

Chapter 1

Miscellaneous Provisions

101. Short Title

This Ordinance shall be known and may be cited as the Merrill Village Zoning Ordinance.

102. Legal Basis

This Ordinance has been prepared and adopted under the authority of the Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended).

103. Purpose

This Ordinance has been prepared and adopted for the purpose of providing standards and regulations for land development, for the use of land and buildings, and for all other purposes described in Section 1 of the Michigan Zoning Enabling Act. Also, this Ordinance is based on the Merrill Village Master Plan, and is intended to carry out the objectives of that Plan. It is also the general purpose of this Ordinance to accomplish the following objectives:

- (1) Guide the use and development of the community's lands and natural resources in accordance with their character, adaptability, and suitability for particular uses.
- (2) Protect the character of the community and enhance the social and economic stability of the Village and the individual zoning districts as set forth in this Ordinance.
- (3) Lessen congestion on the public streets and highways, and facilitate safe and convenient access to the various uses of land and buildings throughout the community.
- (4) Facilitate adequate provisions for sewage disposal, drainage, water supply, education, recreation, and other public services.
- (5) Conserve life, property, natural resources, and the expenditure of public funds for public facilities and services by establishing standards for the physical development of the community, and providing for the enforcement of those standards.
- (6) Adopt provisions for each zoning district designated in this Ordinance that shall control the use of land; the use, size and location of buildings; the minimum yards, courts and other open spaces; and the maximum number of families to be housed in buildings and structures.

104. Interpretation

This Ordinance does not repeal other laws and ordinances except as may be noted in the provisions that follow this section. This Ordinance has no effect on the applicability of private deed restrictions or restrictive covenants.

In cases where this Ordinance imposes greater restrictions on the use of land, buildings, structures, or on the commencement of land development projects, or requires larger lots, setbacks, or parking areas than provided by other laws, ordinances, or private deed restrictions or restrictive covenants, the provisions of this Ordinance shall prevail.

In cases where this Ordinance establishes lesser restrictions on the use of land, buildings, structure, or on the commencement of land development projects, or requires smaller lots, setbacks or parking areas than provided by other laws, ordinances, or private deed restrictions or protective covenants, the provisions of those other laws, ordinances, restrictions or covenants shall prevail.

105. Repeal

This Ordinance repeals and replaces the previous Merrill Village Zoning Ordinance in its entirety.

106. Vested Rights

Nothing in this Ordinance should be interpreted or construed to bestow any permanent vested rights in the continuation of any particular use, district, zoning classification, or permissible activities therein. Furthermore, such rights as may exist through enforcement of this Ordinance are hereby declared to be subject to subsequent amendment, change, or modification as may be necessary for the preservation or protection of public health, safety, and welfare, to the extent that such rights are not protected by the nonconforming use provisions in Chapter 4.

107. Validity

This Ordinance and the various sections, subsections, clauses, sentences, and provisions are severable. If any section, subsection, clause, sentence or provision is declared to be unconstitutional or invalid, the balance of the Ordinance shall not be affected by the declaration.

108. Effective Date

This Ordinance shall become effective upon publication of a notice of adoption by the Merrill Village Council as provided by the Michigan Zoning Enabling Act (Act 110 of 2006, as amended).

Chapter 2 Definitions

201. Rules of Use and Construction

This chapter defines the words used in this Ordinance. The rules of construction applicable to the words used in this Ordinance are as follows:

- a. Words and phrases that are not defined in this chapter shall be defined in terms of their common or customary usage.
- b. Technical words and phrases that may have peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- c. The particular shall control the general.
- d. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- e. When it is consistent with the context, words used in the present tense shall include the future. Words used in the singular form shall include the plural, and the plural form shall include the singular.
- f. The word "person" includes any individual, partnership, association, trust, corporation, or any other legal entity or combination of legal entities.
- g. The word "lot" includes the word "parcel."
- h. Where a standard or regulation involves two or more conditions, provisions, or items that are connected by the conjunction "and" or "or," then the conjunction shall be interpreted as follows:
 1. "**And**" means that all the connected conditions, provisions or items shall apply.
 2. "**Or**" means that the connected conditions, provisions or items may apply singly or in combination.

202. Definitions

(1) **Abutting (lot or parcel)**

A lot or parcel that shares a common border with the subject lot or parcel.

(2) Access management (access control)

A technique to improve traffic operations along a major roadway and decrease the potential for accidents through the control of driveway locations and design; consideration of the relationship of traffic activity for properties adjacent to, and across from, one another; and the promotion of alternatives to direct access.

(3) Access to property, reasonable

A property owner's legal right, incident to property ownership, to access a public road right-of-way. Reasonable access to property may be indirect or certain turning movements prohibited for improved safety and traffic operations.

(4) Accessory building

A freestanding building that is located on the same lot on which a principal use or principal building is located, and that is devoted to and occupied by a use that is incidental and subordinate to the principal use. Examples of accessory buildings include, but are not limited to, detached residential garages and sheds, boat houses, snowmobile sheds, greenhouses, guard or gate houses, and barns, including detached carports, canopies, awnings and similar structures, regardless of whether such structures are erected on a permanent or temporary basis.

(5) Accessory Structure

A freestanding structure that is located on the same lot on which a principal use or principal building is located, and that is devoted to a use that is incidental and subordinate to the principal use. Examples of accessory structures include, but are not limited to, dish and other types of antennae, fences and walls, freestanding lighting fixtures, silos and other agricultural structures, and residential swimming pools.

(6) Accessory Use

A use of land that is customarily incidental and subordinate to the principal use of a lot, and that is located on the same lot on which that principal use is located.

(7) Adjacent (lot or parcel)

A lot or parcel which abuts or is directly across a street right-of-way or alley from any lot or parcel line of the subject lot or parcel.

(8) Adult Entertainment Business

Any business, club, or other organization where one or more persons display "specified anatomical areas" or engage in "specified sexual activities" as defined elsewhere by this Ordinance, either in person or by photograph, motion picture, television, or other type of image. The definition of "adult entertainment business" includes, without limitation, "adult bookstore," "adult theater," "massage parlor," and so forth.

(9) Adult Foster Care Home

A private home licensed by the State of Michigan for the care of sick, elderly, or handicapped adults. An "Adult Foster Care Family Home" is further defined as having 6 or fewer adults, an "Adult Foster Care Small Group Home" as having 12 or fewer adults,

and an “Adult Foster Care Large Group Home” as having at least 13 but not more than 20 adults. This definition does not include the care of persons released from or assigned to adult correctional institutions.

(10) Agriculture

Farms and general farming, including horticulture, floriculture, dairying, livestock, and poultry raising, farm forestry, and other similar enterprises or uses.

(11) Alteration

Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

(12) Animal, wild

Any animal not domesticated by humans or any animal which a person is prohibited from possessing by law. Wild animals shall include, but shall not be limited to, the following: alligator (family), deer (family), opossum (family), badger, dog (wild family), primate excluding humans (family), bear, dog-wolf, raccoon, ferret, skunk, cat (wild family), lemur, spider (poisonous), coyote, lizard (poisonous), weasel (family), and marten.

(13) Basement

That portion of a building which is part or wholly below grade but so located that the vertical distance from the mean grade to the floor is greater than the vertical distance from the mean grade to the ceiling (See Figure 2-1).

(14) Bed and Breakfast Establishment

A use which is subordinate to the principal use of a dwelling as a single-family dwelling unit and in which transient guests are provided a sleeping room and board in return for payment.

(15) Berm

A mound of earth *not exceeding four (4) feet in height that is* graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes.

(16) Billboard

An outdoor sign, structure or symbol advertising services or products which are not made, produced, assembled, stored, or sold upon or from the lot or premises upon which the same is located.

(17) Board of Appeals

The Village of Merrill Zoning Board of Appeals.

(18) Buffer zone

A strip of land often required between certain zoning districts reserved for plant material, berms, walls, or fencing to serve as a visual barrier.

(19) Building

Any structure which is erected having a roof supported by columns or walls, which is used or erected for the shelter or enclosure of persons, animals or personal property or for carrying on business activities or other similar uses.

(20) Building height

The vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean elevation level between eaves and ridge of a gable, hip or gambrel roof (See Figure 2-2).

(21) Building line

A horizontal line generally parallel to a front, rear, or side lot line which is located at the point of the foundation of a principal building nearest to the front, rear, or side lot line.

(22) Building, Main, (also Building, Principal) A building in which the principal or main use of the lot on which it is situated occurs.

(23) Building Setback Line

A line indicating the minimum distance required to be maintained between a street right-of-way and the nearest supporting member of any structure on the lot.

(24) Bulk Station

A place where petroleum (including liquefied petroleum gas), gasoline, naphtha, benzene, kerosene, or any other flammable liquid is stored for wholesale purposes only, and where the aggregate capacity of all storage tanks is more than six thousand (6,000) gallons.

(25) Certificate of Occupancy

A document issued by the Building Inspector certifying that the described property has complied with the provisions of the Building Code and may be legally occupied.

(26) Child Care Center (Day Care Center)

A facility, other than a single-family dwelling, receiving more than six (6) preschool or school age children for group care for periods of less than twenty-four (24) hours per day, and where the parents or guardians are not immediately available to the children. A child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. These facilities are also known as day nurseries, nursery schools, parent cooperatives, or preschools, play group, or drop-in center.

(27) Church

A building used principally for religious worship, but the word "church" shall not include or mean an undertaker's chapel or funeral building.

(28) Clinic

An establishment housing facilities for medical, dental or psychiatric diagnosis and treatment, exclusive of major surgical procedures, for sick, ailing and injured persons who are not kept overnight on the premises.

(29) Club

A nonprofit association of persons who are bona fide members, paying regular dues and are organized for some common purpose, but not a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

(30) Common land

A parcel or parcels of land with the improvements thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and or occupants of individual building units in a subdivision or a planned unit development.

(31) Common open space

An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners and occupants, and generally owned and maintained in common by them, often through a homeowners association.

(32) Condominium Act

Michigan Public Act 59 of 1978, as amended.

(33) Condominium project

Equivalent to "Subdivision" as used in this Ordinance.

(34) Condominium project, mobile home

A condominium project in which mobile homes are intended to be located upon separate sites which constitute individual condominium units.

(35) Condominium setbacks shall be measured as follows:

Front Yard Setback: The distance between the street centerline and the unit site.

Side Yard Setback: The distance between the limits of the development and the side of a unit, or the distance between the sides of any adjacent units.

Rear Yard Setback: The distance between the limit of the development and the rear of the unit, or the distance between the rears of any two adjacent units.

(36) Condominium subdivision plan

The site, survey and utility plans, and sections showing the existing and proposed structures and improvements including the location thereof on the land. The plan shall follow and show all aspects as required under the Condominium Act.

(37) Condominium unit

That portion of the condominium project designed and intended for separate ownership as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

(38) Condominium unit site

The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium unit site shall become a limited common element. The term "condominium unit site" shall be equivalent to the term "lot", for purposes of determining compliance of a site condominium subdivision with provisions of the Ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio.

