure, or structure containing a nonconformity use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding fifty (50%) percent of the current State Equalized Valuation (SEV) of the nonconforming structure or the nonconforming portion of the structure, as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased. If a nonconforming structure or structure containing a nonconforming use becomes structurally unsafe or unlawful due to a lack of repairs and maintenance, and it is declared by the Building Official to be unsafe or unlawful of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the zone in which it is located.

Section 5.07 RECONSTRUCTION OF DAMAGED NONCONFORMING.

BUILDINGS AND STRUCTURE: Nothing in this Ordinance shall prevent the reconstruction, repair or restoration and the continued use of any nonconforming building or structure damaged by fire, collapse, explosion, Acts of God or Act of Public enemy, subsequent to the effective date of this Ordinance wherein the expense or such reconstruction does not exceed one hundred percent (100%) of the current State Equalized Valuation of the entire building or structure at the time such damage occurred; provided that such valuation shall be subject to the

approval of the Building Official, whose decision shall be subject to Zoning Board of Appeals and provided that such restoration and assumption shall take place within six (6) months of the time of such damage and that it be completed within one (1) year from the time of such damage, and provided further, that said use be identical with the nonconforming use permitted and in effect directly preceding said damage. Where pending insurance claims require an extension of time, the Building Official may grant a time extension provided that the property owner submits a certification from the insurance company attesting to the delay. Until such time as the debris from the fire damage is fully removed, the premises shall be adequately fenced or screened from access by the public who may be attracted to the premises.

Section 5.08 FORFEITURE OR RIGHT TO CONTINUE NONCONFORMING USE.

When nonconforming use of land is discontinued through vacancy, lack of operation or other similar condition for a period of thirty (30) days or more, or when a nonconforming use of any existing building is discontinued through vacancy, lack of operation or other similar condition for a period of six (6) months or more, thereafter no right shall exist to maintain on said property a nonconforming use of land or of building unless the Zoning Board of Appeals grants such privilege within thirty (30) days or six (6) months respectively after such discontinuance. No nonconforming use of land or of a building, if changed to a use permitted in the district in which it is located, shall be resumed or changed back to a nonconforming use.

Section 5.09 CHANGE OF USE.

The use of a nonconforming building or structure may be changed to another use permitted in the most restricted zone in which such nonconforming use is permitted. Where the use of a nonconforming building or structure is hereafter changed to use permitted in a more restricted zone, it shall not thereafter be changed to a use that is not permitted in a more restricted zone. The proposed use shall be subject to all the requirements applying to such proposed use in the most restricted zone in which the nonconforming use to be changed is permitted.

Section 5.10 CHANGE OF TENANCY OR OWNERSHIP.

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

Section 5.11 ACQUISITION OF NONCONFORMING STRUCTURES.

The Planning Commission may from time to time recommend to the City Council the acquisition of such private property as does not conform in use or structure to the regulations and restrictions of the various districts defined in this Ordinance and the removal of such use or structure. The Planning Commission shall submit its reasons and estimates of cost and expense of such acquisition and removal of the nonconforming structure and probable resale price of the property to be acquired after removal of the nonconforming structure as obtained from the appropriate City department, board or commission. The Planning Commission shall recommend that portion of the difference between the estimated cost of acquisition and removal of the nonconforming structure and the probable resale price that in their opinion should be assessed against a benefited district. Whenever the City Council has under advisement the acquisition by purchase, condemnation or otherwise as provided by law of any nonconforming building, structure or use, a preliminary public hearing thereon shall be held before the City Council. Not less than fifteen (15) days before the hearing, a notice of time, place and purpose of such public hearing shall be published in a paper circulating in the City and the City Clerk shall send by mail addressed to the respective owners of any such properties at the addresses given in the last assessment roll, a written notice of time, place and purpose of such hearing. If the cost and expense or any portion thereof is to be assessed to a special district, the City Assessor shall be directed to furnish the City Council with a tentative special assessment district and the plan of assessment, the names of the respective owners of the property in such district and

addresses of such owners in the last assessment roll. The City Clerk also shall send the notice to the respective owners in the tentative assessment district.

Whenever the City Council, after a public hearing, shall declare by the adoption of an Ordinance supported by at least five (5) affirmative votes that proceed the acquisition of any property on which is located a nonconforming building, structure or use in accordance with the laws of the State, the Charter, this Ordinance and other applicable ordinance of the City, the City Clerk shall send by registered mail a certified copy of such resolution to the respective owners of the properties and to the owners of the properties in any special assessment district, at address given in the last assessment roll.

Upon the passing of title to the private property to the City, the City Council shall cause the discontinuance or removal of the nonconforming use or the removal, demolition or remodeling of the nonconforming structure. The City Council shall thereafter order such property sold or otherwise disposed of, but only for a conforming use. The City Council shall confirm the cost and expense of such project and report any assessable cost to the City Assessor, who shall then prepare an assessment roll in the manner provided for in the Charter and other applicable ordinances for the City. Such as assessment roll may, in the discretion of the City Council, be in one (1) or more, but not to exceed five (5) annual installments.

Section 5.12 CERTIFICATES OF OCCUPANCY.

- A. At any time after the adoption of this Ordinance should the City become aware of a nonconforming use, the owner of said nonconforming use shall be notified by the City clerk of the provisions of this Section, and that this property constitutes a nonconforming use. Within thirty (30) days after receipt of said notice, the owner shall apply for and may be issued a Certificate of Occupancy by the Building Official for the nonconforming use. The application for such Certificate shall designate the location, nature and extent of the nonconforming use and such other details as may be necessary for the issuance of the Certificate of Occupancy. If the owner of a nonconforming use fails to apply for a Certificate of Occupancy within thirty (30) days after receipt of the foregoing notice, the use ceases to be nonconforming and is hereby declared to be in violation of this Ordinance. The City Clerk and the City Attorney shall take appropriate action to enjoin such violation.
- B. If the Building Official shall find, upon reviewing the application of Certificate of Occupancy, that the existing use is illegal or in violation of any other ordinance or law, or, if he finds that the building for which the Certificate is requested has been constructed or altered for the existing use or any other use without full compliance with the Michigan Construction Code or this Ordinance in effect at the time of construction or alteration, he shall not issue the Certificate of Occupancy, but shall declare such use to be in violation of this Ordinance.
- C. Within six (6) months after the adoption of this Ordinance or any amendments thereto, the Building Official shall prepare a record of all known nonconforming uses and occupations of lands, buildings and structures, including tents and mobile homes, existing at the time of this Ordinance or amendments thereto. Such record shall contain the names and addresses of the owners of record of such nonconforming use and of any occupant, other than the owner, the legal description of the land, and the nature and extent of use. Such list shall be available in the office of the City Clerk.
- D. Notwithstanding the above, in the event that the Building Official or the City Clerk do not notify the owner(s) of a nonconforming use and make a record of same, such omission does not cause the use to become conforming, nor grant to said owner(s) any greater status for said use or property than would be the case had such a notification and record occurred.

Section 5.13 PLAN ALREADY FILED.

In any case where plans and specifications for a building or structure have been filed, which would conform with the zoning regulations effective at the date of such filing, but not with the regulations of this Ordinance, and where

a building permit for such building or structure has been issued and construction work started at the effective date of this Ordinance, such work may progress, provided it is completed within one (1) year of said date.

ARTICLE VI OFF-STREET PARKING AND LOADING REQUIREMENTS

Section 6.01 OFF-STREET PARKING, GENERAL.

In all zones, off street parking requirements for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered or extended shall be provided as prescribed in this Article. Such space shall be under the direct control, either by ownership or long-term lease, of the owner of the buildings or use served, shall be maintained and shall not be encroached upon so long as the main building or structure remains, unless an equivalent number of such are provided elsewhere in conformance with this Article. The determination of the required spaces and the regulation thereof shall be governed by the following regulation:

- A. **Area Requirement.** For the purpose of this Article, three hundred (300) square feet of lot area shall be deemed a parking space for one (1) vehicle, including access aisle, except that one hundred and eighty (180) square feet of lot area that has direct means of ingress and egress from an alley or street may also be deemed a parking space.
- B. **Fractional Units.** In computing units or measurements to determine the number of required spaces, any fraction up to and including one-half shall be disregarded and fraction over one-half shall require one (1) space.
- C. **Loading Spaces.** Loading spaces shall not be constructed as supplying off-street parking space.
- D. **Location of Spaces.** The off-street parking facilities for residential dwellings shall be located on the same lot or plot of ground as the building they are intended to serve and shall consist of a parking strip, parking apron or garage. Parking strip or driveway width may not exceed the width of the garage and no more than one (1) of the required parking spaces may be provided in the required front yard on the parking strip or driveway. Off-street parking facilities required for nonresidential uses shall be located on the lot or on property within four hundred (400') feet of any entrance to the building such parking is intended to serve, measured between such entrance and the nearest point of such required parking area.
- E. **Surfacing.** Off-street parking and loading areas, including access drives, for all uses except single-family dwelling shall be surfaced with either:
 - 1. Six (6") inches of cement concrete or,
 - 2. Three (3") inches of asphaltic concrete laid over a base of crushed stone with a compacted thickness of six (6") inches and shall be graded and drained to dispose of all surface water on the property. These are minimum requirements; however, should usage or soil conditions dictate, more stringent requirements may be needed.
- F. **Similar Uses.** In the case of a use not specifically mentioned, the requirements for off-street parking facilities for a use that is so mentioned and is similar shall apply.
- G. **Existing Spaces.** Off-street parking existing on the effective date of this Ordinance, which serves an existing building or use, shall not be reduced in size to less than required under the terms of this Article.
- H. **Seating Allocation.** In stadiums, sports arenas, churches and other places of assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each twenty-four (24") inches of

such seating facilities shall be counted as one (1) seat for the purpose of determining requirements for off-street parking facilities under this Article.

- I. **Mixed Uses in Same Building.** In the case of mixed uses in the same building or on the same property, the total requirements for off-street parking and loading shall be the sum of the requirements for the particular individual uses computed separately in accordance with Section 6.02, Table of Off-Street Parking Requirements.
- J. **Collective Use of Spaces.** Nothing in this Article shall be constructed to prevent collective provisions of off-street parking facilities for two (2) or more buildings or uses; provided, that collectively, such facilities shall not be less than the sum of the requirements for all the various individual uses computed separately in accordance with Section 6.02, Table of Off-Street Parking Requirements.
- K. **Joint Use of Spaces.** Not more than fifty percent (50%) of the street parking requirements for a specific use may be satisfied by the applicant for a building permit or certificate of occupancy by establishing that the owner of the property on which the proposed building or use is to be established has in connection therewith, the legal right of record to the joint use of private off-street parking facilities, meeting the requirements of this Ordinance and that are provided by other uses not normally open, used or operating during the principle operating hours of the proposed use. The legal right herein referred to as other than by joint ownership of the land shall be for the useful life of the building in which the use is to be established as determined by the Building Official. All questions as to the existence of such legal right shall be determined by the City Attorney, and the applicant shall furnish such abstracts of title, title searches and legal instruments for examination as the City Attorney may find necessary to make such determination.
- L. **Irrevocable Use.** All required off-street parking spaces shall be stated in an application of a building permit and shall be reserved irrevocably for such use.
- M. **General Conditions.** Except when land is used as storage in connection with the business of a repair of service garage, the time limits for parking in off-street parking areas shall prevail as specified under Section 6.04.B.6. it being the purpose and intention of the foregoing that the requirements of maintaining vehicle storage or parking space is to provide for the public safety in keeping parked cars off the streets, but such requirement is not designed to or intended to provide, and it shall be unlawful to permit, or for creating a junk yard or a nuisance in such area.
- N. **Restriction or Parking on Private Property.** It shall be unlawful for any person, firm or corporation to park any motor vehicle on any private property, or use said private property as parking space, without the express or implied consent, authorization, or ratification of the owner, holder, occupant, leasee, agent or trustee of such property.
- O. **Duration.** Except when land is used as permitted storage space in direct connection with a legitimate business, a twenty-four (24) hour time limit for parking in non-residential off-street parking areas shall prevail, provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked vehicles in any parking area in any district for any period of time.
- P. **Commercial Vehicles.** In Zones 5 and 6, commercial vehicles, including delivery vehicles, shall be parked to the rear of the principle building or in another location where such vehicles are completely screened from view from any road.
- Q. **Layout and Construction of Off-Street Parking.** Off-street parking facilities containing four (4) or more spaces shall be designed, constructed, and maintained in accordance with the following requirements:
 - 1. **Review and Approval Requirements.** Plans for construction of any parking lot in conjunction with a new development shall be submitted for review and approval according to the normal site plan review procedures. Upon completion of construction, the parking lot must be inspected and approved by the Building Official before a Certificate of Occupancy can be issued for the parking

lot for the building or use in which the parking is intended to serve. Plans shall be prepared at a scale of not less than fifty (50') feet equal to one (1") inch. Plans shall indicate existing and proposed grades, drainage, water mains and sewers, surfacing and base materials, and the proposed parking layout. The plans shall conform to the construction and design standards established by the City Engineer. In the event that required parking cannot be constructed because of cold or inclement weather, a temporary Certificate of Occupancy may be issued by the Building Official, provided the applicant first deposits a performance guarantee in accordance with Article 15.09

2. **Ingress and Egress.** All spaces shall be provided with adequate access by means of clearly defined maneuvering lanes and driveways. All driveway approaches shall be curbed. Spaces backing directly onto a street shall be located at least twenty-five (25') feet from the nearest point of any property zoned for single-family residential use.
3. **Surfacing and Drainage.** Grading, surfacing, and drainage plans shall comply with the City Engineering Standards and shall be subject to review and approval by the City Engineer. All off-street parking area, access lanes, driveways and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material. Off-street parking areas, access lanes, and driveways shall be graded and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan.
4. **Curbs, Wheel Chocks.** A curb of at least six (6") inches in height shall be installed to prevent motor vehicles from being driven or parked so that any part of the vehicle extends within two (2') feet of abutting landscaped areas, sidewalks, streets, buildings, or adjoining property. In lieu of a curb, wheel chocks may be provided to prevent vehicles from extending over grass areas, setback lines, or lot lines.
5. **Lighting.** All parking areas, driveways, and walkways shall be illuminated to ensure the security of the property and the safety of persons using. Lighting shall be placed and shielded as so to direct the light onto the site and away from adjoining properties. Lighting shall be shielded so that it does not cause glare for motorists.
6. **Screening and Landscaping.** All off-street parking areas shall be screened and landscaped in accordance with the provisions set forth in Article IV-A.
7. **Maintenance.** All parking areas shall be maintained free of dust, trash, and debris. Surfacing, curbing, light fixtures, signage, and related appearances shall be maintained in good condition.

Section 6.02 TABLE OF OFF-STREET PARKING REQUIREMENTS.

The amount of required off-street space for new uses or building, addition thereto, and additions to existing buildings as specified above shall be determined in accordance with the following table, and the space required shall be reserved for such use and/or will comply with the provisions of Section 6.05, Off-Street Parking Layout and Design, as may be applicable:

Use	Required Number of Parking Spaces
A. Residential	
1. Dwellings	Three (3) for each dwelling unit
2. Senior Citizen housing	One (1) for each dwelling unit
B. Institutional	
1. Churches, temples or synagogues.	One (1) for every three (3) seats based on maximum capacity in the main place of assembly therein.

	2. Elementary and Middle school.	One (1) for each teacher, employee and administrator, in addition to the requirements of the auditorium or assembly hall.
	3. Homes for the aged and convalescent homes.	One (1) for every three (3) beds.
	4. Hospital.	One (1) for every three beds, plus one (1) space for every three (3) staff at the hospital, or 1.2 spaces per bed, whichever is greater.
	5. Libraries, museums, and non-commercial art galleries.	One (1) for every two hundred (200) square feet of gross floor area, less the area devoted to book and art storage, utility rooms and lavatories.
	6. Yacht clubs, marinas, public or private.	One (1) for each boat slip.
	7. Places of Outdoor Assembly.	One (1) for every three (3) seats, or six (6) feet benches.
	8. Preschools, nursery schools, day nurseries, child care centers.	One (1) for every three hundred and fifty (350) square feet of usable floor space, plus one (1) space for each faculty member, employee or owner, plus three (3) passenger vehicle spaces for loading and unloading children.
	9. Private clubs or lodge halls.	One (1) for every three (3) persons allowed within the maximum occupancy load as established by the City, County or State fire, building or health codes.
	10. High School and College.	One (1) for every teacher, employee, administrator and one (1) for each ten (10) students, in addition to the requirements of the auditoriums or assembly hall.
	11. Tennis club, swimming pool clubs or other similar uses.	Three (3) for each court, plus one (1) for each employee. Should spectator area be provided one (1) space for every three seats or six (6) feet of benches.
	12. Theaters and auditoriums (indoor), other than school auditoriums.	One (1) for every three (3) seats, based on maximum seating capacity in the main place of assembly therein, plus one (1) for every two (2) employees.
	13. School auditoriums.	One (1) space for every six (6) seats based on the maximum seating capacity in the main place of assembly therein.
C. Business and Commercial		
	1. Amusement establishments.	One (1) per every fifty (50) square feet of gross floor area.
	2. Automobile car wash establishment.	One (1) for each employee and manager plus a minimum of twenty (20) spaces waiting to be washed for each conveyor system. For coin-operated wash establishments, a minimum of five (5) spaces for cars waiting to be washed shall be provided.
	3. Automobile service stations.	One (1) for each employee plus one (1) for the owner and/or manager, plus three (3) for each grease rack or stall for servicing vehicles or wash rack. For self-serve stations, a minimum of four (4) waiting spaces per island in addition to vehicles actually being serviced.
	4. Beauty parlor or barbershop.	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one-and-one-half (1 ½) spaces for each additional chair.

5. Beauty schools.	One (1) for every sixty (60) square feet of gross floor area less the area devoted to storage, utility rooms or lavatories.
6. Bowling alleys.	Five (5) for each bowling lane, plus required parking for any car, restaurant or assembly space attached to a bowling alley.
7. Carry-out restaurants.	One (1) for every one hundred and fifty (150) square feet of gross area, with a minimum of eight (8) spaces.
8. Drive-in restaurants (see also section 6.03).	One (1) for every two (2) seats in an established seating plan area, plus one (1) for every fifteen (15) square feet of usable customer area other than an established seating plan area, plus one (1) for every two (2) employees based on maximum employment shift, and plus one (1) for each outside customer automobile service stall area.
9. Establishments other than drive-in establishments for sale and consumption on the premises of beverages, food or refreshments.	One (1) for every one hundred (100) square feet of gross floor area intended for use by customers and patrons of the establishment plus one (1) for every two (2) employees based upon the anticipated maximum employment shift.
10. Fast food restaurants.	One (1) for every one hundred (100) square feet of gross floor area, with a minimum of twenty-five (25) spaces.
11. Furniture and appliance establishment; household equipment; repair shops; showroom of a plumber, decorator, electrician, or similar trade, clothing and shoe repair shops, laundries, hardware stores, machinery sales establishments, and other similar uses.	One (1) for establishment plus one (1) space for every eight hundred (800) square feet of gross floor area less than area devoted to storage, processing or manufacturing (for which requirements see item E, 2 below) and less the area devoted to utility rooms and lavatories.
12. Laundromats and coin-operated dry cleaners.	One (1) for every two (2) washing or dry cleaning machines.
13. Miniature golf course.	One (1) for each hole plus one (1) for each employee.
14. Mortuary establishments.	One (1) for every seventy-five (75) square feet of floor space in the slumber rooms, parlors or individual funeral service rooms.
15. Motor vehicle sale and service establishments, trailer sales and rental, boat showrooms and public garage.	One (1) for every four hundred (400) square feet of gross floor area of sales room, plus one (1) for the owner and/or manager plus three (3) for each grease rack or stall for servicing vehicles.
16. Retail stores, except as otherwise specified herein.	One (1) for every two hundred and fifty (250) square feet of gross floor area.
17. Studios; dance, health, music and other similar places of instruction and recreation; pool or billiard parlors, roller or ice-skating rinks; exhibition halls and assembly halls without fixed seats.	One (1) for every forty (40) square feet of gross floor area, less the area devoted to storage, utility rooms and lavatories.
18. Mini storage.	Five (5) plus one (1) for every employee in the largest working shift or one (1) for every seventeen hundred (1700) square feet of gross usable floor space, whichever is greater.

D. Offices		
	1. Business offices; professional offices of lawyers, architects, engineers, community planners, accountants or other professions.	One (1) for every two hundred (200) square feet of gross area.
	2. Drive-in financial institutions (banks, saving and loan offices, credit unions). See section 6.03.	Waiting space equivalent to six (6) spaces for each drive-in window in addition to requirements in item D, 3 below.
	3. Financial institutions (banks, saving and loan offices, credit unions).	One (1) for every two hundred (200) square feet of gross floor area.
	4. Professional offices of doctors, dentists or similar professions; medical centers or clinic.	One (1) for every one hundred (100) square feet of gross floor area.