(39) Construction

The building, erection, alteration, repair, renovation, demolition or removal of any building, structure or structural foundation; or the physical excavation, filling and grading of any lot other than normal maintenance.

(40) Convenience store with gasoline sales

An establishment that retails convenience food items which occupy fifty (50) square feet or greater of the sales area in conjunction with gasoline sales.

(41) Crematory (Also "crematorium")

A licensed facility where deceased human bodies are consumed by incineration and the ashes collected for burial or storage elsewhere.

(42) Cul-de-sac

A dead end public or private street, generally short in distance, which terminates in a circular or semi-circular section of street which allows for vehicle turnaround.

(43) Dangerous Building

Any building or structure, residential or otherwise, that has any of the following defects or conditions:

- a. Whenever any portion has been damaged by fire, wind, flood, or by other means so that the structural strength or stability is less than the minimum requirements of the State of Michigan Building Code as administered by Village of Merrill.
- b. Whenever any portion, member, or appurtenance is likely to fall or collapse and thereby injure persons or damage property.
- c. Whenever for any reason the building or structure is manifestly unsafe for the purpose for which it is used, as determined by the Village Building Inspector.
- d. Whenever the building or structure has been so damaged or has become so dilapidated that it creates an attractive nuisance to children or other persons who

might enter the structure to their danger, or so that it creates a harbor for vagrants or criminals.

- e. Whenever the building or structure is unsanitary or unfit for human habitation, or is in a condition that is likely to cause sickness or disease when so determined by the County Health Department.
- f. Whenever any building becomes vacant, dilapidated, and open at door or window so that the interior of the building is left exposed to the elements or accessible to entrance by trespassers.

(44) Deceleration lane

An added roadway lane that permits vehicles to slow down and leave the main vehicle stream before turning.

(45) Density

The number of dwelling units situated on or to be developed per net or gross acre of land. For the residential component of Planned Unit Developments, the overall maximum unit density calculations shall include wetland areas regulated by the State of Michigan and wetland areas not regulated by the State, but shall not include floodplains or surface water bodies such as rivers, streams, lakes or ponds over five acres in size which are permanently or typically covered with water.

(46) Detention facility

A facility designed for holding stormwater runoff for a short period of time and then releasing it to the natural watercourse where it returns to the hydrologic cycle.

(47) Development

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

(48) Division

See "Land Division"

(49) Drainageways and streams

Existing permanent or intermittent water courses.

(50) Drive through business

A business establishment so developed that its retail or service character is wholly or partially dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in the vehicle.

(51) Driveway

An improved or unimproved path or road extending from a public or private road or right-of-way to a single building, dwelling or structure, and intended to provide ingress and egress primarily for the occupants.

(52) Dwelling, multiple family

A building containing three (3) or more dwelling units designed for exclusive use and occupancy by three (3) or more families.

(53) Dwelling, single family

A building designed for exclusive use and occupancy as a dwelling unit by one (1) family.

(54) Dwelling, two family

A building containing two separate dwelling units designed for residential use and connected by either a common wall or an attached garage area.

(55) Dwelling unit

A building, or part thereof, providing complete living facilities, including provisions for sleeping, cooking, eating and sanitation, for exclusive use by one family, with no ingress or egress through any other dwelling unit.

(56) Dwelling unit, attached

A dwelling unit attached to one or more dwelling units by common major structural elements.

(57) Dwelling unit, detached

A dwelling unit which is not attached to any other dwelling unit by any means.

(58) Easement

A grant of one or more of the property rights by a property owner to the public, or another person or entity.

(59) Endangered species habitat

An area where a plant or animal listed as an endangered species by state or federal agencies naturally grows or lives, or identified habitat sites designated on the Michigan Natural Features Inventory.

(60) Erected

Means built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for the construction. Excavation, fill drainage and the like shall be considered a part of erection.

(61) Essential public services

The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, steam or water

transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith, (but not including buildings or substations) reasonably necessary for the furnishing of adequate service by each public utilities, or village departments or commissions for the public health, safety or general welfare.

(62) Essential public service building

A building or structure principal to an essential public service, such as a drop-off station for residential recyclables, vehicle garages, telephone exchange buildings, electricity transformer stations or substations, gas regulator stations, radio and television towers, and cellular phone antennas.

(63) Essential public service building storage yard

An outdoor storage area principal or accessory to an essential public service.

(64) Excavation

Any breaking of ground, except common household gardening and ground care.

(65) Family

- a. An individual or group of two (2) or more persons related by blood, marriage or adoption, including those related as foster children, who are domiciled together as a single, domestic, non-profit housekeeping unit in a dwelling unit, or
- b. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing, non-transient, distinct domestic character and who are cooking and living as a single, non-profit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, 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 of other similar determinable period.

(66) Family Day Care Home

A private home in which not more than six (6) minor children are received for care and supervision for periods of less than 24 hours per 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 that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

(67) Farm

The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products on a parcel that is ten (10) acres or larger in area.

(68) Farm Operation

The operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, including those activities specified in the Michigan Right to Farm Act (P.A. 93 of 1981, as amended).

(69) Fence

An accessory structure intended for use as a barrier to property ingress or egress, a screen from an objectionable vista or noise, and/or for decorative use.

(70) Filling

The depositing or dumping of any matter onto, or into, the ground, except common household gardening and ground care.

(71) Financial services

Establishments such as banks, savings and loan institutions, credit unions, brokerage houses, and similar establishments.

(72) Flood or flooding

A temporary increase in the stage of a river or stream resulting in the inundation of lands not normally covered by water.

(73) Flood hazard area

Land which on the basis of available floodplain information is subject to a one percent (1%) or greater chance of flooding in any given year.

(74) Flood Insurance Rate Map (FIRM)

An official map of a community, on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(75) Flood Insurance Study

The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, the water surface elevation of the base flood, and may include a Flood Hazard Boundary - Floodway Map.

(76) Floodplain

The area of land area adjoining a river or stream that will be inundated by a 100-year flood.

(77) Floodway

The channel of a river or stream and the portions of the floodplain adjoining the channel that are reasonably required to carry and discharge a 100-year flood.

(78) Floor area, usable

That area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for utilities for sanitary facilities, shall be excluded from the computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior walls, and total usable floor area for a building shall include the sum of the usable floor area for all floors.

(79) Floor area, gross

The sum of the horizontal areas of each story of a building, measured from the faces of the exterior walls, exclusive of mechanical areas, elevator shafts, stairwells and vent shafts for more than one floor, and uninhabitable attics or basements having headroom of seven (7) feet or less.

(80) Floor area, residential

The sum of the horizontal areas of each story of a dwelling unit, measured from the interior faces of the exterior walls, exclusive of areas of basements, unfinished attics, attached garages, carports, breezeways and enclosed or unenclosed porches.

(81) Foster care home, family

A single-family dwelling occupied as such in which one (1) but not more than four (4) minor children, who are not related to an adult member of the family occupying the single-family dwelling by blood, marriage or adoption, are given care and supervision for twenty four (24) hours per day, unattended by a parent or legal guardian.

(82) Foster care home, group

A single-family dwelling occupied as such in which more than four (4) but less than seven (7) minor children, who are not related to an adult member of the family occupying the single-family dwelling by blood, marriage or adoption, are given care and supervision for twenty four (24) hours per day, unattended by a parent or legal guardian.

(83) Freeway Interchange

An area designed to provide for the ingress and egress of vehicular traffic to and from a freeway or other limited access highway.

(84) Frontage

The total length along which a parcel of land fronts on a street, measured along the line where the property abuts the street right-of-way.

(85) Frontage road

A public or private drive which generally parallels a public street between the right-of-way and the front building setback line. Frontage roads can be one-way or bi-directional in design. The frontage road provides specific access points to private properties while maintaining separation between the street and adjacent land uses. A road which allows

parking or is used as a maneuvering aisle within a parking area is generally not considered a frontage road.

(86) Garage

The part of a main building or an accessory building used primarily for the parking or storage of vehicles necessary in connection with the permitted use of the main building, where there is no vehicle servicing for compensation.

(87) Garden center

An establishment with retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.

(88) Glare

The effect produced at the lot line by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

(89) Grade, average (mean)

The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure (See Figure 2-3).

(90) Grade, finished

The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

(91) Grade, natural

The elevation of the ground surface in its natural state, before construction begins.

(92) Greenbelt

A strip of land which shall be of sufficient width and density of planting materials to screen adjacent properties from view.

(93) Group day care home

A private home in which more than six (6) but not more than twelve (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 that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

(94) Health Care Institution

A state licensed medical establishment whose facilities provide in-patient accommodation, a wide range of medical and surgical care, and other in-patient health services for sick, ailing or injured persons; and including such related facilities as laboratories, outpatient departments, training facilities, central services and staff offices and residences which are integral with and accessory to the principal use of the establishment.

(95) Home occupation

An occupation or profession carried on by an occupant of a dwelling unit as a secondary use that is clearly subservient to the use of the dwelling for residential purposes. Home occupations must meet the standards specified in this Ordinance.

(96) Home Sale

A sale of personal property conducted at a residential dwelling on a temporary basis. Home sales include garage sales, yard sales, porch sales, basement sales, and the like.

(97) Hospital

See "Health Care Institution."

(98) Hotel or Motel

Any establishment in which individual cabins, courts, rooms, suites or similar structures or units are rented to transients for temporary periods of time. A "hotel" shall include tourist cabins and homes and motels, but shall not include bed and breakfast establishments. A hotel shall not be considered or construed to be a multiple family dwelling.

(99) Improved area

A road surface that is part of a private road and that meets or exceeds the standards of the Saginaw County Road Commission for an aggregate base course road.

(100) Indoor recreation establishment

A privately owned facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as fitness centers, bowling alleys, indoor softball, and racquetball and tennis clubs.

(101) Institutional uses

Churches, schools, hospitals, and other similar public or semi-public uses. This excludes nursing homes, convalescent homes, and adult foster care facilities.

(102) Junkyard or recycling yard

Any land or building that is properly licensed and used for commercial storage and/or sorting, recycling, or sale of paper, rags, scrap metals, salvaged building materials, other scrap or discarded materials, or for the dismantling, storage or salvaging of automobiles or other vehicles not in running condition, or of machinery or parts thereof, but not including a dump.

(103) Kennel

Any land, building or structure where four (4) or more cats and/or dogs over six (6) months of age are either permanently or temporarily boarded, housed, bred or sold for specified compensation.

(104) Land Division (also “Division”)

Land division means the partitioning or splitting of a parcel or tract of land that results in one or more parcels of less than 40 acres, and that meets the requirements of the Land Division Act, Act 591 PA 1996, as amended.

(105) Livestock Production Facility

Any facility where farm animals as defined in the Right to Farm Act (P.A. 93 of 1981, as amended) are confined with a capacity of 50 animal units or greater, and the associated manure storage facilities.

(106) Loading space

An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or material.

(107) Lot

A parcel of land separated from other parcels of land by description on a recorded plat or by metes and bounds description, including a condominium unit site in a site condominium subdivision; having frontage upon a public or private street and having sufficient size to comply with the requirements of the Ordinance for: minimum area, setbacks, coverage, and open space. A lot may or may not be specifically designated as part of the public record.