Section 6.03 OFF-STREET WAITING AREA FOR DRIVE-THROUGH FACILITIES.

- A. An off-street waiting space is defined as an area ten (10) feet wide by twenty-four (24) feet long and shall not include the use of any public space, street, land, alley, or sidewalk, and shall be located entirely within any Zone 5 or Zone 6.
- B. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement where the automobile engine is not turned off, there shall be provided six (6) off-street waiting spaces for each service window.

Section 6.04 VEHICULAR PARKING USE PERMITTED AS SPECIAL LAND USE.

- A. Land in any zone district may, in addition to the permitted uses set forth in this Ordinance, be used for parking motor vehicles, provided that such use has first been approved as a special land use by the City Council in accordance with the procedures in Section 15.08 and site plan submittal requirements of Section 4.33.
- B. Limitations on use. Land permitted to be used for vehicular parking shall be subject to the following:
 - 1. Parking area shall be used only for parking of passenger vehicles operated by the management, employees, customers and guests of an enterprise or residential facility located in the City of Orchard Lake Village.
 - 2. Parking shall be without charge.
 - 3. No business involving the repair or service to vehicle, trailers, mobile homes, travel trailers, boats, or boat trailers, or sale, display or storage of same shall be permitted from or upon property to be used for vehicular parking.
 - 4. No building shall be erected upon any property to be used for vehicular parking.
 - 5. No advertising signs shall be erected on the premises, except that not more than one (1) directional sign at each point of ingress or egress may be erected which may also bear the name of the operator of the lot and enterprise it is intended to serve. Such sign shall not exceed four (4) square feet in area, shall not extend more than ten (10) feet in height above the nearest curb, and shall be entirely upon the parking area.
 - 6. No vehicle shall be left parked in a parking area for more than twelve (12) hours in any twenty-four (24) hour period.

- C. Ingress and Egress. Adequate ingress and egress to premises used for parking will be provided for vehicles.
- D. Surface of the Parking Area. The parking area shall be provided with a paved surface of either concrete or asphalt and shall be graded and drained so as to dispose of surface water which might accumulate within or upon such areas.
- E. Front Yard. Where the land to be used for vehicular parking is contiguous to a residentially zoned district which has a common frontage on the same block and wherein residential structures have been erected, there shall be provided a yard space equal to the average setback of homes in the block on the same side of the street, provided that such setback shall be not less than twenty (20) feet. Where the land to be used for vehicular parking lies across a street and opposite a residentially zoned district wherein the lots front upon such street, there shall be provided a yard space not less than twenty (20) feet in depth and a protective wall as set forth in Subsection 6.
- F. Side Yard. Where the land to be used for vehicular parking is contiguous to side lot lines of premises in a residentially zoned district, there shall be provided a side yard not less than ten (10) feet in width between the side lot lines and the parking area.
- G. Protective Wall. Where the land to be used for vehicular parking adjoins or is located across the street from residentially zoned or used property, there shall be provided around the parking area between the required yard spaces and the actual parking area and along the rear line of the parking area a masonry wall with an exterior face of brick, pre-cast aggregated panels, sculptured block, stone, architecturally treated concrete or similar materials. Such walls shall have a minimum height of thirty-two (32) inches and a maximum height of sixty (60) inches and shall be so constructed that the lower thirty-two inch (32) height is solid. Openings above thirty-two (32) inches may be permitted provided the openings are not larger than sixty-four (64) square inches and do not exceed thirty-three percent (33%) of the surface wall.
- H. Bumper Wall. Bumper guards consisting of continuous concrete or asphaltic curbing at least six inches (6") high shall be placed so that vehicles cannot be driven into any required wall and cannot be parked so as to permit any part thereof to be within two (2) feet of a public sidewalk.
- I. Landscaping. Wherever a wall is required, all land between said wall and boundaries of the land being used for vehicular parking shall be kept free from refuse or debris and shall be landscaped. The landscaped area adjacent to the wall shall be planted with deciduous shrubs, evergreen and/or ornamental trees pursuant to standards in section 4.34 Greenbelt and Screening Walls. Fruit trees shall not be used. Where the arrangement of plant material will result in exposure of the walls, said walls shall be covered with ivy, spire border or similar material. The remainder of the landscaped area that is not planted with the aforementioned stock shall be in a well-kept lawn, stone or wood chips. All landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance.
- J. Lighting. Where lighting facilities are provided, they shall be arranged as to reflect the light away from all residentially zoned properties which are adjacent to the land being used for vehicular parking. The source of illumination shall not be more than fifteen (15) feet above the parking lot surface.

Section 6.05 OFF-STREET PARKING LAYOUT AND DESIGN.

Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of One Tier of Space Plus Maneuvering Lane	Total Width of Two Tiers of Spaces Plus Maneuvering Lane
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Parallel Parking	12 ft.	8 ft.	23 ft.	20 ft.	28 ft.
45	12 ft.	9 ft.	18.5 ft.	33 ft.	47 ft.
60	16 ft.	9 ft.	18.5 ft.	35 ft.	54 ft.
90	26 ft.	9 ft.	18.5 ft.	44.5 ft.	63 ft.

Section 6.06 OFF-STREET LOADING REQUIREMENTS.

- A. On the same premises with every building, structure or part thereof erected and occupied in whole or in part for storage, goods display, hospital, laundry, dry cleaning, or other uses similarly involving the receipt or distribution of vehicle, materials, or merchandise, there shall be provided and maintained on the lot, or with such a building or structure, adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets, lanes and alleys.
- B. Such loading and unloading space, unless otherwise adequately provided for, shall be an area twelve (12') feet by fifty (50') feet, with a fifteen (15') foot height clearance, according to the following schedule below.
- C. No loading space shall be located closer than fifty (50') feet from any residential zone unless located within a completely enclosed building or enclosed on all sides facing a residential zone by a solid masonry wall ornamental fence of a type approved by the Planning Commission not less than six (6') feet in height. Lights used to illuminate loading areas shall be arranged so as to reflect away from adjacent areas.

Gross Floor Area (In Square Feet)	Loading and Unloading Spaces Required in Terms of Square Feet of Gross Floor Area
0—5,000	None
5,001—20,000	1
Over 20,000	1+ 1/20,000 in excess of 20,000

ARTICLE VII SINGLE FAMILY RESIDENTIAL ZONE 1

Section 7.01 STATEMENT OF PURPOSE.

The intent of the Single Family Residential Zones is to provide areas of the City for the construction and continued use of single family dwellings with stable neighborhoods. In support of this objective, the regulations in this Article are intended to permit certain residentially-related uses, but prohibit uses that would interfere with residential use or quality of life. More specifically, the intent of this Article is:

- A. To encourage the construction of, and the continued use of the land for single family dwelling.
- B. To prohibit business, commercial, institutional or other type of non-residential use of the land, and to prohibit any other use which substantially interferes with development or continuation of single dwelling in the Zone.
- C. To encourage the discontinuance of existing land uses that would not be permitted as new uses under the provisions of this Article.
- D. To discourage land use that would generate traffic on local streets or lanes other than normal traffic generated by the residences on those streets or lanes.

Section 7.02A PRINCIPAL PERMITTED USES.

In Zone 1, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:

- A. Single family detached private dwelling, including mobile homes when located outside of mobile home parks, except that mobile homes are subject to the requirements of Article IV, Section 4.32.
- B. An Adult Foster Care Family Home, Family Day Care Home, Foster Family Home, or Foster Family Group Home, as defined in Article II, Section 2.02 and subject to the requirements in Article XIV, to the extent that such requirements are not in conflict with state or federal laws. This subsection shall not apply to adult foster care facilities licensed by a State agency for care and treatment of persons released from or assigned to adult correctional institutions.
- C. Class 1 Home Occupations as defined in Article II, Section 2.02, subject to the requirements in Article XIV. Class 1 home occupations shall not require special use approval or a business license.
- D. Off-street parking in accordance with the requirements of Article VI.

Section 7.02B ACCESSORY USES AND STRUCTURES.

Accessory buildings, structures, and uses shall be permitted, subject to the requirements in Section 4.15. In addition to the permitted accessory buildings, structures, and uses listed in Section 4.15, the following accessory structures and buildings are permitted in this zoning district.

- A. Swimming pools, for the owners or occupants of the principle dwelling and their gratuitous guests.
- B. One (1) private detached garage for each residential lot or unit. Any such garage shall have a maximum capacity of four (4) vehicles. One (1) vehicle may be a commercial vehicle subject to the following:
 - 1. The commercial vehicle shall not be larger than a regularly manufactured pickup or panel truck of three-quarter ton capacity.
 - 2. The commercial vehicle shall be parked in the garage.
 - 3. The commercial vehicle shall be owned and operated by an occupant of the principal dwelling.
 - 4. Vehicle storage shall comply with the requirements in Section 4.16.
- C. One (1) private detached garage shall be permitted as accessory to a principal residential use. Any such garage shall have a maximum capacity of four (4) vehicles. Vehicle parking in residential districts is subject to the requirements in Section 4.16.

Section 7.03 PERMITTED USES AFTER SPECIAL USE APPROVAL.

The following uses shall be permitted subject to applicable site design standards in Article XIV and subject further to the approval of the City Council in accordance with processing procedures in Section 15.08:

- A. Group Day Care Homes, as defined in Article II and subject to the regulations of PA 116 of 1973, as amended (MCL 722.111 to 722.128).
- B. Home occupations as defined under Section 2.02 and regulated under Article XIV. Class II home occupations shall require use approval and business license.

Section 7.04 WIRELESS COMMUNICATION FACILITIES.

Wireless communications facilities may be permitted as principal permitted uses or as special land uses, depending on compliance with the criteria specified in Section 4.40 (B), and subject to all applicable standards and conditions in Section 4.40.

Section 7.05 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in Article XIII.

Section 7.06 SITE PLAN REVIEW.

For all uses in Zone 1, other than single family detached dwelling and accessory buildings and uses thereto, a site plan shall be submitted to the Planning Commission for review and approval in accordance with Section 4.33.

Section 7.07 WOODLAND, TREE AND VEGETATION PRESERVATION.

All tree removal, replacement, and pruning, re-landscaping and land clearing and other activities that affect trees and woodlands are subject to the requirements of the Woodland, Tree and Vegetation Preservation Ordinance.

ARTICLE VIII SINGLE FAMILY RESIDENTIAL/COMMUNITY FACILITY ZONE 2

Section 8.01 STATEMENT OF PURPOSE.

The intent of Single Family Residential Zones is to provide areas of the City for the construction and continued use of single family dwellings within stable neighborhoods. In support of this objective, the regulations in this Article are intended to permit certain residentially-related uses, but prohibit uses that would interfere with residential use or quality of life. More specifically, the intent of this Article is:

- A. To encourage the construction of, and the continued use of the land for single family dwellings.
- B. To prohibit business or commercial use of the land, and to prohibit any other use, that would substantially interfere with development, or continuation of single-family dwellings, in the Zone.
- C. To encourage the discontinuance of existing land uses that would not be permitted as new uses under the provisions of this Article.
- D. To discourage any land use that would generate traffic on local streets or lanes other than normal traffic generated by the residences on those streets or lanes.

Section 8.02A PRINCIPAL PERMITTED USES.

In Zone 2, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following permitted uses:

- A. Single family detached private dwellings, including mobile homes when located outside of mobile home parks, except that mobile homes are subject to the requirements in Article IV, Section 4.32.
- B. An Adult Foster Care Home, Family Day Care Home, Foster Family Home, or Foster Group Home as defined in Article II, Section 2.02 and subject to the requirements in Article XIV, to the extent that such requirements are not in conflict with state or federal laws. This subsection shall not apply to adult

foster care facilities licensed by a State agency for care and treatment of persons released from or assigned to adult correctional institution.

- C. Class 1 home occupation as defined in Article II, Section 2.02, subject to the requirements in Article XIV. Class 1 home occupations shall not require special use approval or a business license.
- D. Off-street parking in accordance with the requirements of Article VI.

Section 8.02B ACCESSORY USES AND STRUCTURES.

The following uses and structures shall be permitted as accessory to a principal building or use, subject to the requirements in Section 4.15:

- A. Swimming pools, for the owners or occupants of the principle dwelling and their gratuitous guests.
- B. One (1) private detached garage for each residential lot or unit. Any such garage shall have a maximum capacity of four (4) vehicles. One (1) vehicle may be commercial vehicle subject to the following conditions:
 - 1. The commercial vehicle shall not be larger than a regularly manufactured pickup or panel truck of three-quarter ($\frac{3}{4}$) ton capacity.
 - 2. The commercial vehicle shall be parked in the garage.
 - 3. The commercial vehicle shall be owned and operated by an occupant of the principle dwelling.
 - 4. Vehicle storage shall comply with the requirements in Section 4.16.
- C. One (1) private detached garage shall be permitted as accessory to a principle residential use. Any such garage shall have a maximum capacity of four (4) vehicles. Vehicle parking residential districts is subject to the requirements in Section 4.16.

Section 8.03 PERMITTED USES AFTER SPECIAL USE APPROVAL.

The following uses shall be permitted subject to applicable site design standards in Article XIV and subject further to the approval of the City Council in accordance with processing procedures in Section 15.08:

- A. Group Day Care Homes, as defined in Article II subject to the regulations of PA 116 of 1973, as amended (MCL 722.111 to 722.128).
- B. Institutional uses as defined in Article II, Section 2.02, including but not necessarily limited to religious land uses and facilities; private parks and country clubs; parochial, and private elementary, middle and high schools, and colleges; governmental offices, and similar uses, subject to the standards in Article XIV.
- C. Public utility buildings, telephone exchange buildings, electric utility sub-stations, gas regulator stations and similar uses, but not including storage yards. Special use approval shall be required even if such uses are considered Essential Services, as defined in Article II, Section 2.02.
- D. Home occupations as defined under Article II, Section 2.02 and regulated under Article XIV. Class II home occupations shall require special use approval and a business license.

Section 8.04 WIRELESS COMMUNICATION FACILITIES.

Wireless communications facilities may be permitted as principle permitted uses or as special land uses, depending on compliance with the criteria specified in Section 4.40 (B), and subject to all applicable standards and conditions in Section 4.40.

Section 8.05 SITE PLAN REVIEW.

For all uses in Zone 2, other than single-family detached dwellings and accessory buildings and uses thereto, a site plan shall be submitted to the Planning Commission for review and approval in accordance with Section 4.33.

Section 8.06 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.

Area, height, bulk and replacement requirements, unless otherwise specified, are as provided in Article 4.33.

Section 8.07 WOODLAND, TREE, AND VEGETATION PRESERVATION.

All tree removal, replacement and pruning, re-landscaping and land cleaning and other activities that affect trees and woodlands, are subject to the requirements of the Woodland, Tree and Vegetation Preservation Ordinance.

ARTICLE IX SINGLE FAMILY RESIDENTIAL/COMMUNITY FACILITY ZONE 3

Section 9.01 STATEMENT OF PURPOSE.

The intent of the Single Family Residential Zone is to provide areas of the City for the construction and continued use of a single family dwellings within stable neighborhoods. In support of this objective, the regulations in this Article are intended to permit certain residentially related uses, but prohibit uses that would interfere with residential use or quality of life. More specifically, the intent of this Article is:

- A. To encourage the construction of, and the continued use of the land for single family dwellings.
- B. To prohibit business or commercial use of the land, and to prohibit any other use, that would substantially interfere with development or continuation of single-family dwellings in the Zone.
- C. To encourage the discontinuance of existing land uses that would not be permitted as new uses under the provisions of this Article.
- D. To discourage any land use which would generate traffic on local streets or lanes other than normal traffic generated by the residence on those streets or lanes.

Section 9.02A PRINCIPAL PERMITTED USES.

In Zone 3, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following permitted uses:

- A. Single family detached private dwelling, including mobile homes when located outside of mobile home parks, except that mobile homes are subject to the requirements of Article IV, Section 4.32.
- B. An Adult Foster Care Family Home, Family Day Care Home, Foster Family Home, or Foster Group Home, as defined in Article II, Section 2.02, and subject to the requirements in Article XIV, to the extent that such requirements are not in conflict with state or federal laws. This subsection shall not apply to adult foster care facilities licensed by a state agency for care and treatment or persons released from or assigned to adult correction institutions.
- C. Class 1 home occupation as defined in Article II, Section 2.02, subject to the requirements in Article XIV. Class 1 home occupants shall not require special requirements in Article XIV. Class 1 home occupations shall not require special use approval or a business license.

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- D. Off-street parking in accordance with the requirements of Article VI.

Section 9.02B ACCESSORY USES AND STRUCTURES.

The following uses and structures shall be permitted as accessory to a principal building or use, subject to the requirements in Section 4.15:

- A. Swimming pools, for the owners or occupants of the principal dwelling and their gratuitous guests.
- B. One (1) private detached garage for each residential lot or unit. Any such garage shall have a maximum capacity of four (4) vehicles. One vehicle may be a commercial vehicle subject to the following conditions:
 - 1. The commercial vehicle shall not be larger than a regularly manufactured pickup or panel truck of the three-quarter (¾) ton capacity.
 - 2. The commercial vehicle shall be parked in the garage.
 - 3. The commercial vehicle shall be owned and operated by an occupant of the principal dwelling.
 - 4. Vehicle storage shall comply with the requirements in Section 4.16.
- C. One (1) private detached garage shall be permitted as accessory to a principal residential use. Any such garage shall have a maximum capacity of four (4) vehicles. Vehicle parking in residential districts is subject to the requirements in Section 4.16

Section 9.03 PERMITTED USES AFTER SPECIAL USE APPROVAL.

The following uses shall be permitted subject to applicable site design standards in Article XIV and subject further to the approval of the City Council in accordance with processing procedures in Section 15.08:

- A. Group Day Care Homes, as defined in Article II and subject to the regulation of PA 116 of 1973, as amended (MCL 722.111 to 722.128).
- B. Institutional uses as defined in Article II, Section 2.02, including but not necessarily limited to religious land uses and facilities; private parks and country clubs; parochial, and private elementary, middle and high schools, and colleges; governmental offices, and similar uses, subject to the standards in Article XIV.
- C. Public utility buildings, telephone exchange buildings, electric utility sub-stations, gas regulator stations, and similar uses, but not including storage yards. Special use approval shall be required even if such users are considered Essential Services, as defined in Article II, Section 2.02.
- D. Home occupations as defined under Article II, Section 2.02 and regulated under Article XIV. Class II home occupations shall require special use approval and a business license.

Section 9.04 WIRELESS COMMUNICATION FACILITIES.

Wireless communication facilities may be permitted as principal permitted uses or as special land uses, depending on compliance with the criteria specified in Section 4.40 (B), and subject to all applicable standards and conditions in Section 4.40.

Section 9.05 SITE PLAN REVIEW.

For all uses in Zone 3, other than single family detached dwelling and accessory buildings and uses thereto, a site plan shall be submitted to the Planning Commission for review and approval in accordance with Section 4.33.

Section 9.06 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in Article XIII.

Section 9.07 WOODLAND, TREE AND VEGETATION PRESERVATION.

All tree removal, replacement, and pruning, re-landscaping and land clearing and other activities that affect trees and woodlands are subject to the requirements of the Woodland, Tree and Vegetation Preservation Ordinance.

ARTICLE XI PROFESSIONAL OFFICE ZONE 5

Section 11.01 STATEMENT OF PURPOSE.

The Professional Office Zone 5 is intended to permit uses which will provide opportunities for local employment close to residential areas, thus reducing travel to and from work, and which will provide clean, modern office buildings in a landscaped setting, which will provide, adjacent to residential areas, appropriate districts for use which do not generate large volumes of traffic, traffic congestion and parking problems, and which will promote the most desirable use of land in accordance with the City's Master Plan.

Section 11.02 PERMITTED USES.

In Zone 5 the following uses shall be permitted:

- A. Business, professional and governmental offices, including executive, administrative, professional, accounting, real estate, clerical, stenographic and drafting. The above uses shall not be constructed to eliminate offices of recognized manufactures' agents, provided that no display will be in an exterior show window, and the total area devoted to display, including the objects, shall not exceed fifteen percent (15%) of the usable floor area of the establishment using the display of an actual product for sale as a sales procedure; provided that there shall be no outdoor storage of goods or material, irrespective of whether or not they are for sale, and provided further, that there shall be no warehousing or indoor storage of goods or material, irrespective of whether or not they are for sale beyond that normally incidental to the above permitted office type uses.
- B. Medical or dental centers, clinics, not including veterinarian hospital.
- C. Professional office of a medical doctor, osteopath, chiropractor, dentist, optometrist, architect, layer, professional engineer, land surveyor, landscape architect or community planner.
- D. Any use similar to the above provided that no use in this classification shall involve the receipt, storage, sale or display of personal property items.
- E. Off-street parking in accordance with the requirements in Article VI.
- F. Public, Parochial, and private elementary, middle and high schools.
- G. Fire Station.