(108) Lot area

The total horizontal area included within lot lines. Where the front lot line is the centerline of a public street, the lot area shall include that part which is in the public right-of-way.

(109) Lot area, net buildable

The net lot area less areas devoted to floodplains or surface water bodies; water bodies being defined as areas greater than five (5) acres in size (either before or after project implementation) which are periodically or permanently covered with water.

For Planned Unit Developments, net buildable lot area is the net lot area less area devoted to water bodies; water bodies being defined as areas greater than five (5) acres in size (either before or after project implementation) which are periodically or permanently covered with water. However, in determining the overall density for the residential component of a Planned Unit Development, State regulated wetlands and non-State regulated wetlands may be included — see definition for density.

(110) Lot, corner

A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred and thirty five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the curve is of less radius than one hundred and fifty (150) feet, and tangents to the curve, at the two points where the side lot lines

meet the curve, form an interior angle of less than one hundred and thirty five (135) degrees (See Figure 2-4).

(111) Lot coverage

A part or percentage of a lot occupied by buildings or structures.

(112) Lot depth

The arithmetic mean of the shortest and longest distances from the front lot line to the rear lot line (See Figure 2-5).

(113) Lot frontage

The length of the front lot line.

(114) Lot, interior

A lot other than a corner lot which, with the exception of a "through lot," has only one lot line fronting on a street.

(115) Lot line

The line bounding a lot, parcel, or general common element if there is no limited common element, which separates the lot, parcel, or general common element if there is no limited common element, from another lot, parcel, general common element if there is no limited common element, existing street right-of-way, approved private road easement, or ordinary high water mark.

(116) Lot lines

- a. **Front lot line:** In the case of an interior lot, abutting upon one (1) public or private street, the front lot line shall mean the line separating such lot from such right-of-way (See Figure 2-6).
- b. **Rear lot line:** That lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, a line at least ten (10) feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line (See Figure 2-6).
- c. **Side lot line:** Any lot line not a front or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line (See Figure 2-6).
- d. In the case of a lot fronting on right-of-way on two or more sides, or other case in which the above definitions do not apply, the Zoning Administrator shall designate front, rear and side lot lines, based on the following considerations:
 1. location and orientation of existing or proposed buildings on the lot in question, in relation to existing buildings on properties in the same general neighborhood.
 2. location and effect of vegetation, water, or other natural features affecting location of buildings or structures on the lot in question.

(117) Lot, nonconforming

A lot of record which does not meet the dimensional requirements of this Ordinance.

(118) Lot of record

A lot which actually exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

(119) Lot, through (also "double frontage lot")

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

(120) Lot width

The horizontal distance between side lot lines measured parallel to the front lot line at the front setback line (See Figure 2-6).

(121) Manufactured home

A mobile home, residential building, dwelling unit, dwelling room or rooms, or a building component which is designed for long term residential use and is wholly or substantially constructed at an off-site location, transported to a site and erected.

(122) Medical clinic

An establishment where human patients are admitted for examination and treatment by a group of physicians, dentists or similar professionals on an out-patient basis. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation.

(123) Mini-warehouse (also "self-storage warehouse")

A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers strictly for the storage of a customer's non-hazardous goods or wares.

(124) Mobile home

A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained in the structure. "Mobile home" does not include a recreational vehicle or motor home.

(125) Mobile home park

A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual non-recreational basis, and which 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 trailer park.

(126) Mobile home site or space

A portion of the mobile home park set aside and clearly designated for use by a specific mobile home.

(127) Mobile home subdivision

A platted residential development consisting of mobile homes or single and two family dwellings located on individual, separately-owned lots.

(128) Motel (See "hotel")

(129) Motor home

A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

(130) Non-Conforming use

The use of a building or of land lawfully existing at the time this Ordinance or amendments became effective but which does not conform with the use regulations of the district in which it is located.

(131) Non-Conforming lot of record ("Substandard lot")

A lot lawfully existing at the time this Ordinance or amendments became effective, and which fails to meet the minimum area requirements of the zoning district in which it is located.

(132) Non-Conforming structure

A structure, or portion thereof, lawfully existing at the time this Ordinance or amendments became effective and which fails to meet the minimum requirements of the zoning district in which it is located.

(133) Nursery, plant

A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for wholesale or retail sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

(134) Obscuring screen

A visual barrier between adjacent areas or uses. The screen may consist of structures such as a wall, fence, or earthen berm, as specified in this Ordinance.

(135) Offset

The distance between the centerlines of driveways or streets across the street from one another.

(136) Off-street parking lot

A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than two (2) vehicles.

(137) Open air business

A business establishment operated substantially in the open air and outside of any permanent building, including flea markets and outdoor displays of merchandise, outdoor eating areas, outdoor storage, and similar uses.

(138) Ordinary high water mark

The line, as determined by a Registered Land Surveyor, between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface soil, and the vegetation.

(139) Outdoor recreation establishment

A privately owned facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee such as tennis courts, archery ranges, golf courses, miniature golf courses, golf driving ranges, and children's amusement parks.

(140) Outdoor solid fuel burning furnace (“outdoor wood burner,” “outdoor wood boiler”)

Any equipment, device, or apparatus which is installed, affixed, or situated outdoors for the primary purpose of the combustion of solid fuel (including wood, corn, and pellets) to produce heat or energy comprising a component of a heating system used to provide heat to a principal dwelling or any accessory building.

(141) Parapet wall

An extension of a building wall above the roof which may serve to screen roof-mounted mechanical equipment.

(142) Parcel

A lot described by metes and bounds or described in a recorded plat.

(143) Parking space (stall)

A designated area of definite length and width for parking of motor vehicles.

(144) Personal Service Business

A personal service business primarily serves the needs of individual people or families, including but not limited to hair or skin care, grooming, dry cleaning, tanning, health clubs, spas, tailoring, shoe repair, and repair of small appliances, watches or jewelry.

(145) Planned unit development

A form of land development comprehensively planned as an entity via a unitary site plan which permits flexibility in building, siting, usable open spaces, and the preservation of significant natural features. Such a development may contain a mix of housing types and non-residential uses.

(146) Planning Commission

The Village of Merrill Planning Commission as duly created under Act 33 of the Public Acts of 2008, as amended.

(147) Plat

A map of a subdivision of land.

(148) Pond

Any artificially created depression in the soil that is a minimum of one thousand (1,000) square feet in area, twenty-four (24) inches deep, and filled with water.

(149) Principal building or structure

A building or structure in which is conducted the principal use of the lot upon which it is situated.

(150) Principal use

The main use to which the premises are devoted and the principal purpose for which the premises exist.

(151) Principal use, permitted

A use permitted in each zoning district by right.

(152) Private club

An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

(153) Private Road

Any undedicated path, trail, or road that provides or is intended to provide the primary means of ingress and egress to two (2) or more parcels, principal buildings, dwelling units, structures, or combination thereof.

(154) Public and semi-public institutional buildings, structures and uses

Buildings, structures, and uses of governmental agencies and non-profit organizations including but not limited to office buildings, municipal parking lots, post offices, libraries, and community centers.

(155) Public park

Any developed park, playground, beach, outdoor swimming pool, intended for active recreational pursuits, within the jurisdiction and control of a governmental agency.

(156) Public open space

Any primarily undeveloped land, intended for passive recreational pursuits, within the jurisdiction and control of a governmental agency.

(157) Public street

A public thoroughfare which affords the principal means of access to abutting property.

(158) Public utility

Any person, municipal department, board or commission duly authorized to furnish and furnishing under state or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

(159) Radioactive materials

Materials defined as radioactive under Michigan Department of Environmental Quality regulations for transportation of radioactive materials or under Saginaw County Health Department regulations, whichever is determined to be applicable.

(160) Recreational vehicle

A vehicle intended and designed primarily for recreational use, such as motor homes, camper trailers, boats, snowmobiles, off-road and all terrain vehicles, and similar vehicles or trailers. The term "recreational vehicle" shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for daily on-street use.

(161) Retail store

Any building or structure in which goods, wares, or merchandise are sold to the consumer for direct consumption and not for resale.

(162) Right-of-way

A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles and under the legal authority of the agency having jurisdiction over the right-of-way.

(163) Salvage

Material to be used for further use, recycling, or sale.

(164) Salvage yard

Any principal or accessory use where salvage or its component parts are bought and sold, exchanged, stored, baled, packed, disassembled, separated, or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. A "salvage yard" includes automobile wrecking yards and includes any outdoor area for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings. The term "salvage yard" does not include drop-off stations for residential recyclable materials.

(165) Satellite dish antenna

A device incorporating a reflective surface that is solid, open mesh, or bar configured; is in the shape of a shallow dish, parabola, cone or horn. Such a device shall be used to transmit and/or receive television, radio, or other electromagnetic communication signals between terrestrial and/or extraterrestrial-based sources. This definition includes, but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (Television Reception Only satellite antennas), and satellite microwave antennas.

(166) Screen

A structure such as a fence or wall, providing enclosure and a visual barrier between the area enclosed and the adjacent property.

(167) Service drive

A drive which generally parallels the public right-of-way but runs along the back of a land use which fronts on the public street. A service drive may provide access to properties on both sides, and vary in width and design.

(168) Setback, required

The required minimum horizontal distance between a front, rear, or side lot line and a building line. Separate definitions for condominium projects are listed under "condominium setbacks."

(169) Setback, parking lot

The minimum horizontal distance between the street right-of-way or property line and the near edge of a parking lot, excluding necessary and/or approved driveways, frontage roads and landscaping areas.

(170) Shopping center

A commercial enterprise that is planned and developed as a unit, and which includes a group of retail businesses. Off-street parking is provided for the shopping center as a whole, as opposed to providing separate areas for individual businesses.

(171) Shoreline

The edge of a body of water measured at the ordinary high water mark.

(172) Sight distance

The length of roadway that is visible to the driver. Sight distance is generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver (turn from driveway or side street, stop or pass) without striking another vehicle or object in the roadway.