Section 11.03 PERMITTED USES AFTER SPECIAL USE APPROVAL.

The following uses may be permitted subject to applicable site design standards in Article XIV and subject further to the approval of the City Council in accordance with processing procedures in Section 15.08:

-
- A. Financial institutions, including banks, savings and loan offices and credit unions.
 - B. Public utility buildings, telephone exchange buildings, electric utility substations, gas regulator stations and similar uses, but not including storage yards. Special Use Approval shall be required even if such uses are considered Essential Services, as defined in Section 2.02.

Section 11.04 WIRELESS COMMUNICATION FACILITIES.

Wireless Communication Facilities may be permitted as principal permitted uses or as special land uses, depending on compliance with criteria specified in Section 4.40 (B), and subject to all applicable standards and conditions in Section 4.40.

Section 11.05 SITE PLAN REVIEW.

For all uses in Zone 5, a site plan shall be submitted to the Planning Commission for review and approval in accordance with Section 4.33.

Section 11.06 REQUIRED CONDITIONS.

Awning of any type, material, style, or color shall be prohibited.

Section 11.07 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in Article XIII.

Section 11.08 WOODLAND, TREE AND VEGETATION PRESERVATION.

All tree removal, replacement, and pruning, re-landscaping and land clearing and other activities that affect trees and woodlands, are subject to the requirements of the Woodland, Tree and Vegetation Preservation Ordinance.

ARTICLE XII LOCAL BUSINESS ZONE 6

Section 12.01 STATEMENT OF PURPOSE.

The Local Business Zone 6 is intended to permit retail business and service uses which are needed to serve the residents of the City. In order to promote such a business development so far as is possible and appropriate in each area, uses are prohibited which would create hazards, offensive and loud noises, vibration, smoke, glare, heavy truck traffic, or late hours of operation. The intent of this Zone is also to encourage the concentration of local business areas to mutual advantage of both the consumers and merchants and thereby to promote the best use of land at certain strategic locations and to avoid the continuance of marginal strip business development along major thoroughfares.

Section 12.02 PRINCIPAL PERMITTED USES.

In Zone 6 the following uses and uses incidental thereto shall be permitted:

- A. Business services, including the following:
 - 1. Business, professional or governmental
 - 2. Financial institutions, including banks, savings and loan association offices and credit unions

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3. Post office or postal stations
 4. Real estate offices
- B. Clothing service, including the following:
1. Dressmaking shops
 2. Dry cleaning establishments occupying a total floor area not to exceed two thousand (2,000') feet and using not more than two (2) clothes-cleaning units, neither of which shall have a rated capacity of more than forty (40) pounds, using cleaning fluid which is non- explosive and non-flammable
 3. Laundry agencies
 4. Millinery shops
 5. Self-service laundry and dry cleaning establishments
 6. Tailor and pressing shops
- C. Equipment service, including the following:
1. Electric appliance repair shops
 2. Radio and electric repair television shops
 3. Shoe repair shops
 4. Watch repair shops
- D. Food service (excluding drive-in type businesses), the business of which shall be conducted entirely within an enclosed building, including but not limited to the following:
1. Bake shops
 2. Dairy stores
 3. Delicatessens
 4. Groceries
 5. Meat, fish and poultry markets
 6. Restaurants
 7. Taverns
- E. Medical offices, including the following:
1. Doctor, dentist, chiropractic offices
 2. Medical centers, industrial health clinics
- F. Personal service, including the following:
1. Barber shops
 2. Beauty shops
 3. Health salons
 4. Photographic studios
- G. Retail service and retail stores, generally, including the following:

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1. Antique shops
 2. Apparel shops
 3. Bicycle sales and service
 4. Book stores
 5. Camera shops
 6. Drugstores
 7. Flower shops
 8. Gift shops
 9. Hardware, paint, lumber and wallpaper stores
 10. Hobby shops
 11. Household appliances
 12. Jewelry stores
 13. News dealers
 14. Picture framing stores
 15. Radio, T.V. and record shops
 16. Stationers
 17. Variety stores
 18. Mini-storage
- H. Community buildings and clubs whose activities are conducted primarily for the residents of the locality, and not those the chief activity of which is a service customarily carried on with transients as a business.
- I. Public buildings and properties.
- J. Off-street parking and loading facilities in accordance with the requirements of Article VI.

Section 12.03 PERMITTED USES AFTER SPECIAL USE APPROVAL.

The following uses may be permitted subject to applicable site design standards in Article XIV and subject further to the approval of the City Council in accordance with procedures in Section 15.08.

- A. Automobile service stations
- B. Drive-in restaurants or other drive-in establishments serving food and/or beverages.
- C. Auto wash establishments.
- D. Public utility buildings, telephone exchange building, electric utility sub-stations, gas regulator stations and similar uses, but not including storage yards. Special use approval shall be required even if such uses are considered Essential Services, as defined in Section 2.02.
- E. Adult bookstore, adult motion picture theater, cabarets, massage parlors.

Section 12.04 WIRELESS COMMUNICATION FACILITIES.

Wireless Communication Facilities may be permitted as principal permitted uses or as special land uses, depending on compliance with the criteria specified in Section 4.40 (B), and subject to all applicable standards and conditions in Section 4.40.

Section 12.05 REQUIRED CONDITIONS.

The following conditions are required for all uses in Zone 6:

- A. All business, service or processing shall be conducted wholly within a completely enclosed building, provided further that all lighting in connection with permitted business uses shall be so arranged as to reflect the light away from all adjoining residential buildings or residentially zoned property.
- B. All business or service establishments shall be mainly for the purpose of dealing directly with consumers. All goods produced or processed on the premises shall be principally sold at retail on the premises where produced and/or processed.
- C. Where a new or expanded land use occurs in Zone 6, after the effective date of this Ordinance, which abuts directly upon a residentially zoned district, protective screening shall be provided in accordance with Section 4.30
- D. Awnings of any type, material, style, or color shall be prohibited.

Section 12.06 SITE PLAN REVIEW.

For all uses in Zone 6, a site plan shall be submitted to the Planning Commission for review and approval in accordance with Section 4.33.

Section 12.07 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in Article XIII.

Section 12.08 WOODLAND, TREE, AND VEGETATION PRESERVATION.

All tree removal, replacement, and pruning, re-landscaping and land clearing and other activities that affect trees and woodlands, are subject to the requirements of the Woodlands, Tree and Vegetation Preservation Ordinance.

ARTICLE XIII SCHEDULE OF REGULATIONS

Zone →	Residential Zone 1	Residential Zone 2	Residential Zone 3	Residential Zone 4	Pro. Office Zone 5	Commercial Zone 6
Min Road Frontage	H	H	H	H	H	H
Min Lot Width	65'	65'	85'	125'	40'	40'

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ARTICLE XIII SCHEDULE OF REGULATIONS

Min Lake or Waterfront	80'	80'	100'	125'		
Min Lot Area	15,000 SQ. FT.	20,000 SQ. FT.	40,000 SQ. FT.	60,000 SQ. FT.	4,000 SQ. FT.	4,000 SQ. FT.
Front Yard Setback (B & C)	35'	40'	50'	70'	50' (F)	50' (F)
Side Yard Setback (A, E, & I)	N, I	N, I	N, I	N, I	F	F
Side Yard Adjacent to street	E	E	E	E		
Rear Yard Setback	30'	35'	45'	60'	20' (F)	20' (F)

MAXIMUM HEIGHT OF BUILDINGS

	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
Feet	J	J	J	J	35'	35'

MINIMUM FLOOR AREA PER DWELLING UNIT (D & K)

	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
1 Story (K)	1200 SQ. FT.	1500 SQ. FT.	1500 SQ. FT.	1750 SQ. FT.	G	G
1 ½ Story (K)	1050 SQ. FT. 1st Floor (Finish 50.0% of 2nd Floor 525 SQ. FT.)	1250 SQ. FT. 1ST Floor (Finish 50.0% of 2nd Floor or 625 SQ. FT.)	1250 SQ. FT. 1ST Floor (Finish 50.0% of 2nd Floor or 750 SQ. FT.)	1500 SQ. FT. 1ST Floor (Finish 50.0% of 2nd Floor or 750 SQ. FT.)	G No Dwelling Permitted	G No Dwelling Permitted
2 Story (K)	900 SQ. FT. 1st Floor (Finish 900 SQ. FT. of 2nd Floor)	1100 SQ. FT. 1ST Floor (Finish 1100 SQ. FT. of 2nd Floor)	1100 SQ. FT. 1st Floor (Finish 1100 SQ. FT. of 2nd Floor)	1350 SQ. FT. 1ST Floor (Finish 1350 SQ. FT. of 2nd Floor)	G No Dwelling Permitted	G No Dwelling Permitted

Zoning -
ARTICLE XIII SCHEDULE OF REGULATIONS

MAXIMUM LOT COVERAGE-RESIDENCES ONLY (L & M)

	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
1 Story Residential (L)	25.0%	20.0%	20.0%	15.0%	50.0%	50.0%
1 ½ or 2 Story Residential (L)	20.0%	15.0%	15.0%	12.5%	40.0%	40.0%
Maximum Lot Coverage- All Buildings (L)	30.0%	25.0%	25.0%	20.0%	50.0% (F)	50.0% (F)
Open Space Required (M)	55.0%	60.0%	65.0%	70.0%		

FOOTNOTES TO ARTICLE XIII, SCHEDULE OF REGULATIONS

- A. In Zone 1, 2, 3 and 4 on a lot occupied by any building which is permitted on said zones other than solely for residential purposes, the width of each side yard shall be not less than twenty-five feet (25') and rear yard not less than fifty (50') feet. In the case where the rear yard abuts on any street or lane, the minimum depth of the rear yard shall conform to the front yard requirements.
- B. In the event that there is an Established Residential Building Pattern along a road, then the required front yard setback shall either be determined in accordance with the standards in Section 4.36, or the minimum requirements in Article XIII, whichever is greater. Notwithstanding the requirement, the front yard requirement on a lot of record at the time of adoption of Ordinance No. 14.01, which has a depth of less than one hundred and twenty (120') feet, may be reduced to one quarter (¼) of such lot depth, but this shall not permit a depth of less than twenty feet (20') in any case. In Zone 1, 2, 3 and 4 on a lot occupied by any building which is permitted in said zone other than solely for residential purposes, the required front yard shall be fifty (50') feet. For lakes lots, as defined in Section 2.36, the setback for any building from an adjacent street opposite a lake or waterway shall be determined as follows: In the event that there is an Establishment Residential building Pattern along a road, then the required front setback shall either be determined in accordance with the standards in Section 4.36 or the minimum requirements in Article XIII, whichever is greater. (See also Footnote C for required lake setbacks on lake lots).
- C. Lots on Lakes or Waterways: No structure including a principle or accessory building erected on said lot or parcel shall be nearer than seventy-five feet (75') (as measured on the horizontal from the water line as established by the legal level of the lake) to the said lake, river, stream or other navigable waterway, except as is permitted in Section 4.09, or the Established Residential Building Pattern. In the event that there is an Established Residential Building Pattern along the waterway, then the required front setback shall be determined in accordance with the standards in Section 4.36.
- D. Tri-levels shall be computed using the total square footage of the two (2) uppermost level; this total to be equal to minimum requirements of one (1) floor residences.
- E. The width of a side yard abutting upon a side street or lane shall not be less than the minimum front yard depth required on an adjoining lot fronting upon such Side Street or lane, but this shall not reduce the buildable width of any twenty-five feet (25') at the ground level.

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ARTICLE XIII SCHEDULE OF REGULATIONS

- F. The area of buildings at the ground level in this district shall not exceed forty percent (40%) of the lot area and the sixty percent (60%) of the lot area remaining shall be divided between front yard, side yard and rear yard; provided, however, that no rear yard shall have a depth of less than twenty feet (20'). On the side of a lot which abuts property located in any residential zone, a side yard of not less than twenty feet (20') in width shall be provided. In all cases where a building has a wall not of fireproof construction or a fireproof wall pierced with windows or other openings, the building shall be accessible on at least two (2) sides by public street, lane or alley or by a passageway, open above ground, not less than ten feet (10') wide, measured to the lot line, extending to a public street, lane or alley.
- G. No commercial office building shall be erected on any lot if said building contains less than six hundred (600) square feet of floor space at the ground floor level, provided, that this shall not apply to automobile service stations containing more than four hundred (400) square feet of floor space.
- H. The minimum required road frontage shall not be less than eighty percent (80%) of the minimum lot width for the zone which the property is located.
- I. 1. Structures in Zone 3 that were built on or before November 17, 1987, in compliance with the ten feet (10') side yard setback that was required at the time of construction, shall be considered in conformance with current side setback requirements.
2. Structures in Zone 3 that were built after November 17, 1987 but before April 9, 1998, and structures in Zone 1, 2, and 4 that were built before April 9, 1998, and that were built in compliance with the side yard setback that was in effect on April 8, 1998 (i.e. Zone 1:6 ft.), shall also be considered in conformance with current side setback requirements.
3. Enlargement or extension of a structure referred to in the previous paragraphs (1) and (2) shall be permitted on one or both sides that do not comply with the side yard setback requirements specified in the Schedule of Regulations (including the requirement in footnote "n" related to 30% of building width), provided that such enlargement or extension does not reduce the structure's current setback along one or both sides. Any such enlargement or extension shall be considered in conformance with side setback requirements. Nothing in this regulation shall prevent construction that is in compliance with side setback requirements specified in the Schedule of Regulations.
- J. The maximum building height shall be determined separately for each side of the building, and shall be measured from the building grade (as defined in Section 2.02) to the highest point on the roof. Buildings and structures shall comply with the following maximum height standards:
1. Pitched roof buildings (where the slope of the roof is 1 foot vertical to 4 feet horizontal);
 - i. Zone 1 and 230 feet
 - ii. Zone 3 and 435 feet
 2. Flat roof buildings (where the slope of the roof is less than 1 foot vertical to 4 feet horizontal);
 - i. Zone 1 and 225 feet
 - ii. Zone 3 and 428 feet
 3. Buildings with a lower level walk-out: The maximum height specified above may be increased by ten (10') feet for residential buildings having a lower level walk-out (as defined in Section 2.02), provided that the walk-out was created because of the natural contour of the land. This provision shall apply only to the side(s) of the building on which the walk-out is located and the side(s) of

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ARTICLE XIII SCHEDULE OF REGULATIONS

the building which slope down to the lower level walk-out, provided that the natural contour of the land provides a grade change of at least six (6') feet within the footprint of the proposed residential building.

4. Daylight Windows. Building with daylight windows: The maximum height specified above may be increased by five (5') feet for residential buildings which have lower level daylight windows, provided that the opportunity for the daylight windows was created because of the natural contour of the land. This provision shall apply only on the side(s) of the building on which the daylight windows are located and the side(s) of the building which slope down, provided that the natural contour of the land provides a grade change of at least three (3') feet within the footprint of the proposed residential building.
- K. For the purpose of determining Minimum Floor Area, a walkout lower level shall not be counted.
- L. The computations to determine compliance with the lot coverage requirements for "Residences Only":
1. The principal building.
 2. All attached accessory buildings and structures and physical features, which may include, but not limited to: swimming pools, garages, patios and terraces (constructed with mortar or dry laid without mortar), tennis courts, decks, greenhouse, and similar structures and features.
 3. Projections beyond the face of the building (e.g., chimneys, bay windows, lower or upper floor decks, upper floors that cantilever beyond the footprint of the lower level, and below-ground projections). Eaves and roof overhangs shall be included in lot coverage, except that up to twelve (12) inch eave or roof overhang and five (5) inches for the gutter shall be exempt.
 4. Accessory buildings and structures within ten (10) feet of the principal building.
- The computations to determine compliance with the lot coverage requirements for "All Buildings" shall include the area of the lot covered by all attached and detached accessory buildings and structures. Accessory buildings and structures that are located greater than ten (10) feet from the principal building shall be considered detached. For the purpose of lot coverage computations, driveways and parking areas shall be considered detached.
- M. Landscaped open space shall include landscaped areas and shall exclude any hard- surfaced area or impervious ground cover such as unenclosed ground level projections or driveways. Fountains, sculptures, and similar features that are permitted as part of an approved landscaped design shall be included as landscaped open space.
- N.

District	Minimum Setback-Total of Both Sides**	Minimum Side Setback
Zone 1	30.0% of building site width*	8 ft.
Zone 2	30.0% of building site width*	10 ft.
Zone 3	30.0% of building site width*	15 ft.
Zone 4	30.0% of building site width	20 ft.

For the purpose of this requirement, building site width shall be the smaller of the following two measurements:

1. Building site width measured at the front building line (as defined in Section 2.02).

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ARTICLE XIII SCHEDULE OF REGULATIONS

2. Building site width measured along a straight line that touches the rear-most part of the principal building and is the shortest distance between the side lot lines (i.e., the rear building line).

** The following building sites shall be exempt from the 30.0% requirement, but shall comply with the numerical setback specified for each district (Zone 1: 8 ft., Zone 2: 10 ft., Zone 3: 15 ft., and Zone 4: 20 ft.).

**HVAC equipment and power generators shall be excluded from calculations to determine compliance with the 30.0% side setback requirement.

1. Corner building sites.
 2. Building site that did not comply with the width requirements specified in Article XIII at the time of enactment of this provision. However, such building sites shall not be exempt from the 30.0% requirement if the sites are proposed to be enlarged to achieve compliance with the lot width requirements in Article XIII.
- O. The purpose of the lot area standards are to achieve adequate open space around and between dwelling units, achieve building development that is proportional to the size of a lot, provide adequate land on each lot to allow development without the need of variances, preserve the character of the neighborhood, and maintain privacy on each building site. This can be accomplished on lots meeting the minimum area standards that are nearly rectangular in shape, but as more difficult to accomplish on lots with more than four sides and where a portion of the required lot area is located in appendages or extensions off of the main buildable portion of the lot.

Consequently, proposals to create new lots or building sites on a lot which;

- a. Have more than four sides.
- b. Has an appendage.
- c. Has less than the minimum lot area required of the area in the appendage is not included in the lot area calculation, shall not be permitted.

ARTICLE XIII-A PLANNED DEVELOPMENT

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ARTICLE XIII-A PLANNED DEVELOPMENT

Section 13A.01 PURPOSE.

- A. The purpose of these Planned Development regulations is to permit development of uses that are not otherwise listed as permitted uses in Zone 1 through 6. These regulations have been drafted in recognition that because of previous market demand, sensitivity to the fragile land and water resources, and other reasons, the City of Orchard Lake Village is a largely built-up single family residential community. Nevertheless, there is a small amount of developable land remaining in the City to accommodate new uses for which there may eventually be a demonstrated need. The City contains only four square miles, of which 42% is occupied by open water, and only 38% is available or is currently developed for residential use. Because of the limited amount of developable land it is not practicable to create separate zoning districts and/or regulations for every possible such use. Planned Development provides a feasible regulatory approach to accommodate such uses provided that all of the conditions and standards in this Article are met.
- B. Planned Development is further intended to permit regulatory flexibility to achieve development that is in accord with the City's Master Plan; to achieve economy and efficiency in the use of land, natural resources, energy and in the provision of public services and utilities; to encourage the creation of useful open space particularly suited to the proposed development and parcel on which it is located; and to provide appropriate development to satisfy the demonstrated needs of residents of the City of Orchard Lake Village.
- C. It is further intended that development permitted pursuant to this Article be laid out so the proposed uses, buildings, and site improvements relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.
- D. The development, permitted under this Article shall be considered as an optional manner of development. The availability of this option imposes no obligation on the City to encourage or foster its use. The decision to approve its use shall be at the sole discretion of the City.

Section 13A.02 DEFINITIONS, GENERAL RULES.

- A. 1. **Planned Development.** The term "Planned Development" means a specific parcel of land, or several contiguous parcels of land, which is proposed to be developed in accordance with a site plan approved by the City Council, where the site plan meets the requirements of this Article in a manner that achieves high quality development, addresses a demonstrated need in the City that could not otherwise be addresses in Zoning District 1 through 6, and achieves compatibility with surrounding uses.
- 2. **Underlying Zoning.** The term "Underlying Zoning" means the zoning classification currently applicable to a parcel of land that is proposed to be developed in accordance with the Planning Development regulations.
- B. Unless otherwise specifically stated in this Article, the Planning Commission shall serve in an advisory capacity with respect to the Planning Development review. Thus, recommendations of the Planning Commission shall not be binding upon the City Council.

Section 13A.03 QUALIFICATION CRITERIA.

In order to qualify for the Planning Development (PD) option, it must be demonstrated that all of the following criteria will be met:

- A. The PD option may be used only on lands that are within the Planning Development District boundaries designated on the Official Zoning Map of the City. The Planned Development Overlay District boundaries established upon adoption of this Section XIII-A may be amended in accordance with the amendment procedures in Section 15.07. The presence of a parcel of land within the Planned Development Overlay District boundaries means that Planned Development may be used as the

regulatory approach to develop the parcel, provided that the proposed development complies with all other applicable criteria, regulations, and procedures.

- B. The use of the PD option shall not be used for the sole purpose of avoiding the requirement for dimensional variances involving uses already permitted in the underlying zoning district.
- C. The PD option shall not be used in situations where the same land use objectives can be accomplished by the application of conventional zoning provisions or standards. However, the PD option may be used to develop uses currently permitted by the underlying zoning if the City Council determines that the PD option will result in a substantially higher quality of development than would otherwise be permitted.
- D. The PD option may be used only when the proposed land use will not materially as public service and facility loads beyond those contemplated in the Master Plan or other adopted polices or plans, unless the applicant can demonstrate to the sole satisfaction of the City Council that such added loads will be accommodated or mitigated by the proponent as part of the PD.
- E. The proposed development shall be consistent with the goals and objectives and shall not have an adverse impact upon the Master Plan for the City. Notwithstanding this requirement, the City Council may approve a Planned Development proposal that includes uses which are not called for on the Master Plan Map, provided that the City Council determines that such a deviation from the Master Plan Map is justified based on a demonstrated need and the current planning and development objectives of the City. In making such a determination the City Council shall seek the advice of the Planning Commission.
- F. The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.
- G. Land use patterns established by the PD shall be compatible with existing and planned uses.
- H. The PD shall provide a means of securing public improvements needed to serve the PD and to further the health, safety and welfare of the public; protect existing and future uses from the detrimental impacts of the proposed use; and alleviate public facilities' deficiencies.
- I. The PD must improve the appearance of the City through quality building design and site development; the provision of trees and landscaping consistent with or beyond minimum requirements; the preservation of unique and/or historic sites or structures; and/or the provision of open space or other desirable features of a site beyond minimum requirements.
- J. The PD shall not be allowed solely as a means of increasing the density or intensity of development. The PD shall result in a higher quality of development than could be achieved under conventional zoning.

Section 13A.04 PERMITTED USES.

Planned Development shall be used to develop uses for which there is a demonstrated need but are not listed as permitted uses in Zone 1 through 6. Notwithstanding this requirement, a Planned Development may contain uses or combination of uses that are currently permitted in Zone 1 through 6 provided that the overall plan meets the objectives and standards of this Article. Uses not currently listed as permitted uses include, but are not necessarily limited to single family attached townhouses, attached and detached single family clusters developments, apartments, and mobile home parks. Uses shall be permitted only if they satisfy the following criteria:

- A. The proposed uses on the site shall be generally the same as or compatible with the uses specified for the parcel on the City's Master Plan Map and/or as described in the Master Plan text.

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- B. There shall be a reasonably harmonious relationship between the location of buildings on the site, relative to buildings on lands in the surrounding area.
 - C. The PD Option may be used to develop residential and non-residential uses together in a development, provided that the residential uses shall be separated and/or buffered from the non-residential uses in a manner that is consistent with good site design and planning principles, and provided further than non-residential uses shall not have direct access to local residential streets.
 - D. The mix of uses and arrangement of those uses within a planned development shall not impair the public health, safety, or quality of life of residents or the community as a whole.
 - E. Proposed uses shall be subject to review and approval by the City Council.

Section 13A.05 DESIGN STANDARDS.

Planned Developments shall comply with the design standards in this Section 13A.05. However, modification to the standards in this Section 13A.05 may be approved by the City Council, upon receiving an advisory recommendation from the Planning Commission, upon making the determination that other standards would be more appropriate because of the particular design and orientation of buildings and uses, and provided that any such modified standards shall be consistent with the purpose of Planned Development stated in Section 13A.01. Modification approved in conjunction with the approval of a Planned Development Plan shall not require approval by the Zoning Board of Appeals.

- A. **Location.** A Planned Development may be approved in any location in the City, provided that the proposed development is on land that is located within the Planned Development District boundaries, and subject to review and approval as provided for herein.
- B. **Residential Density.** A residential density of up to two (2) units per gross acre may be approved within a Planned Development. For the purposes of computing density, gross acreage shall include the following:
 - 1. All areas to be used for residential purposes, including off-street parking in residential areas.
 - 2. Twenty-five percent (25%) of any wetlands within the portion of the site that is being developed for residential purposes;
 - i. Parks and open space devoted exclusively for residential use or for Natural Resource Protection.
 - ii. Internal local road rights-of-way. Dedicated rights-of-way for perimeter roads and internal collector and thoroughfare roads are not to be included in the gross acreage for the purposes of computing density.

An increase in density above two (2) units per acre may be permitted by the City Council upon finding that the increase is justified because certain characteristics of the proposed development would result in a substantial benefit to the users and the community as a whole. Characteristics which the Planning Commission and City Council may consider in making this determination include, but are not necessarily limited to the following:

- 1. The Planned Development exhibits extraordinary design excellences, examples of which include, but are not limited to: innovative energy efficient design; provision of additional open space above the required amount; added improvements to assure vehicular and pedestrian safety; or, added landscaping or other site features to assure a long-term aesthetically pleasing appearance.
- 2. The Planned Development would include certain public facilities to enhance the long-term viability of the project and allow for more efficient use of the land.

3. The proposed arrangement of uses and residential densities within the Planned Development enhance the compatibility of proposed development with existing or planned land use on adjacent land.
4. The proposed density of development would address a demonstrated need in the community.

C. Setbacks.

1. Planned Development shall comply with the following minimum setback requirements, which shall be determined by the same method to determine setbacks that is used in other districts, unless otherwise indicated:

	Residential Use	Non-Residential Use
Along perimeter, adjacent to public road	50 ft.	50 ft.
Along perimeter, but not adjacent to a road	45 ft.	20 ft.
Along an internal road or driveway ¹	40 ft.	40 ft.
Parking lot setback from adjacent public road	40 ft.	20 ft.
Parking lot setback, not adjacent to a road	20 ft.	20 ft.
Adjacent to a lake, canal or stream ²	75 ft.	75 ft.
Wetland Setback ³		

¹ Measured from the edge of pavement to the closest point of the building or structure.

² No structure shall be located nearer than seventy-five feet (75') to a lake, river, stream or other navigable waterway (measured horizontally from the nearest point of the structure to the water line established by the legal level of the lake), except as permitted in Section 4.09 or based on determination of an Established Residential Building Pattern. In the event that there is an Established Residential Building Pattern along a waterway, then the required waterfront setback shall be determined in accordance with the standards in Section 4.36.

³ No development shall occur within twenty-five (25') feet of wetlands unless a different setback is specified in the Wetlands Ordinance (Ordinance No. 12.05.00)

2. Buildings within a Planned Development shall comply with the following spacing and lot size requirements (See Figure 1):
 - a. The minimum distance between buildings and minimum lot size for detached single family structure in a Planning Development shall be based on good planning and design principles, taking into account the degree of compatibility between adjoining uses, sensitivity to the characteristics of the site, the need for free access for emergency vehicles, the need for adequate amounts of light and air between buildings, and the need for proper amounts of open space, subject to the following minimum standards:
 - i. A maximum of four (4) single-family detached units may be clustered together, provided that the units shall be spaced not less than ten (10') feet apart.
 - ii. Each cluster of detached dwelling units shall be set back a minimum distance of fifty (50') feet from any other cluster, except that the minimum setback for adjoining clusters that have a side to side building relationship shall be twenty (20') feet.
 - b. Residential buildings containing more than one unit (i.e., multiple-family development, apartments, townhouses, attached dwelling) shall conform to the following spacing requirements (See Figure 2):

Relationship Between Buildings	Minimum Distance Between Buildings

Front to Front	70 ft.
Front to Rear	70 ft.
Rear to Rear	70 ft.
Side to Side	30 ft.
Front to Side	50 ft.
Rear to Side	50 ft.

- c. In the case of buildings or structures occupied or used by a non-residential principal use, the minimum distance between buildings and the minimum lot size in a Planned Development shall be based on good planning and design principles, taking into account the degree of compatibility between adjoining uses, sensitivity to the characteristics of the site, the need for free access for emergency vehicles, the need for adequate amounts of light and air between buildings, and the need for proper amounts of open space.
 - d. Buildings or structures occupied for uses by a non-residential principal use shall be located at least one hundred (100') feet from any residential buildings.
 - e. Accessory structures and uses are permitted, subject to the requirements in Section 4.15.
- D. **Maximum Height.** Planned Development shall comply with the height requirements applicable in Zone 2 for residential uses and Zone 5 for non-residential uses.
- E. **Parking and Loading.** Planned Developments shall comply with the parking and loading requirements specified in Article VII of the Zoning Ordinance, except that off-street parking for separate buildings or uses may be provided collectively, subject to the following:
- 1. The total number of spaces provided collectively shall generally not be less than the sum of the spaces required for each separate use. The total number of spaces may be reduced by up to twenty-five percent (25%) if evidence is presented by the applicant to demonstrate that the parking demands of the uses being served do not overlap.
 - 2. Each use served by collective off-street parking shall have direct access to the parking without crossing roads.
 - 3. The collective off-street parking shall not be located farther than five hundred (500') feet from the building or use being served.
- F. **Landscaping.** Planned Development shall comply with the following landscaping requirements:
- 1. **General Site Requirements.** Only live plant material shall be permitted. All unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material, which shall extend to any abutting street pavement edge. Seeded areas shall be watered and fertilized regularly so as to provide a healthy lawn within ninety (90) days after planting.
 - 2. **Landscaping Adjacent to Roads.** All commercial, office, industrial and multiple family uses shall comply with the requirements for landscaping adjacent to roads in Section 4B.02, Subsection B.
 - 3. **Parking Lot Screening Requirements.** Wherever front, side, or rear yards adjacent to public rights-of-way are used for parking, a brick wall, hedge, or landscaped berm shall be a minimum of three (3') feet in height. If a berm is used, it shall be landscaped in accordance with the previous requirements for landscaping adjacent to roads. If a hedge is used, the hedge shall be planted with dense evergreen shrubs so that it provides the same screening effect as a berm or wall.
 - 4. **Screening.** Screening in the form of a landscaped berm, greenbelt, or wall shall be required wherever a commercial, office, or industrial use is located adjacent to a residential use, school,

park, or similar public area. Landscaped screening shall consist of closely-spaced evergreen plantings which can be reasonably expected to form a complete visual barrier that is at least six (6') feet above ground level at the time of planting. Deciduous plant material may be used too, provided that a complete visual barrier is maintained throughout the year. Appropriate species for such purposes include: Arborvitae (*Thuja occidentalis*)- appropriate cultivars include Pyramidalis, Nigeria Eastern Red Cedar (*Juniperus Virginiana*) Chinerie Juniper (*Juniperus chinensis*) White Spruce (*Picea glauca*) or Serbian Spruce (*Picea omorika*) - an effective screen requires two rows, staggered.

If a wall is used instead of landscaping, the following requirements shall be complied with:

- A. **Location.** Required screening walls shall be placed inside and adjacent to the lot line except where underground utilities interfere with placement of the wall or fence at the property line, in which case the wall or fence shall be placed on the utility easement line located nearest the property line.
 - B. **Time of Construction.** Wherever construction of a screening wall is required adjacent to residentially zoned or used property, the wall shall be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the wall.
 - C. **Corner Clearance.** No wall shall be erected that will obstruct the view of drivers in vehicles approaching an intersection of two roads or the intersection of a road and a driveway.
 - D. **Wall Specifications.** Required walls shall be constructed of masonry material used on the façade of the principle structure on the site, such as face brick.
 - E. **Height Requirements.** Walls used for screening shall be a minimum of 4.5 feet and shall not exceed six (6') feet in height.
- 5. **Parking Lot Landscaping.** Off-street parking areas containing greater than fifteen (15) spaces shall be provided with interior landscaping in compliance with Section 4B.02, Subsection F.
 - 6. **Standards for Plant Material.** Proposed plant materials shall comply with the standards set forth in Section 4B.03.
 - 7. **Treatment of Existing Plant Material.** In instances where healthy plant material exists on the site prior to its development, substitution of such plant material in place of the requirements set forth previously in this section may be permitted, provided such substitution is in keeping with the spirit and intent of this Article and the Ordinance in general, subject to the regulations in Section 4B.05.
- G. **Open Space Requirements.** Planned Developments containing a residential component shall provide and maintain usable open space that is accessible to all residents of the development, which shall comply with the following requirements:
- 1. A minimum of twenty percent (20%) of the gross area of the non-wetland portion of the site is designated for residential use shall be set aside for such open space.
 - 2. Any previous land area may be included as required open space, except as follows:
 - A. No more than twenty-five percent (25%) of the required usable open space shall include the area of any water bodies or wetlands which are covered only periodically with standing water (such as hardwood swamps or "wet" meadows). Required usable open space shall not include the area of any designated wetland that is covered by water or muck such that it is not a suitable environment for walking or similar passive leisure pursuits.

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- B. Required usable open space shall not include the area of any public or private road, the area of any easement providing access to the site, the area of any commercial recreation use (such as a golf course), or the area of any required setbacks.
3. The required open space shall be set aside by the developer through an irrevocable conveyance, such as deed restrictions or covenants that run with the land or through a conservation easement, assuring that the open space will be developed according to the site plan and never changed to another use. Such conveyance shall:
- A. Indicate the proposed use(s) of the required open space.
 - B. Indicate how the leisure and recreation needs of all segments of the population residing in or using the Planned Development will be accommodated.
 - C. Provide for the privately-owned open space to be maintained by private property owners with an interest in the open space.
 - D. Provide maintenance standards and a maintenance schedule.
 - E. Provide for assessment of the private property owners by the City of Orchard Lake Village for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
- H. **Frontage, Access, and Road Standards.**
- 1. Any Planned Development shall front on and have its main means of access onto Orchard Lake Road, Commerce Road, or Pontiac Trail. The nearest edge of any entrance or exits drive shall be located no closer than two hundred (200') feet from any street or road intersection (as measured from the nearest intersection right-of-way line).
 - 2. Individual residential dwelling units in a Planned Development shall not have direct access onto a major thoroughfare or collector road. The internal street system in a Planned Development shall be designed so that through-traffic is discouraged from traveling on residential streets.
 - 3. All streets and roads within a Planned Development, whether intended to be dedicated to the public or remain private, shall comply with the engineering and design standards of the City of Orchard Lake Village.
- I. **Natural Feature.** Planned Development shall be designed to promote preservation of natural resources and natural features. If natural animal or plant habitats of significant value exist on the site, the City Council, after receiving an advisory recommendation from the Planning Commission may require that the Planned Development preserve such areas. One hundred percent (100%) of any preserved natural area may be counted toward meeting the requirements for open space.
- J. **Non-Motorized Transportation.** Every Planned Development shall accommodate non-motorized transportation in the form of paved sidewalks, bike paths, and bike lanes. Sidewalks and /or bike paths may be required along any public road right-of-way abutting or within the development. Where feasible, this circulation system shall provide access to open spaces and other on-site amenities, parking and loading areas, and shall connect with existing or planned sidewalks, paths or trails on abutting properties. In private developments that lack any publicly dedicated roads, access by the general public via private non-motorized transportation routes shall not be required.
- K. **Additional Considerations.** In their review of a proposed Planned Development, the Planning Commission and City Council may review other considerations that are found to be relevant to a particular project, including, but not necessarily limited to: road capacity, drainage and utility design, capacity and design of utility systems, extent to which pedestrian and vehicular circulation systems are isolated from each other, achievement of an integrated development with respect to signage, lighting,

landscaping and building materials, and extent to which noise reduction and visual screening mechanisms are used, particularly in cases where non-residential uses adjoin residentially-zoned property.

Section 13A.06 REVIEW PROCEDURES.

A. Request for Qualification.

1. Any person owning or controlling land in the City of Orchard Lake Village may make application for consideration of a Planned Development proposal. Such application shall be made by submitting a request for a determination whether the proposal qualifies for the PD Option.
2. The Request of Qualification shall be submitted to the City Clerk and shall include the following:
 - A. A written statement explaining in detail the proposed use, building and site improvements, phasing plan, and resulting floor area and parking.
 - B. A schematic land use plan containing enough detail to explain the proposed uses, relationship to adjoining parcels, vehicular and pedestrian circulation patterns, open spaces and landscape areas, and building density or intensity.
 - C. A plan for protection of natural features on the site.
 - D. Evidence that the applicant had ownership or control of the property.
3. If the application is found to be complete, the City Clerk shall transmit it to the City Council. Upon receipt of the Request for Qualification, the City Council shall undertake such investigation, study and/or deliberation into the merits of the proposal as it deems appropriate, taking into account the Qualification Criteria in Section 13A.03. In conducting such investigation, the City Council shall seek information, analysis and advice from the Planning Commission, and may also seek input from City staff, the City Planner, the City Attorney, public safety officials and others as necessary.
4. Upon completing its investigation, the City Council shall approve or deny the request for qualification. A determination that a proposal qualifies for PD approval shall be accompanied by a description of the minimum conditions, the City Council may identify specific requirements or standards in the Zoning Ordinance which could be waived or modified upon approval of the final PD plan. A preliminary determination of qualification does not assure a final approval of the Planned Development, but is intended to provide an initial indication as to whether or not an applicant should proceed to prepare a PD Plan upon which a final determination would be based. If the City Council denies the Request for Qualification, the applicant may pursue development or use of the site under conventional zoning standards.

B. Request for Final Determination. An applicant who has been granted qualification by City Council may apply for consideration under this section with submittal of the following materials:

1. **PD Plan.** An application and plan shall be submitted to the City Clerk to initiate review and recommendation by the Planning Commission. The PD Plan shall contain all of the information required for site plans in Section 4.33.
2. **Planning Commission Review.**
 - A. The City Clerk shall determine if the PD site plan is substantially in compliance with the site plan submittal requirements and the minimum conditions cited when the city Council approved the request for qualification (see Section 13A.04, Subsection A). In making this determination, the City Clerk may seek the advice of the Building Official, City Planner, City Engineer, City Attorney, or others, as necessary. If the site plan is found to be in compliance with submittal requirements

and minimum condition, the City Clerk shall place the site plan on the Planning Commission agenda and schedule a public hearing, with notice given in accordance with Section 15.08 (C).

- B. The Planning Commission shall hold a public hearing on the PD Plan. After the public hearing, the Planning Commission shall report its findings and make its recommendations to the City Council. The Planning Commission shall review the proposed PD Plan qualification criteria and whether the PD proposal adheres to the following objectives and requirements.
1. The proposed PD shall promote the land use goals and objectives of the City and the purposed and intent of Planned Development as stated in Section 13A.01.
 2. All applicable provisions of this Article and Ordinance shall be met. Insofar as any provision of this Article shall be in conflict with the provisions of any other section of this Ordinance, the provisions of this Article shall apply to the lands within the boundaries of a proposed PD.
 3. There is, or will be at the time of development, an adequate means of disposing of sanitary sewage, supplying the development with potable water, managing storm water flow, and achieving a safe road system.

3. Final Approval of Planned Development.

- A. Upon receipt of the report and recommendation of the Planning Commission, the City Council shall review all findings. If the City Council determines that approval would be appropriate, it shall instruct the City Attorney to prepare an agreement setting forth the conditions upon which such approval is based, which agreement, after approval by resolution of the City Council, shall be executed by the City and the applicant. Where a project is proposed for construction in phases, final approval may be granted subject to subsequent review and approval of detailed site plans for each phase. Approval shall be granted only upon the City Council determining that all provisions of this Ordinance have been met and that the proposed development will not adversely affect the public health, welfare and safety.
- B. Approval of a PD proposal shall constitute an amendment to the Zoning Ordinance. The subject site shall be designated "PD" on the official Zoning Map and the PD Plan, the agreement, and supporting documentation shall become an integral part of this Ordinance. Notice of the adoption of the amendment shall be published in accordance with the requirements in the City of Orchard Lake Village Zoning Act, Michigan Public Act 207 of 1921, as amended.
- C. Once an area has been included with a plan for a PD and such plan has been approved by the City Council, no development may take place in such area nor may any use thereof be made except in accordance with either the City Council-approved PD Plan (unless the plan is terminated or amended as provided herein), or in accordance with the underlying zoning (subject to submittal of a site plan for review and approval). The option of developing under the PD Plan of the underlying zoning shall end when construction begins, whereupon all subsequent construction shall be based on the plan upon which the construction was begun. However, the property owner shall retain the right to seek approval of plans prepared in accordance with the underlying zoning for developed portions of the site or redevelopment of the built-up portions of the site.
- D. An approved plan may be terminated by the applicant or the applicant's successors or assignees, prior to any development within the area involved, by filing with the City and recording in the County records an affidavit so stating and submittal of an application to amend the zoning classification. The approval of the plan shall terminate upon such recording and development shall thereafter only be permitted in compliance with the underlying zoning (unless further rezoning action is initiated and approved).