(173) Sign

A sign is the use of any words, numerals, figures, devices, designs, or trademarks which constitute a name, identification, description, display, or illustration which is affixed or applied to or represented directly or indirectly upon a building structure, or zoning lot, and which directs attention to an object, product, service, activity, person, institution,

organization, or business. Various types of signs and their components are further defined as follows:

- a. **Billboard:** A billboard is an outdoor sign, structure, or symbol advertising services or products which are not made, produced, assembled, stored, or sold upon or from the lot or premises upon which the billboard is located. Billboards are also known as "off-premise signs" and "outdoor advertising."
- b. **Sign Area:** The area of a sign shall be computed as the entire area circumscribed by a parallelogram, triangle, circle, or semi-circle, or any combination of these figures, which includes all of the display area of the sign including frames surrounding display areas. For signs that consist of individual letters attached or painted on the wall of a building, with only the wall as background and no added decoration or border, the sign area shall be the geometrical shape formed by an imaginary line along the exterior perimeter of the work, or words as a whole. For purposes of computing sign area, only one side of a sign shall be used.
- c. **Canopy Sign:** A sign that is incorporated into the fabric or material of a canopy with the canopy being attached to an exterior wall or surface of a building. A canopy sign shall be considered a wall sign for purposes of determining sign area. In determining said area, only that portion of the canopy containing lettering or message shall be used as a basis for computation.
- d. **Directional Sign:** A sign directing and guiding vehicular or pedestrian traffic or parking, but bearing no advertising matter except for the "logo" of the business for which the directional signs are associated.
- e. **Electronic Message Board.** A sign with changeable copy in which the copy consists of an array of lights activated and deactivated with a frequency of message change of not less than twenty (20) seconds. Signs that only display the time and temperature may change messages with a frequency of no less than five (5) seconds.
- f. **Flashing Sign:** Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity or color at all times while in use.
- g. **Freestanding Sign:** A sign which is affixed to a permanent foundation, but not attached to a building.
- h. **Illuminated Sign:** Any sign designed to give forth artificial light, or designed to reflect any such light given from any source which is intended to cause such light or reflection.
- i. **Monument Sign** (also "Ground Mounted Sign"): A type of freestanding sign where the base of the sign is directly on the ground or integrated into landscaping or other solid structural features instead of support poles.

- j. **Political Sign:** Any sign displaying a message and/or image associated with an election, referendum, election campaign, or similar event.
- k. **Portable Sign:** Any sign constructed so as to be readily movable from one location to another and not permanently affixed to a building or the ground. Portable signs include "trailer" signs.
- l. **Real Estate Sign:** A sign advertising that the premises on which the sign is located is for sale, lease, or rent.
- m. **Wall Sign:** A sign attached to or placed flat against the exterior wall or surface of any building, no portion of which projects more than twelve (12) inches from the wall. (See also "canopy sign.")

(174) Site plan

A scaled drawing or set of drawings that illustrate existing conditions and that contain the elements required by this Ordinance as applicable to a proposed development to ensure compliance with zoning provisions.

(175) Special land use

A use of land that is permitted within a particular zoning district only if the applicable standards have been met. A special land use requires that a special use permit be obtained.

(176) Specified Anatomical Areas

Human genitals, pubic region, or any portion of the areola of a female breast when less than completely and opaquely covered, in addition to human genitals in a discernibly turgid state, even if completely and opaquely covered.

(177) Specified Sexual Activities

Human genitals in a state of stimulation or arousal; acts of human masturbation; sexual intercourse (heterosexual or homosexual), or sodomy; fondling of or erotic touching of human genitals, pubic region, buttock or female breast; bestiality; fellation or cunnilingus; and human excretory functions.

(178) Stable, private

An accessory building in which horses are kept for private use and not for remuneration, hire, or sale.

(179) Stable, public (also, "commercial stable")

An accessory building in which horses are kept for remuneration, hire, or sale, including any stable that is incidental to the operation of a club, association, ranch, or similar establishment.

(180) Story

That portion of a building between a floor and the floor or roof next above it. A basement shall be counted as a story if its ceiling is over four (4) feet above the average adjoining ground surface.

(181) Street

A public thoroughfare that affords the principal means of access to abutting property.

(182) Structure

Anything constructed, assembled or erected, the use of which requires location on the ground or attachment to something having location on or in the ground; this term shall include fences which are more than 50% solid, tanks, towers, dish antennae, advertising devices, tents, wagons, trailers, dining cars, or similar structures on wheels or other support used for business or living purposes. The word "structure" shall not apply to wires and their supporting poles or frames or electrical or telephone utilities or to service utilities below the ground.

(183) Structural Alterations

Any changes in the supporting members of a building such as bearing walls, columns, beams or girders, or any substantial changes in the roof and exterior walls or any expansion or addition to the floor space of a building by the addition of bearing walls, columns, beams or girders.

(184) Substantial improvement

Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

(185) Temporary building, structure or use

A temporary building or structure is one that is specifically permitted by this ordinance to exist during periods of construction of the principal building or structure, or during repair of a dwelling or structure that has been damaged to such an extent that it cannot be occupied. A temporary use is one that is allowed by this ordinance for a specific, limited time period, such as a special event.

(186) Use

The purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

(187) Variance

A relaxation or modification of the requirements of this Ordinance as authorized by the Board of Zoning Appeals under the provisions of this Ordinance and Act 110 of the Public Acts of 2006, as amended.

(188) Vehicle

Any device in, upon, or by which any person or property is or may be transported or drawn upon any street, highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks.

(189) Vehicle Sales Area

An area used for the display, sales, and rental of new and used motor vehicles, boats, trailers, recreational vehicles and equipment, farm equipment, construction equipment, or mobile homes, all in operable condition.

(190) Veterinary Clinic

A building, or any portion thereof, used for the medical treatment of domesticated animals by a Doctor of Veterinary Medicine and his or her employees, and including exterior or interior kennels or overnight lodging facilities for animals.

(191) Wetland

Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh.

(192) Wetland, regulated

Certain wetlands regulated by the Michigan Department of Environmental Quality under the provisions of Act 203 of the Public Acts of 1979, as amended, and generally defined as land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

- a. Contiguous to an inland lake or pond, or a river or stream;
- b. Not contiguous to an inland lake, pond, river or stream, and more than five (5) acres in size;
- c. Not contiguous to an inland lake or pond, or a river or stream; and five (5) acres or less in size if the Michigan Department of Environmental Quality determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the property owner.

(193) Yard

a. A space open to the sky and unoccupied or unobstructed, except by encroachments specifically permitted by this Ordinance, on the same lot with a building or structure. A **required yard** is measured between the applicable lot line and the nearest foundation line of a building or structure.

b. **Front yard:** A yard extending across the full width of the lot, the depth of which is the distance between the front lot line and foundation line of the building or structure. In the case of a waterfront lot, the yard on the water side shall be the front yard (See Figure 2-6).

c. **Rear yard:** A yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and rear foundation line of the main building (See Figure 2-6).

d. **Side yard:** A yard between the foundation line of the main building and the side lot line extending from the front yard to the rear yard (See Figure 2-6).

(194) Zoning Act

The Michigan Zoning Enabling Act, Public Act 110 Of 2006, as amended.

(195) Zoning Administrator

An individual appointed by the Village of Merrill Council delegated to administer the Village of Merrill Zoning Ordinance.

(196) Zoning Board of Appeals

The Village of Merrill Zoning Board of Appeals created and/or continued under Act 110 of the Public Acts of 2006, as amended.

(197) Zoning District

A portion of the incorporated area of the village within which certain regulations and requirements, or various combinations thereof apply under the provisions of the Zoning Ordinance.

Chapter 3

General Requirements

Section 301. Scope of Regulations

The standards and regulations contained in this Ordinance shall apply to all land, buildings, structures, land uses, and land development projects that are established or commenced after the effective date of this Ordinance. Accordingly, no lots or parcels may be created or altered, nor any land use established or commenced, nor any building or structure constructed, altered, or extended, except in a manner that complies with the provisions of this Ordinance.

Section 302. Supplementary Use Regulations

- (1) **Building Permits Required.** Any construction related to any type of zoning approval shall be commenced only after a building permit has been issued.
- (2) **Prior Building Permits.** Any building permit issued prior to the effective date of this Ordinance shall be valid, even though not conforming to the provisions of this Ordinance, *provided* that construction is commenced within ninety (90) days after the date the permit was issued and that the building is completed according to the plans filed with the permit application within one (1) year of the date of issuance.
- (3) **Buildings to be Moved.** No building shall be moved into or within the Village until a permit has been obtained from the Zoning Administrator for the building to be moved.
- (4) **Temporary Occupancy Permit.** A temporary occupancy permit may be issued for a period of up to six (6) months, and may be renewed once for up to an additional six (6) months.
- (5) **Water and Sewer Permits Required.** Permits shall not be issued for the construction or establishment of buildings or uses requiring water or wastewater systems unless and until an applicant provides copies of the appropriate water and sewer permits issued by the Village.
- (6) **Accessory Uses.** Nothing in this Ordinance shall be construed to prohibit the following accessory uses. Accessory buildings shall meet the requirements of Section 306.
 - (a) Customary refreshment and service uses and buildings that are incidental to the recreational use of any park or recreation area.
 - (b) Buildings or structures necessary for provision of essential services.
 - (c) Gardens, garden ornaments, and usual landscape features within a required yard space.
 - (d) Fences within a required yard space, provided that they comply with the requirements of Section 302(11).
 - (e) Retaining walls.
 - (f) Public playgrounds.
 - (g) Off-street parking for licensed motor vehicles as specified in Chapter 7.

- (h) Home Occupations.
- (i) Use of premises as a voting place.
- (7) **Garbage, Rubbish and Junk.** All parcels must be kept free of all garbage, rubbish and junk. Garbage, rubbish and junk placed in containers specifically designed for storage of these materials may be stored on a parcel until the next available collection date.
- (8) **Inoperative or Dismantled Vehicles.** The storage of dismantled, wrecked and/or unlicensed vehicles, including recreational vehicles and equipment, within any Zoning District is expressly prohibited *unless* (a) the vehicles are contained within a licensed junkyard or an enclosed structure; or (b) provided that the storage period does not exceed forty-eight (48) hours. The storage period may be extended with written permission of the Zoning Administrator.
- (9) **Parking of Recreational Vehicles and Equipment.** The parking of recreational vehicles and equipment, including travel trailers, campers, snowmobiles, boats, and similar recreational equipment in any Residential (R-1 or R-2) Zoning District must conform to the required setbacks for accessory structures and to overall limitations for lot coverage.
- (10) **Heavy Vehicles.** Overnight parking of commercial vehicles in excess of one (1) ton rated capacity, including all semi-truck tractors and trailers, is prohibited within any Residential (R-1 or R-2) Zoning District. This section shall not prohibit the temporary parking of commercial vehicles associated with any lawful use permitted in the zoning district, such as delivery and service vehicles, nor shall it prohibit the parking of contractors' vehicles and trailers that are associated with construction activities carried out under a building permit.
- (11) **Fences, Walls, and Screens.**
 - General Fence Requirements in All Zoning Districts***
 - (a) No fence, wall or plantings shall exceed a height of three (3) feet within twenty (20) feet of any street right-of-way line, or be placed in any manner that obstructs the view of traffic or otherwise causes a public safety hazard.
 - (b) Hedges, ornamental shrubs, trees and bushes shall be considered fences for the purposes of this ordinance when placed in a manner or position to serve as such.
 - (c) All fences and walls shall be installed with the finished ("good") side facing toward adjacent properties, and any visible posts or supports shall be located on the inside of the fence or wall. No used material shall be used unless the material is reasonably sound in the judgment of the Zoning Administrator.
 - (d) No fence or wall shall be erected on or inside the public right-of-way in any zoning district.
 - (e) All fences, walls, and screens shall be properly installed and maintained plumb, in a safe and presentable manner, and with adequate footings and supports. The Zoning Administrator is authorized to order the repair or removal of fences or walls that are dangerous, damaged, dilapidated, or otherwise in violation of any Village ordinances or other State or Federal laws.