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- E. No approved plan shall be terminated or amended after development commences except with the approval for the City Council and the applicant or the applicant's successors or assignees. Proposed amendments shall be reviewed in accordance with the procedures in Section 15.07 or Section 13A.06 (E), following.
 - F. Site plan approval granted pursuant to approval of a PD Plan shall remain valid for a period of two (2) year from the date of approval and execution of the Planned Development agreement. The City Council may grant an extension of this two (2) year period provided that the applicant submits a written request prior to expiration of the approval period and, in the opinion of the City Council, provides reasonable justification for the delay and proposed extension. If no building permits have been issued or work commenced within the initial or extended approval period, development may be permitted only in accordance with the underlying zoning, unless the zoning classification is amended as a result of action initiated by the City Council pursuant to Section 15.07.
 - C. **Phasing.** A Planned Development project may be proposed for construction in phases, in which case the project shall be designed so that each phase, when completed, is capable of standing on its own in terms of public or common services, facilities, and utilities and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the Planned Development and the residents of the surrounding area.
 - D. **Performance Guarantee.** A performance guarantee shall be required to insure faithful completion of improvement, in accordance with Section 15.09. Where a project is proposed for construction in phases, each phase shall be considered separately when determining the need for and size of performance guarantee.
 - E. **Fees.** Fees for review of PD Plans under this Article shall be established by resolution of the City Council.
 - F. **Interpretation of Approval.** Approval of a PD under this Article shall be considered an optional method of development and improvement of property subject to the mutual agreement of the City and the applicant.
 - G. **Amendments to PD Plan.** Proposed amendments or changes to an approved PD Plan shall be submitted to the City Clerk. The amendments shall be reviewed by the Planning Commission and City Council in accordance with the provisions and procedures of this Section as they relate to final approval of the Planned Development.

ARTICLE XIV SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL

Use	Permitted District	Minimum Lot Area	Special Minimum Yard Space and Lot Width Requirements	Special Screening Requirement	Other Requirements
Adult Foster Care Family Homes	1, 2, 3, & 4				Fifteen hundred (1,500') feet apart. Site to be evaluated for degree of potential residential-commercial use conflicts. Petition requirements in certain cases. See Section 7.02 B, 8.02 B, 9.02B, & 10.02B
Automobile wash establishments	6		Minimum front yard setback of forty (40) feet for all structures	Five (5) foot high solid ornamental masonry wall along any interior lot line adjacent to a residential zone excepting the portion	A vehicle waiting area shall be provided on the lot that will accommodate vehicles. In determining the number required the number of vehicles within the building can be counted but in

Zoning -
 ARTICLE XIV SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL

				<p>adjacent to the front street side yards required therein. All exterior lighting including illuminated signs shall be erected hooded or shielded so as to deflect away from adjacent residential property.</p>	<p>no case shall there be less than five (5) automobiles per stall for manual or self-service establishments, and twenty (20) automobiles per stall for automatic establishments. Said vehicle waiting area may include entrance and exit drives. Adequate provision shall be made to keep all water from washing operation on the premises. Where mechanical or manual drying is not done, a mechanical device shall be provided to insure that each vehicle shall wait on the premises a minimum of ninety (90) seconds following the end of the washing operation. No establishment may be located</p>
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Zoning -
 ARTICLE XIV SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL

					closer than one thousand feet from a major street intersection or a railroad crossing.
Automobile service stations, vehicle rental and storage	6	Fourteen thousand four hundred (14400) square feet	One hundred twenty (120') feet minimum lot width on principal street, forty foot 40' minimum front yard, twenty-five (25') feet side to rear yard.	Same as for Automobile Wash Establishment, plus all trash storage areas shall be enclosed by a five feet (5') high ornamental masonry wall and access gate.	Curbs cut maximum of thirty (30') feet, no closer than fifty (50') feet apart. Outdoor parking of vehicles or trailers other than private passenger automobile shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., except that vehicle and equipment rental operations shall be permitted if incidental to the automobile service station and if restricted to vehicles, travel trailers or campers of under twenty-one (21') feet overall height, car top carriers, and similar auto accessories and

Zoning -
 ARTICLE XIV SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL

					are within fenced enclosures observing the same setbacks as required for buildings in the zone wherein the automobile service station is located, and their storage area does not exceed twenty percent (20%) of the total area of the service station site. Off street parking and loading shall be complied with separated and distinct from any rental parking activities.
Churches, convents, rectories	2, 3, 4, 5, & 6	Two (2) acres	One hundred and fifty (150') feet minimum lot width; twenty-five feet (25') minimum front, side and rear yards.		Site must abut and have direct access to a major thoroughfare or have access via a local street through a business district connected to a major thoroughfare.
Cocktail lounges, night clubs, taverns, super clubs, private clubs	6				Shall comply with Section 436.17a of Act 417 P.A.1977, as amended by the

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					Michigan Liquor Control Act, regarding proximity to a church or school building.
Drive-in restaurants, fast food establishments or other drive in establishments servicing food and/or beverages	6			Same as for Automobile Service Station	Same as for Automobile Service Stations
Home Occupations	1, 2, 3, & 4			(1) Such use shall be completely screened from view from surrounding residential property. Such screening shall consist of a masonry wall or landscaping, or a combination thereof. If a masonry wall is used, the wall shall be faced in brick. Landscaped screening shall comply with the	Home occupations shall be subject to the requirements of the zoning district in which they are located, as well as the following standards unless otherwise specified in this Ordinance. (1) Home occupations must be clearly incidental to the use of the dwelling as a residence. No more than twenty percent (20%) of the floor

Zoning -
 ARTICLE XIV SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL

				<p>requirements in Section 4B.02, Subsection E, except that at the time of planting, such landscaping shall have sufficient height and mass to provide a complete visual screen.</p> <p>(2) Landscaping and natural vegetation shall be used to screen access roads serving such uses from view from adjacent properties.</p> <p>(3) Construction installations and other improvements shall be conformed to the smallest feasible area so as to minimize</p>	<p>area of the residence shall be occupied by the home occupation.</p> <p>(2) No outdoor display and/or storage of materials, goods, supplies, or equipment used into the home occupation shall be permitted on the premises.</p> <p>(3) The appearance of the principal structure shall not be altered, nor shall the home occupation be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, constructions, light, signs, or the emission of sounds, noises, or vibrations.</p> <p>(4) Only the</p>
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Zoning -
 ARTICLE XIV SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL

				<p>destruction to existing woods and natural features.</p>	<p>resident of the dwelling unit may be engaged in the home occupation.</p> <p>(5) The home occupation may increase vehicular traffic flow and parking no more than one (1) additional vehicle at a time. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front yard.</p> <p>(6) No home occupation shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure.</p>
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Zoning -
 ARTICLE XIV SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL

Use	Permitted District	Minimum Lot Area	Special Minimum Yard Space and Lot Width Requirements	Special Screening Requirement	Other Requirements
					<p>(7) No home occupation shall cause an increase in the use of any one or more utilities (electricity, sewer, trash removal, etc.) such that the combined total use of the dwelling unit and home occupation exceeds by more than ten percent (10%) average for the residence itself, measured over the previous twelve (12) month period.</p> <p>(8) One (1) non-illuminated nameplate, not more than two (2) square feet in area, shall be permitted. Said sign shall display only the name and occupation of the resident on the premises.</p>

Zoning -
 ARTICLE XIV SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL

					<p>(9) A home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater extent or frequency than would normally be generated in a similarly zoned residential district.</p> <p>(10) The following uses shall not be permitted as home occupations: medical clinics and hospital, barber shops, beauty shops and beauty parlors, tourist homes, restaurants, child care day nurseries, except as otherwise permitted by state law.</p>
Institutional Uses (except as otherwise regulated herein)	2,3, & 4	Two (2) acres	Setback Requirements: Institutional uses shall comply with the front and waterfront setback requirements	None	(1) <u>Maximum Height—Principal Buildings</u> : Two (2) stories, not including walkout, if there is one; except that the maximum height is four (4) stories for education uses

Zoning -
 ARTICLE XIV SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL

			<p>for the zoning district in which they are located. A 30-foot setback shall be required along all other property lines, unless a proposed building exceeds the maximum permitted height, in which case the required setback shall be increased by one foot for every foot of excess height.</p>	<p>located on a site of thirty (30) acres or larger.</p> <p>(2) <u>Maximum Height—Accessory Buildings</u> : See Footnote J, Article XIII, Schedule of Regulations.</p> <p>(3) <u>Maximum No. of Principal Buildings per Parcel</u> : Not limited, but subject to site plan review.</p> <p>(4) <u>Maximum No. of Accessory Buildings per Parcel</u> : Not limited, but subject to site plan review.</p> <p>(5) <u>No. of signs</u> : One (1) freestanding and one (1) wall sign on each public street frontage.</p> <p>(6) <u>Maximum Sign Dimensions</u> : Subject to the requirements for Freestanding Signs per section 4A.08.</p> <p>(7) <u>Maximum Lot Coverage</u> : Subject to the requirements for "All Buildings" in</p>
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Zoning -
 ARTICLE XIV SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL

					the zoning district in which the use is located (see Article XIII, Schedule of Regulations). (8) <u>Minimum Open Space</u> : Not applicable.
Nursery schools, day nurseries and child day care centers, and day care centers	2 & 3	Seven thousand (7,000) square feet or two hundred and fifty (250) square feet per child whichever is greater	Outdoor play area of one hundred and fifty (150') feet per child cared for, exclusive of structures, parking, drop off/pick up points and driveway, with a total minimum area of two thousand five hundred (2,500) sq. ft.		
Pinball parlors, pool halls, tattoo parlors	6				Not permitted within five hundred (500') feet of any church or school site boundary
Private parks, country clubs, golf courses, and golf driving ranges	4	Ten (10) acres	All structures to be minimum of one hundred (100') feet from any lot lines of adjacent		

Zoning -
 ARTICLE XIV SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL

			residentially zoned districts		
Public utility buildings, telephone stations, exchange buildings, electric utility sub-stations, gas regular and similar uses	All districts				(1) Whenever a new sub-station is proposed, all power lines entering, leaving, and within one thousand feet (1000') of the sub-station shall be placed underground unless the electric company demonstrates to the satisfaction of the City Council that installation of underground power lines are not feasible. The electric company shall provide documentation to thoroughly explain technological, economic, safety, reliability and other considerations that effect the feasibility of underground power lines. When evaluating such documentation, the City Council may seek the input and advice of experts in the field of electric power supply when related lines are determined to be

Zoning -
ARTICLE XIV SITE DESIGN STANDARDS FOR PERMITTED USES AFTER SPECIAL APPROVAL

					<p>acceptable, then such line shall be routed away from residentially used land, to the maximum extent feasible. If overhead power lines are determined to be acceptable in commercial districts, they shall be located within easements at the rear of the commercial parcels. The purpose of these requirements is to minimize the negative visual impact of electric power lines and related facilities on neighborhood, commercial districts, public right-of-way and the natural beauty of the City.</p> <p>(2) Lighting shall be focused down and shielded so that it does not shine onto adjoining sites.</p> <p>(3) Substation buildings of equipment shall be set back at least 85 feet from any property line that</p>
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					abuts a residentially used parcel. (4) Outside storage on substation sites shall be prohibited.
Temporary buildings for use incidental to construction work	All districts				Allowed for period not to exceed one year.

ARTICLE XV ADMINISTRATION AND ENFORCEMENT

Section 15.01 ADMINISTRATIONS AND ENFORCEMENT AUTHORITY.

The Building Official, through its officers, inspectors or employees, shall administer and enforce the provisions of this title, provided that, in cooperation with the Department, any police officer shall have authority to enforce the provisions relating to the parking, storing or placing of a motor vehicle on land or premises.

Section 15.02 DUTIES OF THE BUILDING OFFICIAL; BUILDING PERMITS APPLICATION.

- A. The Building Official shall have the power to grant building and occupancy permits, to make inspections of buildings or premises necessary to carry out the duties in the enforcement of this Ordinance. It shall be unlawful for the Building Official to approve any plans or to issue a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this Ordinance. To this end, the Building Official shall require that every application for a building permit for excavation, construction, moving or alteration or change type of use or other type of occupancy be accompanied by written statements and plans to plats drawn to scale, in triplicate, and showing the following in sufficient detail to enable the Building Official to ascertain whether the proposed work or use is in conformance with this Ordinance:
1. The actual shape, location and dimensions of the lot.
 2. The shape, size and location of all buildings or other structures to be erected, altered or moved, and of any buildings or other structures already on the lot.
 3. The existing and intended use of the lot and of all such structures upon it, including, in the residential areas, the number of dwelling units the building is intended to accommodate.
 4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

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- B. If the proposed excavation, construction, moving or alteration or use of the land, as set forth in the application, are in conformity with the provision of this Ordinance, the Building Official shall issue a building permit. If any application for such permit is not approved, the Building Official shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provisions of this Ordinance.
 - C. The Building Official is under no circumstances permitted to grant exceptions to the actual meaning of any cause, order or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land within the City.
 - D. The Building Official is under no circumstances permitted to make changes to this Ordinance in or to vary the terms of this Ordinance in carrying out his duties.
 - E. The Building Official shall make a record of all nonconforming uses, for which application for a Certificate of Occupancy has been made, which are existing at the effective date of this Ordinance, codified in this title for the purpose of carrying out the provisions of Section 5.12. In the event the Building Official does not notify owners of nonconforming uses this does not grant to them any greater status than any other nonconforming user may have.

Section 15.03 BUILDING PERMITS.

- A. **Permits Required.** It shall be unlawful for any person to commence excavation, construction, alteration, or repair of any building or structure, or moving of any existing building or structure, without first obtaining a building permit and other required permits. No permit shall be issued for construction, alteration, remodeling of any building or structure until an application has been submitted in accordance with the provisions of this Article, showing that the work proposed is in compliance with the provisions of this Ordinance, the adopted building code, and other applicable codes and ordinances (including, but not necessary limited to the adopted plumbing, heating, electrical, mechanical and drainage codes and regulations).
 - 1. **Information Required.** In addition to information required by the building code and other codes, the following information shall be provided with the permit application, if applicable:
 - a. The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties.
 - b. The location of all existing and proposed structures on the subject property and all existing structures on adjacent parcels within two hundred feet (200') minimum of the subject property or within five hundred feet (500') minimum.
 - c. The proposed elevations of the brick ledge, main floor, lowest level, garage floor, and patio (if proposed).
 - d. Existing ground elevation on 25 feet by 25 feet grid or by contours at two feet intervals, on the subject property and within fifty (50') feet of the subject property.
 - e. Proposed ground elevations on the site where elevations are proposed to be changed by more than twelve (12") inches and/or where change in drainage patterns is proposed.
 - f. Existing and proposed locations (horizontal and vertical) of underground utilities.
 - g. Proposed exterior dimensions of the building.
 - h. Proposed exterior dimensions of any building attachments or accessory structures, such as porches, decks, walls, and swimming pools.

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- i. Proposed front, side, rear, and waterfront setbacks, measured at the corners of the building and at the shortest distance between each face of the building and the corresponding property line (or legal lake level for waterfront setbacks).
 - j. All required zoning setbacks, property labeled.
 - k. A grading and soil erosion and sedimentation control plan, which shall include the following:
 1. A site location sketch, which shall indicate the general location of the site relative to lakes, streams, wetlands, roads, and other landmarks.
 2. Description and location of all proposed permanent soil erosion and sedimentation control measures.
 3. Description and location of all proposed temporary soil erosion and sedimentation control measures.
 4. Schedule and sequencing plan for construction.
 5. Direction and method of existing and proposed site drainage.
 6. Benchmark used to prepare the survey and plan, based on United States Geological Survey Datum.

The Building Official shall have the authority to waive or modify any or all of these requirements in consideration of the scope of the proposed work and anticipated impact of the proposed improvements.

2. **Professional Seal.** The Building Official may, at their discretion, require the plans for alteration or addition to an existing structure be sealed by an architect or professional engineer, provided that building plans shall be properly sealed whenever required by Michigan Occupational Codes and whenever a new residential structure is proposed. Accordingly, sealed plans shall be required for residential structures having a floor area of 3,500 square feet or more.
3. **Definition of "Alteration" or "Repair".** Alteration or repair of an existing building or structure includes any change in:
 - a. Structure members, stairways, or basic construction;
 - b. Type, kind, or class of occupancy;
 - c. Light or ventilation;
 - d. Means of ingress or egress; or
 - e. Other changes affecting compliance with or regulated by the adopted building and housing codes or this ordinance.
4. **New Use of Land.** A building permit shall be required for new use of land, whether the land is presently vacant or a change in land use is proposed.
5. **Issuance of a Permit.** A building permit shall be issued within ten (10) business days after receipt of the application if it is found that the proposed construction, alteration, or remodeling is in accordance with the provisions of this and other codes and ordinances.
6. **Verification of Compliance with Permit Requirements.** It shall be unlawful to use or occupy any land, building or structure for which a permit is required in compliance with permit requirements. For the purpose of such verification, the Building Official shall require:
 - a. **Verification of Foundation.** After construction of the foundation and backfilling, verification that the foundation complies with the approved plans shall be required. An as-built survey shall be

submitted by a licensed professional surveyor showing that the finished building grade and brick ledge elevations and location of the foundation are in accordance with the approved plans. No construction or material delivery shall take place until the required certification has been approved by the Building Official.

- b. **"As-Built Survey"**. As-built survey shall be submitted to the City by a licensed professional surveyor indicating the garage floor finished grade and brick ledge elevations, setbacks, finished grade and lot corner elevations, and centerline and spot elevations of drainage swales. This must be done prior to a certificate of occupancy being issued. Whenever a new residential structure is constructed, and whenever the proposed improvements result in an increase of the building footprint by 750 square feet or more, the as-built drawings and survey shall be completed and sealed by a licensed professional surveyor. Where the proposed improvements involve renovation to or expansion of an existing residential structure, and where the improvements do not increase the building footprint by 750 square feet or more, then the Building Official may permit the as-built drawing to be completed by the property owner or builder.
7. **Notification of Building Official**. It shall be the permit holder's responsibility to notify the Building Official of construction progress and to request inspection.

Section 15.04 CERTIFICATE OF OCCUPANCY.

It is unlawful to use or permit the use of any land, building or structure for which a building permit is required, and to use or permit to be used any building or structure altered, extended, erected, repaired or moved, until the Building Official has issued a Certificate of occupancy stating that the provisions of this Ordinance have been complied with.

- A. **Certificate Validity**. The Certificate of Occupancy as required for new construction of or renovations to existing buildings and structures in the Michigan Building Code shall also constitute Certification of Occupancy as required by this Ordinance.
- B. **Certificates of Existing Buildings**. Certificate of Occupancy shall be issued for existing buildings, structures or parts thereof, or existing uses of land if, after inspection, it is found that such building, structures or parts thereof, or such use of land, are in conformity with the provisions of this Ordinance.
- C. **Temporary Certificates**. Temporary Certificates of Occupancy may be issued for a part of a building or structure prior to the occupation of the entire building or structure, provided that such temporary Certificate of Occupancy shall not remain in force more than six (6) months, nor more than five (5) days after the building or structure is fully completed and ready for occupancy and provided, further, that such portions of the building or structure are in conformity with the provisions of this Ordinance.
- D. **Records of Certificates**. A record of all Certificates of Occupancy shall be kept in the office of the Building Official and copies of such Certificates of Occupancy shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property involved.
- E. **Certificates for Accessory Buildings to Dwellings**. Accessory buildings or structures to dwellings shall not require a separate Certificate of Occupancy, but rather may be included in the Certificate of Occupancy for the principal dwelling, building or structure on the same lot when such accessory buildings or structures are completed at the same time as the principal use.
- F. **Application for Certificates**. Certificates of Occupancy shall be applied for in writing to the Building Official on forms provided by the Building Official and shall be issued within five (5) days after the receipt of such application if it is found that the building or structure or part thereof or the use of land is in accordance with the provisions of this Ordinance. If such certificate is refused for cause, the applicant shall be notified of such refusal and the cause thereof within the aforesaid five (5) day period.

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- G. **Certificates for Nonconforming Buildings and Uses.** Reference is made to Section 5.12.

Section 15.05 FEES.

- A. Fees for inspections and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Ordinance shall be collected by the City Treasurer in advance of the issuance of such permits or certificates.
- B. The amount of such fees shall be established by the City Council and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance. The fees shall be deposited in the Building Department Fund of the City of Orchard Lake Village.

Section 15.06 PLANNING COMMISSION DUTIES.

The City Planning Commission as established by City Ordinance in accordance with Act 285, of the Public Act of 1931, as amended, is designated as the commission specified in Section 4 of Act 207 of the Public Act of 1921, as amended, and shall perform the duties of said Commission as provided in the statute in connection with amendments to this Ordinance.

Section 15.07 AMENDMENTS: PUBLIC HEARING: NOTICE: REPORT OF PLANNING COMMISSION: VOTE REQUIRED.

- A. The City Council may, upon recommendation from the Planning Commission, amend, supplement or change the regulation of the district boundaries of the Ordinance as established herein, subsequently pursuant to the authority and procedure set forth in Acts of 1921, as amended.
- B. Any applicant desiring to have any change made in this Ordinance shall, with his petition for such change, deposit a fee as established by the City Council with the City Treasurer at the time that the petition is filed to cover the publication and other miscellaneous fees for said change.
- C. At least one (1) public hearing shall be held by the Planning Commission before an amendment becomes effective. Not less than fifteen (15) days' notice of the time and place of the public hearing shall first be published in an official paper or a paper of general circulation in the City, and not less than fifteen (15) days' notice of the time and place of the public hearing shall first be given by mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the districts or zones affected that registers its name and mailing address, which shall be maintained by the City. A hearing shall be granted a person interested at the time and place specified on the notice.
- D. The Planning Commission shall make a tentative report and hold at least one (1) public hearing before submitting its final report to the City Council. A summary of the comments submitted at the public hearing shall be transmitted with the report of the Commission to the City Council. The City Council may hold additional public hearings if it considers it necessary, or as may be required by the City Charter.
- E. The City Council shall not determine the boundaries of districts nor impose regulations until after the final report of the Planning Commission, nor shall the Ordinance or maps be amended after they have been submitted to the Planning Commission and it has held at least one (1) public hearing and made report thereon. In either case, the City Council may adopt the Ordinance and maps, with or without amendments, after receipt of the Planning Commission's report, or refer the Ordinance and maps again to the Planning Commission for a further report.
- F. After the Ordinance and maps have in the first instance been approved by the City Council, amendments or supplements thereto may be made, as provided in this Section, except that if an individual property or

several adjacent properties are proposed for rezoning, notification and hearing shall be given to the owners of the property in question at least fifteen (15) days before the hearing.

- G. Upon preservation of a protest petition, meeting the requirements of this Subsection, an amendment to this Ordinance which is the subject of the petition shall be passed only by an affirmative vote of at least five (5) members of the Council, and by Ordinance. The protest petition shall be presented to the City Council before final legislative action on the amendment, and shall be signed by one (1) of the following:
1. The owners of at least twenty percent (20%) of the area of land included in the proposed change.
 2. The owners of at least twenty percent (20%) of the area of land included within an area extending outward one hundred (100') feet from any point on the boundaries of the land included in the proposed change.
 3. For purposes of Subsection G, publicly owned land shall be excluded in calculating the twenty percent (20%) land area requirement.
- H. Following adoption of amendment to this Ordinance by the City Council, one (1) notice of adoption shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption. The notice shall include:
1. Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
 2. The effective date of the amendment.
 3. The place and time where a copy of the amendment may be perused or inspected.

Section 15.08 POWERS OF THE CITY COUNCIL CONCERNING SPECIAL USE APPROVALS.

The City Council shall have the following specific powers and duties concerning special use approval:

- A. **Purpose.** Special uses are uses, either public or private, which possess unique characteristics and therefore cannot be classified as a principal permitted use in a particular zoning district. The purpose of this Section is to provide standards and procedures for review of each such proposed use individually on its own merits to determine if the use is appropriate for the district and in the specific location where proposed.
- B. **Authorization.** Special use and approval is authorized by Section 5.02 of Michigan Public Act 110 of 2006, as amended (the Michigan Zoning Enabling Act). Uses identified as special uses in Sections 6.04, 7.03, 8.03, 9.03, 10.03, 11.03 and 12.03 shall require approval as set forth in this Section. From time to time, special uses may be added by amendment to this Ordinance.
- C. **Review Procedures.**
1. **Application Materials.**
 - A. A completed application for special use review shall be submitted with the appropriate fee in the manner and schedule prescribed by the City administration to provide sufficient time to notice the required public hearing and review the proposal. A site plan is required to process a special use proposal, so a completed application for site plan review shall be submitted simultaneously with the special use application.
 - B. A site plan prepared in accordance with Section 4.33 shall be submitted.
 - C. The notice shall:
 - i. Describe the nature of the request.

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- ii. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property.
 - iii. State when and where the request will be considered.
 - iv. Indicate when and where written comments will be received concerning the request.
 2. **Staff Review.** The proposed special use application and site plan shall be reviewed by the Director of City Services. The Director of City Services may request professional review by the City Planner, City Engineer, and/or City Attorney. Any such review shall be prepared in writing and transmitted to the Planning Commission.
 3. **Transmittal to the Planning Commission; Public Hearing.** The applications and site plan shall be transmitted to the Planning Commission for initial review. A public hearing shall be scheduled on the special use. Notice of the public hearing shall be given as follows:
 - a. The City shall publish notice of the hearing in a newspaper of general circulation not less than fifteen (15) days before the date of the hearing.
 - b. Notice shall be given to the owners of property that is the subject of the request. Notice shall also be given to all persons to whom real property is assessed within 1,000 feet of the property that is the subject of the request and to the occupants of all structures within 1,000 feet of the subject property, regardless of whether the property or structure is located in the zoning jurisdiction. The notice shall be given not less than fifteen (15) days before the date the request will be considered by the Planning Commission.

Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
 4. **Planning Commission Action.** The Planning Commission shall receive the staff reports and conduct the public hearing. Following deliberation, the Planning Commission shall make separate recommendations, one for the special use and one for the site plan, based on the following options:
 - a. **Recommendation of Approval.** Upon finding that the special use and site plan are in compliance with the requirements of this Ordinance, the Planning Commission shall recommend approval to the City Council.
 - b. **Recommendation of Conditional Approval.** Upon finding that the special use and site plan are largely in compliance with the requirements of this Ordinance, with the exception of minor revisions, the Planning Commission may recommend approval with conditions to the City Council.
 - c. **Recommendation of Denial.** Upon finding that the special use and/or site plan are not in compliance with Ordinance to the extent that compliance cannot be achieved, the Planning Commission shall recommend denial to the City Council.
 - d. **Tabling.** If the applicant requests time to make revisions to bring a special use and site plan proposal into compliance, then the Planning Commission may table the case until a specific date.

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5. **Transmittal to City Council.** The special use proposal and site plan shall be transmitted to City Council for review. The site plan submitted to City Council shall be the same as the plan reviewed and recommended by the Planning Commission, except that if the Planning Commission recommended conditional approval, then the plan shall be revised to incorporate the conditions. However, if the applicant objects to any of the conditions, then they need not be shown on the plan pending review by the City Council.
 6. **City Council Action.** Following deliberation and consideration of the Planning Commission's recommendations, the City Council shall take action on the special use and the site plan, based on the options:
 - a. **Approval.** Upon determining that the special use and site plan are in compliance with the requirements of this Ordinance and other applicable ordinances, the City Council shall grant approval.
 - b. **Approval with Conditions.** In addition to the conditions recommended by the Planning Commission, the City Council may impose conditions with the approval of a special use. Conditions imposed shall meet all of the following requirements:
 - i. Conditions shall be designed to protect natural resources, the health, safety, welfare and 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.
 - ii. Conditions shall be related to the valid exercise of police power, and purposes that are affected by the proposed use or activity.
 - iii. Conditions shall be necessary to meet the intent and purpose of the Zoning Ordinance, related to the standards established in the Ordinance for the land use or activity under consideration, and necessary to insure compliance with those standards.

Following approval of the special land use, the City Council shall take action on the site plan, which may require revisions to comply with the special use conditions.
 - c. **Denial.** Upon determination by the City Council that a special use proposal does not comply with the regulations set forth in this Ordinance or other applicable ordinances, or otherwise will be injurious to the public health, safety, welfare, and/or orderly development of the City, the special use proposal shall be denied.
 7. **Record.** The decision on a special use proposal shall be incorporated in a Statement of Conclusions, which shall specify the basis for the decision and any conditions imposed. The Statement of Conclusions shall remain unchanged except by mutual consent by the City Council and the applicant. All changes approved by mutual consent shall be incorporated into an amended Statement of Conditions. The action taken by the City Council, including any conditions imposed thereon shall be recorded in the official minutes of the City Council.
 8. **Expiration of Special Use Approval.** Special use approval shall expire one (1) year from the date of action by the City Council unless:
 - a. The premises are occupied by the permitted use, or
 - b. Construction is underway pursuant to a valid building permit to prepare the premises for the permitted use.
 9. **Modification to an Approved Special Use.** Reconsideration of a Special Use by the Planning Commission and the City Council shall not be required if all of the following requirements are

met: The proposed improvements do not change the overall purpose, use, character, or operation of the facility in question.

- A. Special Use approval for the use in question was granted in the past and the approval remains valid.
- B. The proposed improvements will not result in a substantial increase in the intensity of the Special Use. In evaluating this condition, consideration shall be given to anticipated increases in traffic, employees, customers, or students, new or modified operations, etc.
- C. The proposed improvements will not result in a substantial increase in usable floor area for the purpose of expanding the capacity of the Special Use.
- D. The proposed improvements will not result in a substantial increase in total land area for the purpose of expanding the capacity of the Special Use.
- E. The proposed improvements will not result in having negative effects on surrounding properties.

The Director of City Services shall be responsible for determining if a proposed modification requires full review and approval based on the above criteria.

In making the determinations required in this sub-section, the Director of City Services may request professional review by the City Planner, City Engineer, r City Attorney and or the City Planning Commission.

Proposed improvements require site plan review in accordance with Section 4.33, regardless whether Special Use review and approval is required.

- D. **Approval Standards.** Approval of a special use by the City Council shall be based on the determination that the proposed use will comply with all applicable requirements of this Ordinance, including the following standards:
 - 1. **Public Health, Safety and Welfare.** The special use shall be designed, constructed and operated so that the public health, safety and welfare will be protected.
 - 2. **Compatibility with Adjacent Uses.** The special use shall be designed, constructed and operated to be compatible with and have no adverse effect on uses on surrounding land. In determining whether this requirement has been met, consideration shall be given to the following:
 - a. The location and screening of vehicular circulation areas and parking in relation to surrounding uses.
 - b. The location of buildings, structures and screening, including screening of outdoor activity areas and mechanical equipment, in relation to surrounding uses.
 - c. The hours of operation. Approval of a special use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
 - d. Proposed landscaping and other site amenities.
 - 3. **Compatibility with the Master Plan.** The proposed special use shall be consistent with the principles and objectives of the City's Master Plan.
 - 4. **Adequacy of Public Services.** The proposed special use shall be adequately served by necessary public services and facilities, including, where appropriate, streets, police and fire protection, drainage systems, water and sewage facilities, and schools, unless the proposal includes an

acceptable plan for providing necessary services or evidence that such services will be available by the time the special use is established.

5. **Minimize Impact of Traffic.** The special use shall be designed and operated in a manner that minimizes its impact on traffic. In determining whether this requirement has been met, consideration shall be given to the following:
 - a. Proximity and access to thoroughfares (e.g., Orchard Lake Road).
 - b. Estimated traffic generated by the proposed use.
 - c. Proximity to and impact on intersections.
 - d. Adequacy of driver sight distances.
 - e. Location of and access to off-street parking.
 - f. Provisions for non-motorized traffic.
6. **Impact on the Economic Well-Being.** The proposed special use shall not be detrimental to the economic well-being of those who will use the land, as well as surrounding residents, businesses, and landowners, and the community as a whole.
7. **Harmony with Applicable Requirements of the Zoning Ordinance.** The proposed special use shall be in harmony with the purposes and regulations of the zoning district in which it is located. Furthermore, the proposed special use shall comply with applicable regulations in the Site Design Standards in Article XIV.
8. **Compatibility with the Natural Environment.** The proposed special use shall be compatible with the natural environment and shall help conserve natural resources and energy.

Section 15.09 PERFORMANCE GUARANTEE.

- A. **Intent and Scope of Requirements.** To insure compliance with the provisions of this Ordinance and any conditions imposed thereunder, the Planning Commission or City Council may require that a performance guarantee be deposited with the City to insure faithful completion of improvements, in accordance with Section 505 of the Michigan Zoning Enabling Act, Act 110 of 2006, as amended. Improvements for which the City may require a performance guarantee include, but are not limited to, roads, lighting, utilities, sidewalks, perimeter landscaping, and improvements in common spaces, screening and drainage.
- B. **General Requirements.** The performance guarantee shall meet the following requirements:
 1. The performance guarantee shall be in the form of an irrevocable bank letter of credit or cash escrow. If the applicant posts a letter of credit, (the credit gives City rights to draw funds under the credit). If the applicant posts cash escrow, the escrow instructions shall provide that the escrow agent shall have a legal duty to deliver the funds to the City whenever the Mayor presents an affidavit to the agent attesting to the City's right to receive funds whether or not the applicant protests that right.
 2. The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity or project.
 3. The amount of the performance guarantee shall be sufficient to cover the estimated cost of the improvements for which the performance guarantee is required. The applicant shall provide an itemized schedule of estimated costs to complete all such improvements. The exact amount of the performance guarantee will be determined by the Building Official.
 4. The entire performance guarantee shall be returned to the applicant following:

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- a. Inspection by the Building Official and other authorities who have jurisdiction over the project, and
 - b. A determination that the required improvements have been completed satisfactorily.

The performance guarantee may be released to the applicant in proportion to the work completed on various elements, provided that a minimum of ten percent (10%) shall be held back on each element until satisfactory completion of the entire project.

- 5. A portion of the performance guarantee equal to ten percent (10%) of the value of the perimeter landscaping and landscaping in common areas: An amount not less than ten percent (10%) of the total performance guarantee may be retained for a period of at least one (1) year after installation of landscape materials to insure proper maintenance and replacement, if necessary. This amount will be released to the applicant upon certification by the Building Official that all landscape materials are being maintained in good condition.
- C. **Unsatisfactory Completion of Improvements.** Whenever required improvements are not installed or maintained within the time stipulated or in accordance with the standards set forth in this Ordinance, the City may complete necessary improvements itself or by contract to an independent developer, and assess all costs of completing said improvements against the performance guarantee. Prior to completing said improvements, the City shall notify the owner, site plan review applicant, or other firm or individual responsible for completion of the required improvements.

Section 15.10 DUTIES OF THE CITY CONSULTANT.

In addition to specific responsibilities outlined elsewhere in this Ordinance, when engaged by the City to perform such duties, the City Planning Consultant shall have the following responsibilities:

- A. Prepare and administer such plans and ordinances as are appropriate for the City, within the scope of the Michigan Planning and Zoning Enabling Acts.
- B. Advise and assist the Planning Commission and be responsible for carrying out the directives of the Planning Commission.
- C. Advise and assist the City Council and be responsible for carrying out the directives of the City Council.
- D. At the request of the Building Official, Planning Commission or authorized City Officials, review applications for site plan review, special use reviews, rezoning requests, and other zoning applications.
- E. Provide citizens and public officials with information relative to this ordinance and related matters.
- F. At the request of the Planning Commission or City Council, draft amendments to the Zoning Ordinance and other ordinances to accomplish the planning objective of the City.
- G. Perform other related duties required to administer this Ordinance.

Section 15.11 STANDARDS—NOTICE OF PUBLIC HEARINGS.

- A. Except as otherwise provided in this ordinance, if the City is required to provide notice and a public hearing, the City shall do all of the following:
 - 1. Publish notice of the request in a newspaper of general circulation in the City;
 - 2. Mail or personally deliver said notice to the owners of property for which approval is being considered; and

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3. Mail or personally deliver said notice to all persons to whom real property is assessed within one thousand (1,000') feet of the subject property, regardless of whether the property or occupant is located in the City. If the name of an occupant is not known, the term "occupant" may be used.
 4. For any notice given regarding a group home, the notice shall be delivered as specified in subsection 3 above, except that the distance shall be fifteen hundred feet (1,500').
- B. The notice specified above shall be given not less than fifteen (15) days before the date the application will be considered for approval.
- C. The notice specified above shall do all of the following:
1. Describe the nature of the request;
 2. Indicate the property that is the subject of the request by street address, or if none, other appropriate items;
 3. State when and where the request will be considered; and
 4. Indicate when and where written comments will be received concerning the request.

ARTICLE XVI ZONING BOARD OF APPEALS

Section 16.01 ESTABLISHMENT.

The Zoning Board of Appeals (hereinafter referred to as "ZBA") is created pursuant to the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006 as amended. In the City of Orchard Lake Village the City Council acts as the ZBA, pursuant to Section 601(2) of Public Act 110. The City Council is authorized to appoint a ZBA consisting of not less than five (5) members, each to be appointed for a term of three (3) years, in accordance with Section 601 of Public Act 110. The qualification of members and operation of the ZBA shall be in accordance with Public Act 110.

Section 16.02 OFFICERS.

The Mayor shall serve as the Chairperson and the Mayor Pro Tem shall serve as the Vice Chairperson of the ZBA. The City Attorney or his/her representative shall act as legal counsel for the ZBA and shall be present at meetings of the ZBA.

Section 16.03 MEETINGS.

- A. Meetings of the ZBA shall be held in accordance with an adopted schedule or at the call of the chairperson, or by the Vice Chairperson in the absence of the Chairperson, or upon written request of two (2) members of the board.
- B. Hearing and meetings of the ZBA shall be public, at meetings conducted in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended. Public notice of the time, date and place of the meeting shall be given in the manner required by Act 267.
- C. The ZBA shall state the grounds of each determination, and shall maintain a record of its proceedings, including the vote of members on each question, which record shall be filed in the office of the City Clerk. Such records shall be available to the public in accordance with the Freedom of Information Act, Public Act 442 of 1976, as amended.

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- D. The Zoning Board of Appeals shall have the power to subpoena and require the production of books, papers, files and other evidence pertinent to the matters before it.
 - E. In the event alternate members to the ZBA are appointed by the City Council, the alternate members may be called on a rotating basis by the Chairperson to sit as regular members of the ZBA in the absence of regular members. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision in a case in which the regular member had abstained for reasons of conflict of interest. The alternate member, having been appointed, shall serve in the case until a final decision has been made. The alternate members shall have the same voting rights as a regular member of the ZBA.

Section 16.04 AUTHORITY OF THE ZONING BOARD OF APPEALS.

- A. **General Authority.** The Zoning Board of Appeals shall have the authority to act on those matters where this Ordinance provides for appeal of an administrative order or interpretation, and shall have authority to authorize a variance as defined in this Ordinance and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The Zoning Board of Appeals shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance.
- B. **Administrative Review.** Except for special land use approval, the Zoning Board of Appeals shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, board, or commission in carrying out or enforcing any provision of this Ordinance. Such appeal shall be requested by the applicant within sixty (60) days of the date of the order, refusal, requirement, or determination being appealed. In hearing and deciding appeals under this sub-section, the Zoning Board of Appeals review shall be based upon the record of the administrative decision being appealed. The Zoning Board of Appeals shall not consider new information which had not been presented to the administrative official, board or commission from whom the appeal is taken. If new information is presented, the official, board or commission from whom the appeal is taken should review the revised application and make a decision, which may be appealed under this section.
- C. **Interpretation.** The Zoning Board of Appeals shall have authority to hear and decide requests for interpretation of the Zoning Ordinance, including the zoning map. The Zoning Board of Appeals shall make such decisions so that the spirit and intent of this Ordinance shall be observed. Text interpretation shall be limited to the issues presented, and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance. Map interpretation shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the Zoning Board of Appeals shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the Zoning Board of Appeals may confer with the City staff and consultants to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment to the Ordinance.
- D. **Variations.** The Zoning Board of Appeals shall have authority in specific cases to authorize one or more dimensional or "non-use" variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the Ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The Zoning Board of Appeals is authorized to grant use variances by this Ordinance. Such authority shall be exercised in accordance with the following standards:

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1. The Zoning Board of Appeals may grant a requested "non-use" variance only upon a finding that practical difficulties exist. A finding of practical difficulties shall require demonstration by the applicant of all of the following:
 - a. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permit purpose or will render ordinance conformity unnecessarily burdensome.
 - b. The variance will do substantial justice to the applicant, as well as to other property owners.
 - c. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
 - d. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
 - e. The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors.
 2. The Zoning Board of Appeals may grant a requested "use" variance only upon finding that an unnecessary hardship exists. A "use" variance is a variance that permits a use that is otherwise prohibited in a zoning district. A finding of unnecessary hardship shall require demonstration by the applicant of all of the following:
 - a. The property cannot be reasonably used for any purpose permitted in the zoning district without a variance.
 - b. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same district.
 - c. The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.
 - d. The problem and resulting need for the variance has not been self-created by the applicant.
 - e. The variance will not impair the intent and purpose of the Zoning Ordinance of the Master Plan.
 3. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the Zoning Board of Appeals may make the required findings.
- E. **Conditions.** The Zoning Board of Appeals may impose reasonable conditions on an appeal, interpretation or variance request. The conditions may include requirements necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet 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 for use or activity under consideration, residents, landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 3. Be necessary to meet the intent and purpose of the Zoning 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. Conditions imposed with respect to the approval of a variance shall be recorded as part of the Zoning Board of Appeals minutes, and shall remain unchanged except

upon the mutual consent of the Zoning Board of Appeals and the landowner following notice and hearing as required in a new case.