Fence Requirements in Residential Zoning Districts (R-1A, R-1, and R-2)

- (f) No fence, wall, or structural screen shall have barbed wire, electrified components, or otherwise be intended to cause harm in preventing entry to the property.
 - (g) Fences shall be of an ornamental type. Fences may be constructed of metal, wire, iron, vinyl, naturally durable wood, or treated wood.
 - (h) In **front yards**, fences, walls, or structural screens shall not exceed three (3) feet in height and must be constructed in such a way that the fence can be seen through for its entire length. Fences installed along street right-of-way lines must be located a minimum of two (2) feet inside the property line. **Acceptable fence types** are picket, ornamental iron, or planting above sidewalk grade.
 - (i) In **side yards**, fences, walls, or structural screens shall not exceed four (4) feet in height. Fences installed along street right-of-way lines must be located a minimum of two (2) feet inside the property line. Fences installed between adjacent properties may be installed on the lot line. **Acceptable fence types** are picket, ornamental iron, chain link, shadow plank, woven, or planting.
 - (j) In **rear yards**, fences, walls, or structural screens shall not exceed six (6) feet in height. Fences installed along street right-of-way lines must be located a minimum of six (6) feet inside the property line. Fences installed between adjacent properties may be installed on the lot line. **Acceptable fence types** are picket, ornamental iron, chain link, shadow plank, woven, stockade or planting.
- (12) **Outdoor Solid Fuel Burning Furnaces Prohibited.** Outdoor solid fuel burning furnaces, also known as “outdoor wood burners” and “outdoor wood boilers,” as defined by this Ordinance, are prohibited within the Village of Merrill.

Section 303. Supplementary Dwelling Regulations

- (1) **Must Comply With Code Requirements.** Every dwelling must comply with all pertinent housing, fire, and construction codes in addition to the requirements of this Ordinance. This includes meeting or exceeding all applicable roof snow loads and strength requirements. If a dwelling is a mobile home, all construction, insulation, plumbing, and electrical apparatus shall conform to the “Mobile Home Construction and Safety Standards” of the U.S. Department of Housing and Urban Development.
- (2) **Mobile Home Installation.** In the event that a dwelling is a mobile home located in a mobile home park, it must be installed pursuant to the manufacturer’s setup instructions with the wheels removed. It also must be secured to the ground by an anchoring system or device that complies with the Michigan Building Code and the rules and regulations of the Michigan Mobile Home Commission. Each mobile home must have a perimeter wall or skirting that has the same dimensions as the dwelling. No mobile home shall have any towing mechanism, undercarriage, or chassis exposed.
- (3) **One Single Family Dwelling Per Parcel.** No building in the rear of or on the same lot with a principal building shall be used for residential purposes, except for elderly or handicapped family members, or farm laborers as permitted by special use permit in Chapter 6 of this Ordinance.

- (4) **Dwelling Placement.** All dwellings shall have their main pedestrian entrance facing the front lot line.
- (5) **Structures to be of Uniform Quality.** Any additions, rooms, or other areas of a dwelling must be constructed using workmanship and materials similar in quality to the original structure. Such additions, rooms, or other areas must be permanently attached to the principal structure, and they must be supported by a foundation as required herein.
- (6) **Maintenance.** All dwellings must be properly maintained and protected against deterioration and damage from the elements or the passage of time by prompt and appropriate repairs, resurfacing, coating, and any other necessary protective measures.
- (7) **Use of Mobile Home for Temporary Dwelling.** A temporary use may be authorized to house family members as provided in Section 303 (3), to house the owner and immediate family during construction of a single family home, and to house the owner and immediate family during the repair of a single family home that has been damaged to an extent that it cannot be occupied.

Any mobile home intended for use as a temporary dwelling must meet the standards of this Ordinance and the Michigan Building Code. No structure, fixed or portable, shall be erected or moved onto a parcel and used for dwelling purposes unless a temporary permit is authorized by the Planning Commission and issued in accordance with Section 302. A temporary dwelling may not be occupied by more than one family.
- (8) **Storage Area.** Every dwelling unit must contain a storage area equal to ten percent (10%) of the square footage of the dwelling or one hundred (100) square feet, whichever is less. The storage area shall be located in a basement under the dwelling, an attic area, closet areas, or in a separate structure that meets all requirements of the Michigan Building Code.
- (9) **Foundation.** All single family dwellings, except mobile homes located in licensed mobile home parks, must be firmly attached to a permanent foundation that meets the Michigan Building Code requirements for such dwellings. The foundation walls shall have the same perimeter dimensions as the dwelling.
- (10) **Dimensions.** All single family dwellings must have a minimum width across all front, side, and rear elevations of sixteen (16) feet and must comply in all respects with the Michigan Building Code, including minimum heights for habitable rooms.
- (11) **Roof.** Each single-family or two-family dwelling, other than mobile homes located within a mobile home park, must have a pitched roof of which the main portion has a minimum slope of one (1) vertical unit to four (4) horizontal units. The eaves of the roof must project at least six (6) inches beyond the exterior walls.
- (12) **Exterior Doors, Steps, and Porches.** Every single family dwelling must have exterior doors on not less than two sides with steps or porches connected to the doors where required due to a difference in elevation.
- (13) **Garage and Yard Sales.** Sales of used material from a single family dwelling may occur four (4) times a year for a period not to exceed four (4) days for each occurrence.
- (14) **Accessory Building Not for Dwelling Use.** No portion of an accessory building in any Zoning District may be used as a dwelling.
- (15) **State Licensed Residential Facility.** No State Licensed Residential Facility for six (6) persons or less shall be located within fifteen hundred (1,500) feet of another State Licensed Residential Facility.

- (16) **Auto Repair.** Repair of vehicles not owned by a resident of the parcel where the activity is occurring is prohibited in any Residential Zoning District.
- (17) **Home Occupations.** Home occupations are permitted, subject to the following standards:
 - a. The home occupation must be conducted within the principal dwelling or within a normally associated accessory building.
 - b. The home occupation must be clearly incidental and subordinate to the use of the dwelling for dwelling purposes.
 - c. The dwelling containing the home occupation shall have no exterior evidence that it is being used for any purpose other than as a dwelling, except for signs as permitted by this Ordinance in Chapter 8.
 - e. Home occupations shall not involve any activity or process that would constitute a nuisance or annoyance to adjoining properties by reason of noise, smoke, odor, electrical disturbance, exterior lighting, or the creation of vehicular traffic not normally associated with a residential use.
 - f. There may be not more than one (1) employee not living at the dwelling.

Section 304. Supplementary Parcel Regulations

- (1) **Minimum Lot Frontage.** The front lot lines of all parcels shall abut a public street and shall have a continuous permanent frontage at the front lot line for the required lot width. “Flag lots” are not permitted.
- (2) **Access to a Street.** Any parcel created after the effective date of this ordinance shall have access to a public street.
- (3) **Space Used Once.** Any yard or other open space that is provided with any building or structure for the purpose of complying with the provisions of this Ordinance shall not again be used as a yard or other required open space for another building or structure, except where one is to be demolished upon completion of the other.
- (4) **Approval of Land Divisions.** All land divisions created after the effective date of this Ordinance shall comply with all requirements of the Michigan Land Division Act (Act 591 P.A. 1996, as amended). All land divisions created after the effective date of this Ordinance shall also comply with the lot area, width, setback, and all other dimensional requirements of the zoning district in which such land divisions are located.

Section 305. Supplementary Structure Regulations

- (1) **Permitted Yard Encroachments.** The following items shall be considered to be accessory structures, even though they may be attached to a principal building, and may project into *side* and *rear* yards that are required for the principal building. Setbacks for **accessory structures**, as defined in **Chapter 5, District Regulations**, must be adhered to, as well as any requirements listed in this section.

- (a) Open porches, paved terraces, and patios, with the following restrictions. Enclosed porches are considered to be part of the principal building and subject to all yard, setback, and area requirements.
 - (i) The highest finished elevation of the paved area or porch is not over three (3) feet above the average surrounding finished grade.
 - (ii) If a porch is roofed, the porch must be unenclosed and the roof shall be no higher than one (1) story.
 - (b) Structural elements such as cornices, sills, chimneys, gutters, and similar features that project a maximum of two and one-half (2.5) feet.
 - (c) Fire escapes, outside stairways and balconies that are of open construction and that project a maximum of five (5) feet.
 - (d) Signs, subject to the provisions of **Chapter 8, Sign Regulations**.
- (2) **Permitted Height Exceptions.** The following exceptions shall be permitted to the height limitations specified in **Chapter 5, District Regulations**. These permitted exceptions shall not be used for human occupancy or dwelling purposes. For each one (1) foot that a structure exceeds the zoning district height limit, the front, side, and rear setbacks shall each be increased by one (1) foot. No exceptions are permitted to exceed the height limitations imposed by the Tri-City Area Joint Airport Zoning Ordinance.
- (a) Appurtenances to mechanical or structural elements such as elevator and stairway penthouses, ventilators, heating or air conditioning equipment, water storage tanks, and safety equipment shall be permitted to a maximum height of fifty-five (55) feet in any Business Zoning District and sixty (60) feet in any Manufacturing Zoning District.
 - (b) Special structures such as chimneys, smoke stacks, water towers, and standpipes shall be permitted to a maximum height of one hundred seventy-five (175) feet in any Zoning District.
 - (c) Tower structures such as radio or transmitting towers, microwave relay towers, or cellular phone towers are subject to the Special Use Permit requirements and height limitations specified in Chapter 6.
 - (d) Residential television antennas or flagpoles shall be permitted to a maximum height of forty-five (45) feet in any Agricultural or Residential Zoning District.
 - (e) Flagpoles in any Business or Manufacturing Zoning District are permitted to a maximum height of sixty (60) feet.

- (3) **Detached Carports, Canopies, and Similar Structures.** Detached carports, canopies, awnings and similar structures that are intended to serve as shelters for vehicles are considered accessory structures and must comply with the minimum setbacks for the zoning district in which they are located (see Chapter 5) and all other requirements of this ordinance that pertain to accessory structures. This provision shall apply regardless of whether such a structure is erected on a temporary or permanent basis.
- (4) **Storage Sheds and Accessory Buildings.** Storage sheds and accessory buildings shall meet the following requirements:
- (a) Storage sheds and accessory buildings up to 144 square feet in area, with a maximum of eight-foot side walls and a sixteen (16) foot peak, shall not require a foundation. Accessory buildings larger than 144 square feet with a maximum of ten-foot side walls, shall require a foundation. All accessory buildings shall require a building permit.
 - (b) Storage sheds and accessory buildings must maintain all setbacks specified in Chapter 5, District Regulations. Accessory buildings are not allowed in a required front yard, and shall not protrude in front of the principal dwelling.
 - (c) A setback variance on a non-permanent accessory structure of 144 square feet or less may be approved by a majority vote by the Village Planning Commission along with the written approval of the adjoining property owners. This type of variance shall not require the approval of the Zoning Board of Appeals.
 - (d) Each property owner shall ensure that all accessory and storage buildings on the property are installed and maintained plumb, with adequate support and footings, and in a safe and sightly manner. No used material is permitted unless such material shall be reasonably sound in the judgment of the building inspector. All work performed under the provisions of this section shall be substantially constructed and shall be performed in a sound and workmanlike manner.
 - (e) A storage and/or accessory building erected before the effective date of this ordinance may be maintained in its current condition so long as such building is in compliance with the law existing at the time of erection. However, the height and location of any such building must be made to comply with this section if any structural alteration is made, or if any structural alteration is necessary to safely or properly maintain the building.
 - (f) The authorized agents of the Village may order the removal or repair of buildings that are dangerous, damaged, or unsightly, have peeled paint, are

dilapidated, or are otherwise in violation of this ordinance, or other state or federal law.