- F. **Exceptions for Public Utilities.** The Zoning Board of Appeals may permit the erection of, addition to, and/or use of a building for public utility purposes in any zoning district. In permitting such building, structure, or use, the Zoning Board of Appeals may permit greater height or larger area than otherwise permitted in the district, provided that the Zoning Board of Appeals finds that such use, height, area, building, or structure are reasonably necessary for the public convenience and service, and provided further, that such building, structure, or use is designed and landscaped to be compatible with the surrounding land use and neighborhood.
- G. **Temporary Buildings and Uses.** The Zoning Board of Appeals may permit temporary buildings and uses for periods not to exceed six (6) months, provided that such buildings and uses in no way have a detrimental effect upon the uses of land permitted in the zoning district, and that such temporary buildings and uses contribute materially to the general welfare of the City, particularly in times of emergency, under conditions peculiar to the time and place involved. Such period may be extended not more than an additional period of six (6) months.
- H. **Performance Guarantee.** The Zoning Board of Appeals may require that a performance guarantee be deposited with the City to ensure faithful completion of the improvements.

Section 16.05 APPLICATIONS AND NOTICES.

- A. **Application.** An application to the ZBA, in cases in which it has original jurisdiction under the provisions of this Ordinance, may be made by a person or property owner, including a tenant, or by a governmental officer, board, department or bureau. All applications to the Zoning Board of Appeals shall be filed with the City Clerk, on forms provided by the City, and shall be accompanied by the applicable fee. The ZBA shall not consider any application until said sum has been paid by the applicant. Applications shall include items required by sub-section B, C and D below. Applications shall provide all plans, studies, and other information to be considered by the ZBA. The Zoning Board of Appeals shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been submitted, including relevant plans, studies, and other information.
- B. **Site Plan.** A site plan shall be required with all variances requested. Where an application provides a variance sought in conjunction with a regular site plan review, a site plan prepared according to Section 4.33 shall satisfy the requirements of this Section. The Zoning Board of Appeals has the authority to require a land survey prepared by a professional surveyor or registered engineer when the Zoning Board of Appeals determines it to be necessary to insure accuracy of the plan.
- C. **Applications involving an Appeal of Administrative Order.** In cases involving an appeal from an action of an administrative official or entity (as specified in Section 16.04, Sub-Section B), the administrative official, shall transmit to the Zoning Board of Appeals copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.
- D. **Consent of Property Required.** Applications for a variance shall be made with the full knowledge and written consent of all owners of the property in question. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.
- E. **Hearing and Notice.** The City, upon receipt of an application or an appeal for an area or dimensional variance, or a use variance, shall fix a reasonable time and place for a hearing on the request and give notice according to Section 15.11 of the Ordinance. Upon receipt of a written request seeking an interpretation of the Zoning Ordinance or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation with the City and shall be sent by first-class mail or personal delivery making the request not less than fifteen (15) days before the public

hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specified parcel, written notice stating the nature of the request and the time, date, and place of the public hearing on the request shall be sent by first-class mail or personal delivery to all persons to whom real property in question and to the occupants of all structures within one thousand (1,000') feet of the boundary of the property in question. If an occupant's name is not known, the term "occupant" may be used. The Zoning Board of Appeals shall decide the application or appeal within sixty (60) days of the hearing date and shall promptly mail a copy of its decision to the applicant or appellant.

- F. **Decision by the Zoning Board of Appeals.** The concurring vote of four (4) members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board or commission made in the administration of this Ordinance or to decide in favor of an applicant on any matter upon which the Zoning Board of Appeals is required to pass under this Ordinance. A concurring vote of $\frac{3}{4}$ of the members of the board shall be necessary to grant a "use" variance from the terms of this Ordinance.

Section 16.06 DISPOSITIONS AND DURATION OF APPROVAL.

- A. **Zoning Board of Appeals Power.** The Zoning Board of Appeals may reserve, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the Zoning Board of Appeals' jurisdiction, and to that end, shall have all the powers of the officer, board or commission from whom the appeal is taken, subject to the Zoning Board of Appeals' scope of review, as specified in this Ordinance or by the law. The Zoning Board of Appeals may remand a case for further proceedings and decisions.
- B. **Decision Final.** A decision by the Zoning Board of Appeals shall be considered final as of the meeting at which the decision has been made, and the date of such meeting shall be determined to be the date of notice of the decision to the applicant. To the extent that decisions are requested or required to be in writing, the minutes of the Zoning Board of Appeals meeting, and decision, as proposed under supervision of the City Clerk, shall constitute the written decision, even if the minutes are awaiting final Zoning Board of Appeals approval.
- C. **Period of Validity.**
1. **Initial Period of Validity.** The relief granted by the Zoning Board of Appeals shall be valid for a period not longer than six (6) months, unless otherwise specified by the Zoning Board of Appeals, and within such period of effectiveness, actual on site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void.
 2. **Extension of Approval for Residential Uses and Sites.** For residential uses and sites only, if improvements have not commenced within six (6) months of initial validity, the applicant may apply in writing to the Building Official for an extension of the ZBA's approval. The Building Official may approve one (1) extension of up to ninety (90) days provided that he/she finds that the conditions on and surrounding the site are substantially the same as when the ZBA initially took action on the case. If improvements have not commenced within the time period specified in an extension granted by the Building Official, or if the Building Official declines to extend the period of validity, and applicant may request re-approval by submitting a written request to the ZBA.
 3. **Extension of Approval for Non-Residential Uses and Sites.** For non-residential uses and sites, if improvements have not commenced within six (6) months of initial validity, an applicant may request re-approval by submitting a written request to the ZBA.
 4. Requests to the ZBA for re-approval for both residential and non-residential uses shall be reviewed in accordance with the same standards and procedures that apply to the new application.

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- D. **Record of Proceedings.** The City Clerk shall prepare and keep minutes of the Zoning Board of Appeals proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a members' absence or failure to vote. The minutes shall be within the ultimate authority, and shall be the responsibility of the Zoning Board of Appeals and shall be subject to approval of the Zoning Board of Appeals.
 - E. **Appeal of a Zoning Board of Appeals Decision.** All decisions of the Zoning Board of Appeals shall be final. However, any party aggrieved by such a decision of the Zoning Board of Appeals may appeal to the Circuit Court within thirty (30) days of the final decision.
 - F. **New Application for Variance.** If the Zoning Board of Appeals denies a request for a variance, the decision of the Zoning Board of Appeals shall not be subject to re- consideration for period of one (1) year, whereupon the applicant may submit a new application for the variance. However, the Zoning Board of Appeals may waive the one year period if conditions upon which their original decision was made, changed, or if information relating to their decision are found to be incorrect or inaccurate.

Section 16.07 FILING FEES.

All applications shall be accompanied by a filing fee which shall be established by resolution of the City Council. This filing fee may include a deposit toward the costs of any consultants retained by the City for reviewing the application, such as consulting, planning services, consulting engineering services, legal services, court reporter services, or similar services. The approval process should not begin until the filing fee and deposit are paid. Upon notification of deficient payment of fees, administrative officials charged with enforcement of the Ordinance shall suspend further review of the application. Any deposit toward the cost of any consultant shall be credited against the expense to the City of such consultants, which shall be fully charged to the applicant. Any portion of the deposit not needed to pay such expense shall be refunded without interest to the applicant within thirty (30) days of final action on the application. A schedule of the current filing fees and deposit requirements shall be made available in the office of the City Clerk. The assessment and payment of application fee does not affect the requirements for a performance guarantee. There shall be no fee in the case of application filed in the public interest by a municipal department or City Official.

ARTICLE XVII COMMERCIAL BUILDING DESIGN GUIDELINES

Section 17.01 PURPOSE.

This article of the Zoning Ordinance sets forth design guidelines and procedures for enforcing the guidelines that apply to Zones 5 and 6, the Office and Commercial Zones of the City. The purpose of the design guidelines is to ensure that development in the Orchard Lake Road corridor is consistent with goals, policies, and visions set forth in the City's Master Plan. A primary goal of these standards is to upgrade the appearance of the commercial districts and preserve their relevance as commercial centers area residents, while maintaining the viability of local-serving businesses. These design guidelines are intended to be a resource for the City Officials, property owners, and developers when approaching growth and development issues in the Orchard Lake Road corridor. Other specified purposes include:

- A. To implement standards that encourage the best and consistent quality design in a conservative and traditional manner.
- B. To achieve a harmonious character between building façades.
- C. To allow individual expression of a retail business within the scope of compatibility.

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- D. To encourage property owners and proprietors to understand and appreciate the spirit and architectural enhancements that the guidelines are intended to promote.
 - E. To encourage harmonious signage and illumination.
 - F. To provide guidance to applicants so they understand the City's design vision and objectives when considering expansion or renovation of their establishments.

Section 17.02 DEFINITIONS.

Within this Article only, the following terms have the meaning ascribed to them in this Section:

Alteration. Modifications or adjustments that change the façade or other exterior elements of a building.

Cast Stone. A refined architectural concrete building unit manufactured to simulate natural cut stone, used in unit masonry applications.

Cultured Stone. Manufactured stone veneer made of lightweight aggregate materials cast in flexible molds and colored with iron oxide pigments. Cultured Stone is a trademark product manufactured by Owens Corning.

E.I.F.S. Exterior Insulation Finishing System, also known as synthetic stucco.

Fypon. Decorative urethane millwork, a trademark product. In this Article, Fypon is used as a generic name for decorative millwork made from polymers, such as urethane, poly-vinyl chloride, etc., for descriptive purposes. This Article does not endorse any specific brand.

HSL Color Model. HSL (Hue, Saturation, Luminosity) is an alternative way of specifying color values. Hue corresponds to the actual color, saturation corresponds to the intensity of the color, and luminosity corresponds to the brightness. These attributes are evaluated on a scale of 0 to 240. For example, Hue starts at 0 for red. As its value increases it goes through the colors of the rainbow. Maximum luminosity (240) corresponds to white for any color, while minimum luminosity (0) corresponds to black. The middle value (120) corresponds to the pure color. Minimum saturation (0) corresponds to gray, while maximum saturation (240) corresponds to pure color.

Massing Model. A three dimensional model of a building that is intended to show the height, width, depth, and basic features of the building, but typically does not show detailed features, such as façade material, colors, etc.

Natural Colored. A color that is present in or product by nature, particularly an earth tone color that draws from a color palette of browns, tans, grays, greens, and some reds. The colors in an earth tone scheme are muted and flat in an emulation of natural colors found in soil and rock.

Oil Canning. A perceived waviness across the flat areas of sheet metal panels, typically caused by uneven stress at fastening points.

Primary Opaque Surface. The predominant exterior finish material, excluding windows, constituting at least seventy-five percent (75%) of the exterior façade.

Renovation. To restore the exterior of a building to a previous condition, as by remodeling.

Secondary Opaque Surface. An exterior finish material, excluding windows, that constitutes less than twenty-five percent (25%) of the exterior façade.

Stucco. Stucco is made of Portland cement, sand and water. Stucco is usually applied over an expanded metal lath that is fastened with staples or screws through wall sheathing into studs. The material is generally applied in three coats — the scratch coat, the brown coat, and the finish coat. The finish coat is usually an integral color and is where texture is also achieved.

Traditional. As applied to building design, "traditional" refers to architecture that was predominate in the pre-WWII era, and was characterized by craftsman-like detail, human scale, and use of study materials.

Section 17.03 APPLICABILITY.

The design guidelines set forth in this Article apply to any alterations, renovations, or new construction of a building or place of business located in any Professional Office (Zone 5) or Local Business (Zone 6) district. It is intended that these guidelines govern only the exterior appearance of commercial buildings. It is intended that users maintain conformity with Zone 5 and Zone 6 standards, as applicable, as well as the design guideline set forth in this Article. In the event there is a conflict between that design guideline and the zoning requirements, the design guidelines shall govern.

Section 17.04 PROCEDURES.

The procedures in this section are intended to provide a consistent and uniform method of design review of proposed development plans, to ensure full compliance with the standards contained in this Ordinance.

- A. **Application Forms and Documentation.** The application for design review shall be made on the form and according to the guidelines provided by the Building Official. The application materials and twelve (12) copies of the site plan shall be submitted to the Building Official.
- B. **Application Preparation.** The application shall be prepared in the manner specified in the section and on the application form. The application shall include twelve (12) copies of the following information, at minimum:
 1. A colored illustrative site plan, drawn to scale, showing the location, type, size and dimensions of existing and proposed structures, including adjacent structures within seventy-five (75') feet of the site.
 2. Photographs showing the proposed building site and surrounding properties (within 150 feet of the site). Applications for renovations and/or additional structures shall depict existing structures to be renovated and their relationship to adjacent properties.
 3. Colored front and rear façade elevations and side façade elevations, where there are no adjoining buildings, showing types and colors of surface materials. The type of materials used on exterior surface must be filled out on the drawings. Adjacent buildings must be included in the elevations so that the Planning Commission can evaluate the scale and relationship of adjoining buildings.
 4. Building floor plans.
 5. Landscape plan, indicating the location, type, size and number of shrubs, trees and other live plant material, existing and proposed.
 6. Samples of exterior building material, including but not limited to:
 - Bricks and mortar in the proposed color.
 - Glass samples, but only if glass is to be tinted.
 - Cross-section of window frame in the proposed color.
 - Color samples of all exterior used colors.
 - Awning fabric sample if awning are to be used.
 - Representative color pictures of exterior doors.

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7. Accurately colored and detailed three dimensional images of the proposed building from at least two vantage points. (For small projects, where the design changes focus primarily on alterations to a front façade, the requirements for computer images may be waived).
 8. Any project exceeding \$2 million in gross construction costs shall require a computer or massing model, clearly demonstrating the scale of the proposed building with respect to adjacent buildings.

C. **Review Procedures.**

1. **Coordination with Site Plan Review.** It is intended that the design review described therein take place early in the design process, prior to formal site plan review as described in Section 4.33. However, this does not preclude an applicant seeking design review and site plan review simultaneously.
2. **Initiation of Design Review.** The applicant shall initiate design review by submitting an application, which will be placed on the Planning Commission agenda by the City Clerk. The initiation of design review should occur early in the design process, at a point when the ideas of the Planning Commission will have the most beneficial influence.
3. **Review and Revision.** The Planning Commission shall review the plans in relation to applicable standards and regulations, and in relation to the intent and purpose of this Article. The applicant may request additional meetings with the Planning Commission as needed during the design process. Alternatively, the Planning Commission may advise the applicant that revisions are necessary to bring the plan into compliance with applicable standards. All additional meetings shall be scheduled through the City Clerk.
4. **Determination.** The Planning Commission shall make a determination on a plan based on the requirements and standards in this Ordinance. By a majority vote of its members, the Planning Commission may approve, approve with conditions, or deny a proposed design as follows:
 - a. Upon determination by the Planning Commission that the plans are in compliance with the guidelines, goals, and policies set forth herein, and that the proposed development would enhance the aesthetic appeal of the commercial corridor, the Planning Commission shall approve the plans.
 - b. The Planning Commission may approve with a reasonable conditions when the Planning Commission believes that the plans are largely consistent with the guidelines, goals, and policies set forth herein, but the Planning Commission has identified specific improvements that would achieve greater consistency with the urban design goals and polices of the City.
 - c. Upon determination by the Planning Commission that the plans do not comply with the guidelines, goals, and polices set forth herein, that the plan would detract from the aesthetic appeal of the commercial corridor, and that no further revisions are forthcoming from the applicant, the Planning Commission shall deny the plans.
5. **Report.** Upon completion of its review, the Planning Commission shall complete a report summarizing its findings and decision, a copy of which shall be sent to the applicant and to the City Council. The Planning Commission may delegate this task to the City Planner or the City Clerk.
6. **Professional Assistance.** The Planning Commission may seek the services and input of the City Planner or other design professional to help evaluate proposals and formulate recommendation.
7. **Deviation from the Design Guidelines.** It is intended that the Planning Commission shall have flexibility in the application of these guidelines to alterations and renovations. Accordingly, deviation from these design guidelines shall be permitted for alterations and renovation (but not

new construction) by the Planning Commission where such a deviation would be consistent with the Purposes of this Article, and where, because of the specific circumstances, such a deviation would enhance the aesthetic appeal of the commercial corridor, to a greater extent than the application of conventional standards. In determining whether a deviation should be permitted, the Planning Commission shall consider the following:

- a. The extent to which the project advanced specific policies and provisions in the City's Master Plan.
- b. The extent to which the deviation permits greater conformity with other design guidelines and with Zoning Ordinance standards.
- c. The overall positive effect the project will have on the area in which the project is proposed.
- d. The extent to which the deviation would alleviate undue burden upon the developer or property owner, taking into account current leasing, housing, commercial, or other market conditions.
- e. The extent to which the deviation would accommodate future uses contemplated by these design guidelines, the Zoning Ordinance, or the Master Plan.
- f. The extent to which the deviation accommodates requirements related to national, state or local historic designation.
- g. The project is an alteration or renovation of a building that largely otherwise conforms to the design guidelines.

Section 17.05 DESIGN GUIDELINES.

A. Exterior Building Materials.

1. Primary Opaque Surface.

- a. At least seventy-five percent (75%) of the exterior opaque material on each elevation shall be brick or stone.
- b. Brick shall be a mid-dark color earth tone. Using the HSL color model, the brick color should be bounded by a hue between 16 and 26, saturation between 110 and 160, and luminescence between 160 and 200. Painting brick is generally prohibited unless the existing brick color is prohibited and the alteration or renovation project is proposed to paint the brick to a conforming color.
- c. Recommended stone materials include fieldstone, limestone, sandstone, and cultured stone.
- d. Aluminum siding is prohibited as a primary, secondary or trim material.

2. Secondary Opaque Surfaces. Secondary opaque surfaces may include:

- a. Natural or cultured stone.
- b. Cast stone.
- c. Untreated copper.
- d. Stucco or E.I.F.S.-type material, provided that the stucco does not constitute more than fifteen percent (15%) of the opaque materials on each elevation. Stucco or E.I.F.S.-type material shall be natural colored.

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3. **Accent Materials.** The following materials are recommended for cornices, bases, and decorative accent trim:
 - a. Stone (unpolished, cast or rock-faced).
 - b. Untreated copper.
 - c. Aluminum or painted steel structural shapes provided they are painted a dark tone..
 - d. Wood trim, with mitered outside corners, consisting of premium grade cedar, redwood, mahogany or teak if left unpainted. A lesser exterior grade of wood may be used if it is painted.
 - e. E.I.F.S. Synthetic materials such as fiber cement board, cultured stone, or Fypon-type materials may be used provided they are used to accurately resemble traditional building materials.
 4. **Parapet, Flashing, Coping.** The following materials are recommended for parapets, flashing and coping.
 - a. Untreated copper. This material must be installed properly to minimize "oil canning".
 - b. Brick.
 - c. Stone (unpolished, cast)
 - d. Wood trim with mitered outside corners, consisting of premium grade cedar, redwood, mahogany or teak if left unpainted. A lesser exterior grade of wood may be used if it is painted.
 5. **Awnings.** Awnings are permitted subject to the following requirements:
 - a. Fabric awnings must be heavy canvas fabric.
 - b. Dark subtle colors are encouraged. Very bright "iridescent" colors yellow, pink, purple, etc. are prohibited.
 - c. Backlit awnings are prohibited.
 - d. Awnings with graphics or lettering are considered signs and are subject to approval as such.
 - e. Striped awnings should have minimum contrast.
 6. **Glass.**
 - a. Windows bring life to a commercial district, allowing passers-by and patrons to see the goods and activities within a business. Thus, widespread use of windows, particularly for the first floor front façade, is encouraged.
 - b. Mirrored or reflective glass is prohibited. Brown or gray tinted glass not to exceed twenty percent (20%) tint is permitted.
 - c. Blank building walls with little detail or variety along primary façade shall be avoided.
 - d. Window framing shall be a dark tone.
 7. **Roofs.**
 - a. Pitched roofs shall be covered with asphalt shingles, slate, or steel roofing. Roof colors shall be earth tones, grays, or deep red to complement brick color. However, the Planning Commission may approve another roof color which it determines is compatible with the color scheme for the commercial building or shopping center.
 8. **Doors.**
 - a. At minimum, forty percent (40%) of the main entry door shall be composed of glass.

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- b. If glass doors are inappropriate for a business, then well-detailed wood doors shall be used. Synthetic wood (polymer) doors are acceptable, provided they are of sufficiently high quality to resemble wood adequately, and hold up to weather conditions well.
 - c. Door framing shall be a dark tone.