Section 306. Open Space Preservation Provisions

- (1) **Purpose.** The purpose of these provisions is as follows:
 - (a) To provide optional open space preservation provisions for residential development, as required by Act 179 (P.A. 2001).
 - (b) To encourage greater flexibility and efficiency in the design of single-family residential developments.
 - (c) To conserve open space and other important elements of the Village's rural character. Examples of these elements include stands of mature trees and other natural vegetation, wetlands and wildlife areas, historic sites and structures, unique landforms, and scenic areas.
- (2) **Applicability.** These provisions shall apply to the following situations:
 - (a) All lots created after the effective date of this ordinance in the following zoning districts where residences are permitted by right at a density of two (2) dwellings units per acre or less, or if the land is served by a public sewer system, three (3) dwelling units per acre or less. *(May list affected districts here)*
- (3) **Submission Requirements.** An applicant who wishes to utilize the open space development option shall submit two (2) concept plans for review by the Zoning Administrator and the Planning Commission. These concept plans shall be prepared in accordance with the site plan requirements in Chapter 9, Section 907, and the following additional requirements:
 - (a) **Density Concept.** One concept plan shall portray the development of the dwelling units on the site according to the requirements for the zoning district in which the site is located with respect to lot area, width, setbacks, and all other dimensional requirements. The proposed density must be realistic in terms of the project area that would actually be buildable. Wetlands, floodplains, areas that are reserved for roads or utility easements, and other areas that are unbuildable shall be excluded from the project density calculations.
 - (b) **Open Space Concept.** The other concept plan shall portray the development of the dwelling units in a manner so that at least fifty percent (50%) of the land area of the site will perpetually remain in an undeveloped state. The Open Space Concept Plan shall contain the same number of dwelling units as the Density Concept Plan. "Undeveloped state" shall have the same meaning as specified in Act 179 (PA 2001); that is, a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.
 - (c) **Project Narrative.** The applicant shall provide a written narrative that explains the project and its benefits. The narrative should specifically address all elements of the project that would not comply with the zoning district regulations that would apply to the Density Concept Plan. The narrative shall clearly indicate the proposed project densities and how they were calculated.
- (4) **Approval Standards.** Prior to approving an Open Space Development, the Zoning Administrator must find, with the concurrence of a majority of the Planning Commission, that the proposed development complies with the following requirements:

- (a) The proposed development will comply with all requirements of the Saginaw County Department of Public Health for residential water supply and wastewater disposal.
- (b) The proposed development will comply with all requirements of the Land Division Act.
- (c) At least fifty percent (50%) of the project land area will remain perpetually in an undeveloped state, as previously defined in this section, by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land and that is acceptable to the Village.

Section 307. Ponds

Artificially created ponds are permitted as accessory uses in the R-1A, R-1 and R-2 districts, subject to the following requirements:

- (1) A permit must be obtained from the Zoning Administrator prior to the construction of a pond.
- (2) A minimum parcel size of 12,000 square feet is required for the construction of a pond.
- (3) An applicant shall obtain all necessary state permits, or provide verification to the Village that state permits are not required.
- (4) An applicant must obtain a Soil Erosion and Sedimentation Control Act permit from Saginaw County if a project will disturb more than one acre or is located within five hundred (500) feet of a lake or stream.
- (5) Excavated areas shall be a minimum of fifty (50) feet from all adjacent property lines.
- (6) The excavation of a pond shall not change surface or subsurface aquifers in a manner that adversely affects adjacent properties and land uses.
- (7) The pond banks shall have a slope that does not exceed one (1) foot vertical rise in three (3) feet of horizontal run, extending to a depth of at least eight (8) feet.
- (8) Excavated material that is not removed from the site shall be spread to a depth that does not exceed three (3) feet above the original surface with the top of the fill graded to a continuous slope that does not exceed one (1) foot vertical to three (3) feet horizontal, and slopes away from any water body.
- (9) As an alternative to #8, the material may be shaped into berms that assume a natural angle of repose and that blend visually with the landscape. The toe of the slope of such berms shall be no closer than twelve (12) feet to the edge of the water of a pond formed by the excavation.
- (10) At the end of construction, the completed portion of any excavated areas shall be landscaped and seeded with appropriate grass types. The landscaping shall not interfere with natural waterways or have an adverse effect on drainage of surrounding properties.
- (11) No machinery or equipment should operate, and no trucks, trailers or other conveyances should arrive at any excavation site before 7:00 a.m. or after 8:00 p.m.
- (12) Appropriate measures shall be taken to minimize levels of noise, dust, and flying debris while excavation takes place.

Chapter 4 Non-Conforming Uses

401. INTENT. It is the intent of this Section to permit the continuation of any lawful use of a building or land existing as of the effective date of this ordinance. However, it is hereby declared that nonconformance with the provisions of this ordinance is contrary to the best interests of the citizens of the Village and ought to be discontinued as circumstances permit. Any nonconforming building, structure or use may be expanded, changed, repaired, or reconstructed only as prescribed by this Section.

402. HISTORIC PROPERTIES. Any nonconforming property in the Village of Merrill which is listed on the State or National Register of Historic Places is specifically excluded from any requirement of this Section which would damage the historic character of the property. When any such property is the subject of any administrative decision, the input of Michigan's State Historic Preservation Officer shall be requested in writing not less than 30 days before any regulatory action may take effect.

403. LEGALITY OF NONCONFORMITIES. Legal nonconformities are presumed to have existed before the adoption of zoning regulations in the Village of Merrill, and illegal nonconformities to have been developed in conflict with zoning regulations through oversight or error.

Nonconforming properties or uses will be considered to be Legal Nonconformities if they meet each applicable criterion, listed as “a” through “d”, below. Note that temporary signs are not considered to be legal nonconforming structures.

- (a) The nonconformity existed before the effective date of this ordinance.
- (b) The use, parcel, building or structure in question meets one of the following standards.
 - (1) It complied with the District regulations of any previous zoning ordinance.
 - (2) The nonconformity was allowed under any previous zoning ordinance due to granting of a variance or special use permit.
 - (3) It had been recognized as a "legal nonconforming use" under the previous zoning ordinance.
 - (4) The nonconformity resulted from land acquisition by a government agency, such as for a road right of way. (Applies to Nonconforming Setback or Lot Size only)
 - (5) (Applies to Nonconforming Parcels only) Area, width, and depth of parcel, and the number of off-street parking spaces provided, are at least ninety percent (90%) of minimum requirements for its zoning district.
- (c) (Applies to Nonconforming Uses only) The use has not been discontinued for any six month period.
- (d) (Applies to Nonconforming Buildings or Structures only) The building or structure does not extend into a public right of way, over a neighboring property line, or exceed lot coverage limits for its zoning district by over 50 percent.

404. INVENTORY OF NONCONFORMITIES. The Village Zoning Administrator is hereby required to establish and maintain an Inventory of Legal Nonconformities known to exist in the

Village of Merrill. Listed properties shall be arranged in the order of the Village Assessor's parcel identification numbers.

All listed properties shall also be identified on a large scale map of the Village which shall be available for public inspection.

Properties shall be added to or deleted from the Inventory as circumstances change or as Village officials become aware of previously unlisted situations.

Each listing in the Inventory of Nonconformities shall include the following information.

- (a) Parcel identification number.
- (b) Property address (if one is assigned).
- (c) Current owner(s).
- (d) Property description.
- (e) Parcel dimensions.
- (f) Current zoning district.
- (g) Current use of property.
- (h) Description of all nonconformities.

405. REDUCTIONS OF THE DEGREE OF NONCONFORMANCE. A reduction of the degree of nonconformance in one respect is not permitted to offset an increase in the degree of nonconformance in another respect. Thus, square footage may not be "traded" from one portion of a building to another. Nor may one nonconforming use be replaced by another unless the degree of nonconformance is reduced in some way.

406. PRIOR CONSTRUCTION APPROVAL. Nothing in this section shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of this ordinance, provided that all terms of the permit are fully complied with.

407. DISTRICT CHANGES. Whenever changes occur in the boundaries of Zoning Districts, the provisions of this Section shall apply to any users properties that become nonconforming as a result of the boundary changes.

408. ELIMINATION OF NONCONFORMITIES. It should be recognized that state laws permit the Merrill Village Council to acquire nonconforming properties, by condemnation if necessary, and remove any nonconforming uses or structures. The resultant property may be leased or sold for a conforming use or used by the Village. The net cost of acquisition may be assessed against a benefit district, or may be paid from general funds.

409. RECONSTRUCTION AND RESTORATION. Any lawful nonconforming use that is damaged may be restored, rebuilt, or repaired PROVIDED that such restoration does not exceed fifty percent (50%) of its appraised value, exclusive of foundations, as determined by the assessing officer. Provided that said use be the same or more nearly conforming with the provisions of the district in which it is located.

410. REPAIR. Nothing in this ordinance shall prohibit the repair, improvement, or modernizing of a lawful nonconforming building to correct deterioration, obsolescence, depreciation, or wear, provided that such repair does not exceed an aggregate cost thereby increasing the assessed value by more than thirty (30%) percent as determined by the assessing officer unless the subject building is changed by such repair to a conforming use.

- 411. CHANGING USES.** If no structural alterations are made, the Board of Appeals may authorize a change from one nonconforming use to another nonconforming use, **PROVIDED** the proposed use would be more suitable to the zoning district in which it is located than the nonconforming use which is being replaced. Whenever a nonconforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to a nonconforming or less conforming use.

412. REGULATION OF NONCONFORMITIES.

- (a) **TABLE.** The following table prescribes actions to address various types of nonconformities in several situations. It is presumed that each of these situations will result in an application for a building or zoning permit and that sufficient information will be obtained to determine the legality of the nonconformity before any action will be taken by officials.

- (b) **INTERPRETATION.** Should any question arise concerning the interpretation of any provision of the *Regulation of Nonconformities Table*, or if a situation is encountered which was not anticipated by the Table, the question shall be submitted to the Zoning Board of Appeals for their interpretation which shall be final and shall set the precedent for future treatment of related situations.

Chapter 5 **Zoning Districts**

501. Division of the Village

For the purposes of this Ordinance, the Village of Merrill, Saginaw County, Michigan, is divided into the following zoning districts:

R-1A Agricultural and Low Density Residential

R-1 Single Family Residential

R-2 Medium Density Residential

C-1 Neighborhood Commercial

C-2 Intensive Commercial

M-1 Light Manufacturing

502. Official Zoning Map

The boundaries of these zoning districts are hereby defined and established on a map entitled, "Zoning District Map of the Village of Merrill," which accompanies this Ordinance. This map, with all explanatory matter thereon, is hereby made a part of this Ordinance. The official Zoning District Map shall be kept and maintained by the Village Clerk.

503. Interpretation of Zoning District Boundaries

The following rules shall be used in interpreting the boundaries shown on the Official Zoning Map:

- a. Boundaries that appear to follow the centerline of a street or highway shall be interpreted to follow that centerline.
- b. Boundaries that appear to follow a Village boundary line shall be interpreted to follow that boundary line.
- c. Boundaries that appear to follow the exterior property lines of a platted subdivision shall be interpreted to follow those property lines.
- d. Boundaries that appear to follow platted property lines shall be interpreted to follow those property lines.
- e. Boundaries that appear to follow the exterior property lines of a Planned Unit Development shall be interpreted to follow those exterior property lines.
- f. Boundaries that appear to follow the centerline of a stream or the ordinary high water mark of a lake shall be interpreted to follow that centerline or ordinary high water mark.
- g. Boundaries that appear to follow property lines, or interior or exterior section lines, shall be interpreted as following those property or section lines.

If the Zoning Administrator finds these standards to be inadequate for the purpose of interpreting the location of a zoning district boundary in any case, or if a property owner wishes to dispute the Zoning Administrator's interpretation of the location of a district boundary, the Zoning Board of Appeals may interpret the Zoning Map under the provisions of Chapter 9.

504. District Regulations

The following charts identify the intent and purpose, uses permitted by right, uses permitted by special use permit, and the dimensional requirements for each zoning district of Village of Merrill as described in Section 501.

Section 504.1

R-1A Agricultural and Low Density Residential Zoning District Regulations

Intent and Purpose:

1. To permit the continuation of existing crop farming and similar agricultural pursuits in undeveloped portions of the Village.
2. To provide a transitional zone for the gradual conversion of agricultural uses to more intensive uses.
3. To provide a holding zone for lands in transitional areas designated for future development by the Village.

Permitted Uses

1. Farms and general farming operations, including field crops, fruit orchards, truck farming, horticulture, aviaries, hatcheries, and apiaries, but excluding livestock and poultry production facilities.
2. Plant nurseries & greenhouses.
3. Single family dwellings.
4. Roadside stands for sale of produce grown by owner.
5. Public parks & recreation areas
6. Cemeteries.
7. State licensed residential facilities, including Adult Foster Care small group homes and Adult Foster Care large group homes.
7. State licensed family child care homes for up to six (6) children.
8. Accessory uses and structures.
9. Government administration & public safety buildings

Special Uses Subject to Review and

Approval as Specified in Chapter 6 (page #)

1. Riding stables (6-5)
2. Veterinary clinics (6-5)
3. Golf courses & country clubs (6-8)
4. Child care centers & group child care (6-7)
5. Sewage treatment facility (6-12)
6. Temporary outdoor uses (6-11)
7. RV parks and campgrounds (6-17)
8. Wind turbine generators (6-16)
9. Crematories (6-8)
10. Natural resources extraction: sand, gravel & topsoil removal. (6-15)
11. Churches (6-5)
12. Hospitals & health care institutions (6-8)

Minimum Lot Size

Area and Width:

1. 43,560 square feet (one acre) and 150 feet continuous frontage at the front lot line without public water and sewer; or
2. 15,000 square feet and 100 feet continuous frontage at the front lot line with public water and sewer.

Minimum Setbacks (Main Bldg/Accessory bldg)

Front: 30 feet / 30 feet
 Side: 10 feet each side / 10 feet
 Rear: 30 feet / 5 feet

Maximum building height (see note below):

Principal building: 2.5 stories, 35 feet
 Accessory building: 25 feet
 Agricultural operations: 85 feet
Note: Permitted non-residential structures may increase maximum height if front, side, and rear setbacks are increased one (1) foot for each one (1) foot increase in building height.

<p><i>Minimum Floor Area:</i> 950 square feet for single-family dwelling or other main building.</p>	<p>Off-Street Parking Requirements: See Chapter 7</p>
<p><i>Screening/Buffering Requirement:</i> See Chapter 3, Sec. 305 (3).</p>	<p>Sign Regulations: See Chapter 8</p>

Section 504.2

R-1 Single Family Residential Zoning District Regulations	
<p>Intent and Purpose:</p> <ol style="list-style-type: none"> 1. To permit the development of residences at low densities on individual lots. 2. To permit the development of compatible uses that are related to residential areas. 3. To promote the development of safe, healthy, and attractive neighborhoods. 	
<p>Permitted Uses</p> <ol style="list-style-type: none"> 1. Single family dwellings. 2. State licensed residential facilities, including Adult Foster Care small group homes and Adult Foster Care large group homes. 3. State licensed family child care homes for up to six (6) children. 4. Home Occupations 5. Accessory uses and structures. 	<p>Special Uses Subject to Review and Approval as Specified in Chapter 6 (page #)</p> <ol style="list-style-type: none"> 1. Golf courses (6-6) 2. Driving ranges (6-6) 3. Churches (6-5) 4. Public parks & recreation areas (6-5) 5. Private schools (6-5) 6. Hospitals & health care institutions (6-8) 7. Medical clinics (6-5) 8. Group child care homes (6-7) 9. Temporary outdoor uses (6-11)
<p>Minimum Lot Size Area: 11,000 square feet</p> <p>Width: 85 feet continuous frontage at the front lot line.</p>	<p>Minimum Setbacks (Main Bldg/Accessory bldg) Front: 30 feet / 30 feet Side: 10 feet each side / 10 feet Rear: 30 feet / 5 feet</p> <p>Maximum building height: Principal building: 2.5 stories, 35 feet Accessory building: 25 feet</p>
<p>Minimum Floor Area: 950 square feet for single-family dwelling or other main building..</p>	<p>Off-Street Parking Requirements: See Chapter 7</p>
<p>Screening/Buffering Requirement: See Chapter 3, Sec. 305 (3).</p>	<p>Sign Regulations: See Chapter 8</p>

Section 504.3

<p>R-2 Medium Density Residential Zoning District Regulations</p> <p>Intent and Purpose:</p> <ol style="list-style-type: none"> To permit residential development at medium densities, including two-family and multiple-family dwellings. To permit the development of other compatible uses related to residential areas. 	
<p>Permitted Uses</p> <ol style="list-style-type: none"> Single family dwellings. Two-family dwellings (duplexes) State licensed residential facilities, including Adult Foster Care small group homes and Adult Foster Care large group homes. State licensed family child care homes for up to six (6) children. Home Occupations Accessory uses and structures. Libraries, museums, and galleries. Government administration & public safety buildings 	<p>Special Uses Subject to Review and Approval as Specified in Chapter 6 (page #)</p> <ol style="list-style-type: none"> Multi-family housing (apartments) (6-7) Planned unit residential developments (6-6) Site condominium developments (6-6) Private clubs (6-5) Public & private meeting halls (6-5) Golf courses (6-6) Driving ranges (6-6) Churches (6-5) Public parks & recreation areas (6-5) Private schools (6-5) Hospitals & health care institutions (6-8) RV parks & campgrounds (6-17) Mobile home parks (6-7) Medical clinics (6-5) Group child care (6-7) Child care centers (6-7) Temporary outdoor uses (6-11)
<p>Minimum Lot Area & Width:</p> <p>Single Family Dwelling: 11,000 square feet and 85 feet continuous frontage at front lot line.</p> <p>Two-Family Dwelling: 12,000 square feet and 100 feet continuous frontage at front lot line.</p> <p><i>See Special Use requirements for multiple-family dwellings in Chapter 6.1</i></p>	<p>Minimum Setbacks (Main Bldg/Accessory bldg)</p> <p>Front: 30 feet / 30 feet Side: 10 feet each side / 10 feet Rear: 30 feet / 5 feet</p> <p>Maximum building height: Principal building: 2.5 stories, 35 feet Accessory building: 25 feet</p>
<p>Minimum Floor Area:</p> <p>950 square feet for single-family or two-family dwelling, or other main building.</p>	<p>Off-Street Parking Requirements:</p> <p>See Chapter 7</p>
<p>Screening/Buffering Requirement:</p> <p>See Chapter 3, Sec. 305 (3).</p>	<p>Sign Regulations:</p> <p>See Chapter 8</p>

Section 504.4

C-1 Neighborhood Business Zoning District Regulations

Intent and Purpose:

1. To provide convenience retail shopping, office, and service businesses for residents of the Village and surrounding areas.
2. To promote the continuation of a traditional downtown business area that is stable and attractive.

Permitted Uses

1. General retail businesses less than 10,000 square feet, including retail food.
2. Offices and professional services.
3. Personal service establishments.
4. Banks and financial services
5. Restaurants, including clubs & drinking establishments, but excluding drive-in and drive-thru restaurants
6. Repair services (not motor vehicles)
7. Funeral homes
8. Government administration & public safety buildings.
9. Medical clinics.
10. Accessory uses and structures.

Special Uses Subject to Review and

Approval as Specified in Chapter 6 (page #)

1. Motor vehicle service & repair (6-12)
2. Vehicle sales facilities. (6-13)
3. Outdoor uses, including open-air businesses & temporary outdoor uses. (6-11)
4. Drive-in & drive-thru businesses (6-10)
5. Private schools (6-5)
6. Commercial indoor recreation (6-6)
7. Dwelling unit (apartment) if located on second floor or higher above a permitted use. (6-7)
8. Child care centers (6-7)

Lot Area & Width

Minimum lot area of 6,000 square feet with 66 feet of continuous frontage at the front lot line.

Main building shall not exceed 5,000 square feet.

Minimum Setbacks (Main Bldg/Accessory Bldg)

Front: 20 feet / 20 feet

Side: 10 feet each side if detached; may be attached to another business with approved firewall construction between; 20 feet if abutting a residential district (both main & accessory bldg).

Rear: 40 feet / 40 feet

Maximum building height:

Principal building: 3.0 stories, 40 feet

Accessory building: 25 feet

Minimum Floor Area:

None

Off-Street Parking Requirements:

See Chapter 7

Screening/Buffering Requirement:

See Chapter 3, Sec. 305 (3).