B. Compatibility between Adjoining Buildings.

1. **Height.** A proposed commercial building should respect the scale of adjacent buildings, and, where desirable, provide an orderly transition to the different scale or development. Stair-stepping buildings' height, breaking up the mass of the building and shifting buildings' placement can mitigate the impact of differing building scales and heights. Buildings' height must comply with the requirements in Article XII, the Schedule of Regulation.
2. **Rhythm of Windows and Doors.** Building rhythm relates to the horizontal and vertical patterns expressed by architectural features, such as window, doors, cornices, columns, or variations in massing. New developments should respect rhythm established by adjacent buildings. Examples of building rhythm include horizontal and vertical banding with different colors or materials, groupings of windows, regular or repetition of storefront details, or consistent sign design and placement.
3. **Relation of Building Masses and Spaces.** Building mass should be balanced with an appropriate amount of well-designed, well-placed open space. Property owners are encouraged to provide well-designed, landscaped outdoor open spaces for the use and enjoyment of employees and customers.

C. Exterior Architectural Appearance.

1. **Roofs.** Flat roofs shall have parapets that shall be used to conceal roof top equipment from view. Parapets shall feature three dimensional cornice treatments. Pitched roofs shall be no shallower than 6:12 (6 foot rise for each 12 feet horizontal).
2. **Architectural Details.**
 - a. Architectural details shall be provided at the ground floor elevation to enhance the appearance and ambience of the pedestrian environment. Details shall include window and door trim, recessed entries, awnings, decorative lighting and other features.
 - b. Architectural details, including signs, materials, colors, and textures, shall be compatible with architectural details on surrounding buildings, recognizing that dissimilarity can be mitigated by separation, a landscape buffer/screen, or other techniques.
3. **Façade Lines Shapes and Profile.** The horizontal and vertical lines of the primary façade, as well as the overall shape and profile of the façade, shall be consistent with similar design elements on adjoining façades, as depicted in the illustrations on page 11.
4. **Signs and Similar Advertising Features.**
 - a. The size, location, design, color, texture, lighting and materials of all permanent and temporary signs and outdoor advertising structures or features shall not detract from the building architecture or from the use and enjoyment of the building.
 - b. Signs shall comply with the regulations in Article VI-A of the Zoning Ordinance
 - c. Signs shall be architecturally compatible with the style, composition, materials, colors, and details of the building. Signs shall be an integral part of the building and site design.
 - d. A sign program (permitted dimensions, colors, placement, etc.) shall be developed for buildings that house more than one business. Signs need not match, but shall be compatible with one another.

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- e. Signs consisting of individual letters shall be mounted on a raceway, consisting of a long sheet metal channel box, usually fabricated from aluminum, which contains the transformers and high voltage wiring for the sign.
 5. **Energy Efficiency.** Proposals are encouraged to utilize energy-efficient technology and renewable energy resources and adhere to the principles of energy-conscious design with regard to orientation, building materials, shading, landscaping and other elements.
 6. **Parking.** Off-street parking areas should be located to the side or rear of buildings when reasonably possible.
 7. **Landscaping.**
 - a. Landscaping should be used to enhance the appearance and character of the building and site, to accentuate key building features, to achieve a transition between dissimilar building elements, and to screen unsightly features. Landscaping must comply with Article IV-B of the Zoning Ordinance.
 - b. The use of window boxes, hanging flower baskets, planters, and other seasonal landscaping is recommended, particularly around the building entrances. Permanent landscape features should be illustrated on the plans presented to the Planning Commission.
 - c. Off-street parking lots shall be screened from adjacent residential districts with an evergreen screen sufficiently dense to provide an opaque appearance, such as arborvitae, pyramidal yews, spruce trees, etc., or by a six (6') foot high brick wall. Off-street parking lots shall be screened from adjacent roads with a three (3') [foot] high hedge, or three (3') [foot] high brick wall, or some combination thereof. Brick used for walls shall match the brick used on the building.
 8. **Building Colors.**
 - a. Colors used on the exterior façade of buildings should be from the range of colors used with traditional Midwestern architecture. Using the HSL color model, earth tone colors used should generally fall within the range of colors bounded by a hue between 16 and 26, saturation between 110 and 160, and luminescence between 160 and 200. Small amounts of green accent color falling within the range of colors bounded by a hue between 70 and 105, saturation between 160 and 240, and luminescence between 100 and 150 are acceptable. Natural stone or marble colors are acceptable. Loud, garish, or fluorescent colors, e.g., yellow, pink, purple, bright red, etc., are prohibited.
 - b. The developer should strive to select exterior building colors that are compatible and harmonious with the intent of these guidelines and with the colors on adjacent buildings, when adjacent buildings comply with the guidelines set forth herein. Alternatively, dissimilar colors can be separated by a definitive building detail.
 9. **Franchise Architecture.** Franchise businesses with standardized architecture and signage (building design and signage that is trademarked and identified with a particular chain or corporation) shall be subject to these design guidelines. Accordingly, adjustments to the types of exterior materials, the character and brightness of signs, and other architectural elements may be necessary to achieve compliance with these guidelines.

ARTICLE XVII-A WIND ENERGY TURBINES

Section 17A.01 INTENT.

The purpose of this Ordinance is to establish guidelines for siting Wind Energy Turbines (WETs) in the City of Orchard Lake Village. The goals of this Ordinance are:

- A. To promote safe, effective and efficient use of WETs for the purposes of producing electricity without consuming fossil fuels.
- B. To preserve and protect the public health, safety, welfare and quality of life by minimizing the potential adverse impacts of WETs.
- C. To establish standards and procedures for siting, design, engineering, installation, operation, and maintenance of WETs.

Section 17A.02 DEFINITIONS.

For the purposes of this Ordinance, the following terms shall be defined as follows:

- A. **Ambient Sound Level:** The amount of background noise at a given location prior to the installation of a WET, which may include, but is not limited to, traffic, machinery, lawnmowers, human activity and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A) weighted scale as defined by the American National Standards Institute (ASTI).
- B. **Anemometer:** A temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. Such a facility includes a tower, base plate, anchors, cables, hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and telemetry devices that are used to monitor and transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- C. **Decommissioning:** The process of terminating operation and completely removing a WET and all related buildings, structures, foundations, access roads and equipment.
- D. **Nacelle:** The encasement that houses all of the generating components, gear box, drive train, and other equipment.
- E. **Nameplate Capacity:** The intended technical full-load sustained output of a wind turbine facility (also known as "rated capacity"). The installed generator nameplate capacity is commonly expressed in megawatts (MW) and is usually indicated on a nameplate physically attached to the generator.
- F. **Net-metering:** A metering and billing agreement between an electric utility company and a customer, which allows the connection of a renewable energy generating system to the power grid.
- G. **Operator:** The entity responsible for the day-to-day operation and maintenance of a WET.
- H. **Rotor Diameter:** The cross-sectional diameter of the circle swept by the rotating blades of a horizontal axis WET.
- I. **Shadow Flicker:** The moving shadow, created by the sun shining through the rotating blades of a WET. The amount of shadow flicker created by a WET is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of structures, wind activity and sunlight including the duration of flicker at these locations from sunrise to sunset over the course of a year.
- J. **Small Structure-Mounted Wind Energy Turbine (SSMWET):** A WET system that converts wind energy into electricity through the use of equipment that includes a base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, inverter, batteries and other components used in the system.

An SSMWET is attached to a structure's roof, walls, or other elevated surface, including accessory structures. The nameplate capacity of an SSMWET does not exceed ten (10) kilowatts.

- K. **Small Tower-Mounted Wind Energy Turbine (STMWET):** A tower-mounted wind energy system that converts wind energy into electricity through the use of equipment that includes a base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, inverter, batteries and other components used in the system. The STMWET has a nameplate capacity that does not exceed thirty (30) kilowatts.
- L. **Total Height:** The vertical distance measured from the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the WET.
- M. **Tower:** A freestanding monopole that supports a WET.
- N. **Wind Energy Turbine (WET):** A wind turbine is a rotary device that extracts energy from the wind. With respect to this Ordinance, the mechanical energy is converted to electricity, so it might also be known as a wind energy generator or wind energy converter.

Section 17A.03 APPLICABILITY.

After its effective date, this Ordinance applies to all proposed WETs in the City of Orchard Lake Village.

Section 17A.04 PERMITTED WIND ENERGY TURBINES.

Small Structure-Mounted Wind Energy Turbines (SSMWETs) and Small Tower-Mounted Wind Energy Turbines (STMWETs) shall be permitted in the Professional Office District (Zone 5) and the Local Business District (Zone 6) subject to the following:

- A. Any such facility shall be considered a permitted accessory use, subject to site plan review, provided that the distance between the facility and the nearest residential zoning district is equal to or greater than the total height of the tower.
- B. All WETs shall meet the Siting and Design requirements that follow.

Section 17A.05 SITING AND DESIGN REQUIREMENTS.

- A. **Visual Appearance.**
 - 1. **Color.** WETs shall be coated with a non-reflective, non-obtrusive color, such as white or gray. The facility shall be maintained in working condition and free of rust and corrosion by the owner or operator throughout the life of the WET. If visible from the street, accessory buildings associated with a WET shall satisfy the Design Guidelines in Article XVII.
 - 2. **Lighting.** WETs shall not be artificially lit, unless required by the FAA or other applicable authority, or as otherwise necessary for public safety and security.
 - 3. **Advertising.** WETs shall not be used for displaying advertising (flags, streamers, or decorative items), except for reasonable identification of the turbine manufacturer.
- B. **Ground Clearance.** The lowest extension of any blade or other moving component of a WET shall be at least fifteen (15) feet above the ground (at the highest point of the natural grade within thirty (30) feet of the base of the tower) and, at least fifteen (15) feet above any outdoor surfaces intended for human use, such as balconies or roof gardens, that are located directly below the WET.
- C. **Noise.** Noise emanating from the operation of a WET shall not, at any time, exceed the lowest sound level that is permitted by the Noise Control Ordinance No. 9.10 at any time. All noise will be measured with a

sound level meter at the property line of the receiving property. The location for the taking of the measurement shall be determined by the City in the direction of the closest property lines, the location of which will be approximately determined based on a visual inspection.

- D. **Vibration.** Vibrations produced by a WET shall not be humanly perceptible beyond the property on which the WET is located.
- E. **Guy Wires.** SSMWETs and STMWET shall not have guy wires.
- F. **Height.**
 - 1. **SSMWET Height.** The height of an SSMWET shall not exceed fifteen (15) feet, measured from the highest point of the roof, excluding, chimneys, antennae, and similar protuberances.
 - 2. **STMWET Height.** The total height of an STMWET shall not exceed fifty (50) feet.
- G. **Setbacks.**
 - a. **SSMWET Setbacks.** If an SSMWETs is mounted directly on a roof or other elevated structure, then it shall be set back a minimum of fifteen (15) feet from any property line, public right-of-way line, public easement, and overhead utility lines. If the SSMWET is affixed by extension to the side, roof or other elevated surface, then the setback from the property lines or public right-of-way line shall be fifteen (15) feet. The setback shall be measured from the furthest outward extension of all moving parts.
 - b. **STMWET Setbacks.** The minimum setback of a STMWET shall be equal to the total height of the STMWET as measured from the base of the tower, to the nearest property line, public right-of-way, public easement, or utility line. Buildings that are accessory to the tower shall be setback a minimum of twenty (20) feet from all property lines.
- H. **Location.**
 - a. **SSMWET Location.** An SSMWET shall not be affixed to the front façade of a structure..
 - b. **STMWET Location.** An STMWET shall be permitted in the rear yard of a property on which a building is located.
 - c. **Alternate Location:** If the owner or operator provides documentation that demonstrates that the WET will not function adequately in the permitted locations, then the Planning Commission and City Council may consider alternate locations on the site.
- I. **Quantity.** Only one (1) SSMWET or one (1) STMWET shall be permitted on each parcel of property.
- J. **Electrical System.** All electrical controls, wiring, grounding wiring, power lines and system components shall be placed underground within the boundary of the parcel at a sufficient depth to accommodate the permitted land use.
- K. **Signal Interference.** A WET shall not interfere with communication systems such as, but not limited to, radio, cellular telephone service, television, satellite or emergency communication systems.
- L. **Shadow Flicker.** The applicant shall conduct an analysis on potential shadow flicker at any occupied building with direct line of sight to the WET. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than thirty (30) hours per year and describe measures that shall be taken to eliminate or mitigate the problems. Shadow flicker on a building shall not exceed thirty (30) hours per year.

Section 17A.06 APPLICATION REQUIREMENTS.

The following information shall be provided with any application for approval of a WET:

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- A. **Site Plan.** A site plan shall be submitted, which shall be drawn to scale, showing the location of the proposed WET, accessory buildings or structures, and fences, as well as other buildings on the site and on adjacent properties. Dimensions and setbacks of proposed structures shall be specified.
 - B. **Profile.** The site plan shall include a profile sheet, which shall be drawn to scale and fully dimensioned, which shall show the WET and underground facilities in profile.
 - C. **Zoning Ordinance Site Plan Review Requirements.** The site plan shall conform to the applicable requirements of Section 4.33 of the Zoning Ordinance.
 - D. **Engineering Data.** Engineering data shall be submitted concerning construction of the WET and its base or foundation, which shall include manufacturer specifications for all WETs and soil boring data for STMWETs.
 - E. **Building Permit Required.** Subsequent to obtaining site plan approval, engineering, electrical, and mechanical plans, as appropriate, shall be submitted to the Building Official for the purposes of obtaining a building permit and other required permits.
 - F. **Noise Compliance.** Documentation shall be provided to demonstrate compliance with the noise requirements set forth in this ordinance. Such documentation shall include, at minimum, ambient sound measurements taken over a two (2) week period. The location and method of taking measurements shall be approved by the Building Official prior to collection of data. The site plan shall indicate where the measurements were taken.
 - G. **Compliance with Agency Regulations.** Documentation shall be provided to demonstrate compliance with applicable local, state, and federal regulations.
 - H. **Liability Insurance.** Proof of liability insurance shall be provided in the amount of One Million Dollars (\$1,000,000).
 - I. **Agreement for Decommissioning.** The owner of the WET shall provide a written agreement to the City providing for decommissioning as required by this ordinance for review and approval of the City Attorney. The owner shall record this agreement with a condition that it may be removed only with approval of the City Council.
 - J. **Utility Company Coordination.** Where net-metering is proposed, evidence shall be provided to demonstrate that the electric utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved.
 - K. **Maintenance.** The application shall describe the proposed maintenance procedures. In the case of a STMWET, the plan must state how maintenance on the tower will be accomplished.
 - L. **Change of Ownership.** The City shall be notified of a change in ownership of a WET or a change in ownership of the property on which the WET is located.

Section 17A.07 SAFETY REQUIREMENTS.

- A. **Net-Metering.** If a WET is connected to an electric utility system for net-metering, it shall meet the requirements for interconnection and operation set forth in the utility's service regulations and shall be subject to inspection by the utility company.
- B. **Automatic Braking.** The WET shall be equipped with an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding and excessive pressure on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.
- C. **Security Measures.** Security measures shall be in place to prevent unauthorized trespass and access. Access doors and electrical equipment shall be locked and/or fenced to prevent entry by non-authorized person(s).

WETs shall be designed so that it shall not be possible to climb the tower up to fifteen (15) above ground level.

- D. **Warning Sign.** A clearly visible warning sign shall be placed at the base of the WET. The sign shall contain the following:
 - a. "Warning high voltage"
 - b. Manufacturer's , owner's and operator's names
 - c. Emergency contact numbers (more than one shall be provided)
- E. **Structural Integrity.** The structural integrity of the WET shall conform to the design standards established by the International Electrical Commission (IEC), including IEC 61400-1, "Wind Turbine Safety and Design" and IEC 61400-23 "Blade Structural Testing," or other successor standards.

Section 17A.08 DECOMMISSIONING.

- A. **Timing.** The owners or operators shall complete decommissioning within three (3) months after the end of the useful life of a WET. Upon request of the owner(s) or assigns of the WET, and with good cause, the City Council may grant a reasonable extension of time. A WET shall be considered at the end of its useful life if no electricity is generated for a continuous period of six (6) months. Decommissioning expenses are the responsibility of the owner(s) or operator(s).
- B. **Failure to Decommission.** If the owner(s) or operator(s) of a WET fails to complete decommissioning within the period described above, the City Council may designate a contractor to complete the decommissioning, in which case the expense shall be charged to the owner or become a lien on the property.
- C. **Decommissioning Actions.** The following decommissioning actions are required:
 - a. Decommissioning shall include the removal of the tower, buildings, electrical components, and other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade.
 - b. The site and any disturbed earth shall be stabilized, graded and cleared of any debris, and then seeded to prevent soil erosion.

Section 17A.09 ANEMOMETERS.

Anemometers are permitted in Zoning Districts 5 and 6 as a temporary use, subject to the provisions herein.

1. **Permit Required.** The construction, installation or modification of a temporary anemometer tower shall require a building permit and shall conform to all applicable local, state and federal safety, construction, environmental, electrical, communications and FAA requirements.
2. **Minimum Requirements.** An anemometer shall be subject to the minimum height, setback, separation, location, safety, and decommissioning requirements that correspond to the size of the WET that is proposed to be constructed on the site.
3. **Timeframe.** An anemometer shall be permitted for no more than thirteen (13) months.

(5-16-11)

ARTICLE XVIII INTERPRETATION AND APPLICATION, VIOLATIONS, AND PENALTIES, VALIDITY, CONFLICTING PROVISIONS REPEALED, ENACTMENT AND EFFECTIVE DATE

Section 18.01 INTERPRETATION AND APPLICATION.

In interpreting and applying the provisions of this Ordinance, said provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any law, ordinance, rule, regulation or permit previously adopted or issued, and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, and likewise not in conflict with this Ordinance; nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or land or upon height of buildings, or requires larger open spaces, or larger lot areas than area imposed or required by such ordinance or agreements, the provisions of this Ordinance shall control. Where, however, the provisions of the State Housing Code or other Ordinances or regulations of the City impose requirements for lower heights of buildings or less percentage of lot that may be occupied, or require wider or larger courts or deeper yards than are required by any ordinance, the provisions of said State Housing Code or other ordinance or regulations shall govern.

Section 18.02 VIOLATIONS AND PENALTIES.

- A. Any person, persons, firm or corporation, or anyone acting on behalf of person, persons, firm or corporation, who shall violate any of the regulatory of this Ordinance, or who fails to comply with any of the regulatory measures or conditions adopted pursuant hereto, shall upon conviction thereof be subject to a fine of five hundred dollars (\$500.00) and the cost of prosecution or, in default of the payment thereof, by imprisonment in the Oakland County Jail for a period not to exceed ninety (90) days, or by both fine and imprisonment in the discretion of the Court. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense except where a violation case is pending for trial or a stay is granted by a Court.
- B. Use of land, dwellings, buildings or structures including tents and motor homes and mobile homes used, erected, altered, razed or converted in violation of any provision of this Ordinance are hereby declared to be a nuisance per se. The Court shall be petitioned to order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent or land shall be adjudged guilty of maintaining a nuisance per se.

Section 18.03 VALIDITY.

This Ordinance and the various articles, sections, paragraphs, and clauses thereof, are hereby declared to be severable. If any article, section, paragraph, or clause is adjudged unconstitutional or invalid, the remainder of the Ordinance shall not be affected thereby.

Section 18.04 CONFLICTING PROVISIONS REPEALED.

All other ordinances and parts of ordinances in conflict with this Ordinance, to the extent of such conflict and not further, are hereby repealed. Ordinance No. 92 is adopted October 4, 1976, and known as the Zoning Ordinance for the City of Orchard Lake Village is specifically repealed in its entirety.

Section 18.05 ENACTMENT AND EFFECTIVE DATE.

The provisions of this Ordinance are necessary for the preservation of the public health, safety, and welfare of the people of the City of Orchard Lake Village, and are hereby ordered to be given effect thirty (30) days from and after the date of its passage by the City Council of the City of Orchard Lake Village, and subsequent publication of the notice of adoption within fifteen (15) days after adoption, as required by Section 4 (7) of Act 207, P.A. 1921, as amended by Act 638, P.A. 1978.

I, Rhonda R. McClellan, do hereby certify that the above Ordinance was passed at a Regular Meeting of the City Council of the City of Orchard Lake Village, Michigan, held on the ___ day of _____.

Rhonda R. McClellan, City Clerk

**CODE COMPARATIVE TABLE
LEGISLATION**

This table gives the location within this Zoning Ordinance of those ordinances which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

Legislation	Date	Section	Section this Code
Ord. of	5-21-2018(1)		4A.03
Ord. of	5-21-2018(2)		4A.06 D.2.
Ord. of	5-21-2018(3)		4A.08 F.2.—5.
		Added	4A.08 F.6., 7.
Ord. of	8-20-2018(1)		4.09, 4.09 A.—D.
Res. of	9-17-2018	Added	Adopt. Res.
Ord. of	5-20-2019		4.38
Ord. of	9-21-2020(1)	Added	4.15 I.
Ord. of	9-21-2020(2)		4.15 A.
Ord. of	5-24-2021(1)		2.02
Ord. of	5-24-2021(2)		4.01
Ord. of	5-24-2021(3)		4.30
Ord. of	5-24-2021(4)		4B.07
Ord. of	5-24-2021(5)		4B.02