Sign Regulations:

See Chapter 8

Section 504.5

<p>C-2 Intensive Commercial Zoning District Regulations</p> <p>Intent and Purpose:</p> <ol style="list-style-type: none"> To provide suitable locations for more intensive commercial, wholesale, and storage uses, and to separate these uses from the pedestrian-oriented downtown area. To prevent conflicts between incompatible land uses. 	
<p>Permitted Uses</p> <ol style="list-style-type: none"> General retail businesses, including retail food. Offices and professional services. Personal service establishments. Banks and financial services Restaurants, including clubs & drinking establishments, but excluding drive-in and drive-thru restaurants Repair services Funeral homes Government administration & public safety buildings. Medical clinics. Accessory uses and structures. Hotels & motels Wholesale businesses Health care institutions Commercial schools Veterinary clinics Funeral homes & mortuaries Building supply yards Greenhouses & plant nurseries Public or private meeting halls 	<p>Special Uses Subject to Review and Approval as Specified in Chapter 6 (page #)</p> <ol style="list-style-type: none"> Motor vehicle service & repair (6-12) Vehicle sales facilities. (6-13) Outdoor uses, including open-air businesses & temporary outdoor uses. (6-11) Warehouses & storage buildings (6-7) Self-serve storage buildings (“mini-warehouses”). (6-8) Drive-in & drive-thru businesses (6-10) Small-scale manufacturing or processing with main building under 5,000 square feet, such as tool & die or machine shops. (6-10) Truck terminals (6-7) Multi-family housing (apartments) (6-7) Agricultural storage, including grain elevators (6-5) Commercial outdoor recreation (6-6) Commercial indoor recreation (6-6) Retail development consisting of 10,000 square feet or more, including shopping centers & similar uses. (6-11)
<p>Lot Area & Width</p> <p>Minimum lot area of 6,000 square feet with 66 feet of continuous frontage at the front lot line.</p>	<p>Minimum Setbacks (Main Bldg/Accessory Bldg)</p> <p>Front: 40 feet / 40 feet Side: 10 feet each side if detached; may be attached to another business with approved firewall construction between; 20 feet if abutting a residential district (both main & accessory bldg). Rear: 40 feet / 10 feet</p> <p>Maximum building height (see note below): Principal building: 3.0 stories, 40 feet Accessory building: 25 feet</p> <p>Note: Permitted non-residential structures may increase maximum height if front, side, and rear setbacks are increased one (1) foot for each one (1) foot increase in building height.</p>
<p>Minimum Floor Area: None</p>	<p>Off-Street Parking Requirements: See Chapter 7</p>
<p>Screening/Buffering Requirement:</p>	<p>Sign Regulations:</p>

See Chapter 3, Sec. 305 (3).	See Chapter 8
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Section 504.6

M-1 Light Manufacturing Zoning District Regulations

Intent and Purpose:

1. To provide areas in the Village for light industrial uses with few nuisance characteristics.
2. To permit manufacturing, production, processing, assembly, packaging, and treatment of products from previously prepared materials.
3. To allow the development of compatible, non-retail commercial and service establishments.
4. To protect industrial areas from incompatible uses.

Permitted Uses

1. Manufacturing, production, processing, assembly, packaging of products.
2. Warehouses & storage buildings.
3. Grain & seed elevators
4. Wholesale businesses
5. Contractors' establishments.
6. Public utility installations & buildings.
7. Laboratories.
8. Commercial schools
9. Accessory uses and structures.

Special Uses Subject to Review and

Approval as Specified in Chapter 6 (page #)

1. Bulk fuel dealer (6-9)
2. Junkyards (6-9)
3. Sewage treatment & disposal facilities (6-12)
4. Adult entertainment businesses. (6-9)
5. Truck terminals. (6-7)

Minimum Lot Area & Width:

12,000 square feet with 150 feet of continuous frontage at the front lot line.

Minimum Setbacks (Both main bldg & any accessory bldg)

Front: 40 feet
 Side: 10% of lot frontage on each side
 Rear: 100 feet if the use is adjacent to an R-1A, R-1 or R-2 parcel; 20 feet if adjacent to C-1, C-2, or M-1 parcel.

Maximum building height (see note below):

Principal building: 3.5 stories, 45 feet
 Accessory building: 2.5 stories, 35 feet
Note: Permitted non-residential structures may increase maximum height if front, side, and rear setbacks are increased one (1) foot for each one (1) foot increase in building height.

Minimum Floor Area:

1,000 square feet for main building.

Off-Street Parking Requirements:

See Chapter 7

Screening/Buffering Requirement:

See Chapter 3, Sec. 305 (3).

Sign Regulations:

See Chapter 8

Other District Requirements:

Industrial uses may not be within 100 feet of a residential district.

Chapter 6 Special Uses

601. Purpose

In addition to the uses permitted by right in each zoning district, this Ordinance allows the establishment of special land uses subject to the procedures, standards, and regulations described in this Chapter. An application for a special use permit may be filed by any person who owns or has an interest in the property subject to the application.

602. Application Procedures

An application for a special use permit shall be submitted to the Zoning Administrator no less than **thirty (30) days** prior to the meeting at which the Planning Commission will consider the application. The review of applications submitted less than **thirty (30) days** prior to such meetings will be delayed until the next scheduled meeting.

Applications must be accompanied by the materials and information described below:

- a. A completed Special Use Permit application form and application fee.
- b. Three (3) copies of a site plan prepared as specified in *Chapter 9, Administration and Enforcement*.
- c. A written statement (preferably typewritten) describing how the proposed special use will comply with the general standards for special use approval listed under Section 606.

When a complete application is submitted, the Zoning Administrator shall confer with the Chairperson of the Planning Commission to schedule a public hearing on the application.

603. Notice of Public Hearing

Notice of the public hearing on the special use application must be published in a newspaper not less than fifteen (15) days before the date of the meeting at which the public hearing will be held.

Notice of the hearing must also be delivered, either by mail or by personal delivery, to the applicant and all owners and occupants of property located within three hundred (300) feet of the property subject to the application for the special use permit, regardless of whether the property is located within the Village.

Each dwelling unit or tenant in buildings shall receive one (1) notice of the hearing. If the name of an occupant is not known, the term "occupant" may be used in the address. For any building containing more than four (4) dwelling units, the notice may be mailed to the manager or the owner of the building who shall be requested to post the notice at the building's primary entrance. The public hearing notice must describe:

- a. The special use being requested;
- b. Identification of the property subject to the request, including all street addresses, if any, that currently exist within the property. If there are no street addresses, other means of identification may be used, including tax numbers and legal descriptions;
- c. The date, time, and place of the public hearing;
- d. Where and when the application, site plan, and other materials may be inspected by the public; and
- e. Where and when written comments on the application will be received.

604. Public Hearing and Review Procedures

The Planning Commission shall hold the public hearing on the proposed special use, and shall review the site plan and other materials submitted with the application.

Following the public hearing, the Planning Commission shall make a decision based on whether or not the proposed special use is consistent with the specific standards applicable to the special use described in Section 611, as well as the general standards described in Section 606. If it is found that the proposed special use is consistent with these standards, the Planning Commission must approve the proposed special use.

If the Planning Commission finds that the proposed special use is not consistent with the standards in Sections 606 and 611, then it may approve the use with conditions, or it may deny the proposed use altogether. In any event, the decision to approve, approve with conditions, or deny the application must be made within sixty (60) days of the date of the public hearing.

At any point during its review of an application, the Planning Commission may request that the applicant modify the site plan, or present additional information deemed necessary before making a decision on the proposed special use. In such cases, the Planning Commission shall table consideration of the application until the applicant provides the amended site plan or additional information.

605. Appeal of Decision

The Village Planning Commission's decision on applications for proposed special uses may be appealed to the State Court System, beginning with Circuit Court.

606. General Standards for Approval of Special Uses

Prior to approving, approving with conditions, or denying an application under the provisions of this Chapter, the Planning Commission must find that a proposed special use complies with the standards listed in this section:

- a. The property subject to the application is located in a zoning district in which the proposed special use may be established.
- b. The special use, as proposed, complies with the specific standards applicable to that special use as listed under the regulations for that zoning district.
- c. The proposed special use will be consistent with the intent and purpose of the Village Master Plan, as well as the intent and purpose of the zoning district in which the proposed use will be located.
- d. The proposed special use will not result in a material burden on police and fire services, nor on other public services and facilities.
- e. The proposed special use will not diminish the opportunity for adjacent property owners to use and develop their properties as zoned.
- f. The proposed special use will be designed, constructed, operated, and maintained so as not to negatively impact the character of land uses in the surrounding area.

- g. The proposed special use will not involve uses, activities, processes, materials, or equipment that will create a nuisance for other properties in the vicinity by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap or waste materials.

607. Basis for Determination

In rendering its decision on a proposed special use, the Planning Commission shall make specific reference to the standards in Section 606, Section 611, and the basis in fact for any conditions attached to the approval of a special use.

608. Performance Guarantee

The Planning Commission may require a performance guarantee **in accordance with Chapter 9, Section 902(4)**.

609. Compliance With Conditions of Special Use Permit Required

An approved special use shall be developed, constructed, operated, and maintained in strict compliance with the terms of the special use permit, including the approved site plan and any attached conditions of approval. All improvements and other functional elements shall be constructed as proposed by the applicant and approved by the Planning Commission.

If the functional elements or improvements associated with a special use were designed by an architect or engineer, the applicant shall, following completion of construction, provide a statement prepared by the architect or engineer certifying that all improvements have been constructed in compliance with the special use permit as granted.

610. Terms of Permit

If a use established under a Special Use Permit is discontinued for one (1) year, the Special Use Permit shall expire. To re-establish the use after such expiration, a new Special Use Permit is required, beginning with a new application to the Village.

611. Specific Standards, Requirements, and Conditions for Special Land Use Permits

The following charts in **Section 612** specify the standards, requirements, and conditions for the various special land uses permitted by this Ordinance. The following items should also be noted:

- a. The granting of a Special Use Permit requires Site Plan Review and a public hearing.
- b. A Special Use Permit is a privilege granted by the Village when certain conditions are met. A Special Use is **not** allowed “by right.”
- c. The Village will revoke a Special Use Permit for failure to maintain compliance with the terms of the permit.
- d. Each special use must meet the minimum requirements for the Zoning District in which it is located, except as specifically noted in this section.
- e. This section lists the standards and additional requirements for uses that may be authorized by Special Use Permit. These standards take precedence over the District Regulations.
- f. The Planning Commission may, at its discretion, attach additional conditions to the approval of a special use. These conditions shall be reasonably related to the general standards specified in Section 606.

Section 612(a) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
Agricultural products storage, elevators, terminals, and processing facilities	<ol style="list-style-type: none"> 1. Must meet district requirements for lot area and dimensions. 2. All buildings and structures shall be at least 50 feet from adjacent property lines. 	<ol style="list-style-type: none"> 1. Mechanical, electrical, or other hazardous areas shall be enclosed by a 6 foot high fence. 2. Must meet all state and local standards for noise, dust, and lighting. Planning Commission may attach conditions in absence of other standards.
Veterinary clinics	<ol style="list-style-type: none"> 1. Minimum lot area required shall be one acre if animals are entirely within an enclosed building; five (5) acres required if an outdoor exercise area is included. 2. All buildings and outdoor pens or enclosures shall be no closer than 50 feet to any property or road right-of-way line. 	<ol style="list-style-type: none"> 1. Operation shall include proper control of animal waste, odor, and noise. 2. Outdoor exercise areas shall be enclosed by a solid wall or chain link fence at least 6 feet high.
Medical clinics	<ol style="list-style-type: none"> 1. Must meet district requirements for lot area and dimensions. 2. Main building setbacks shall be 50 feet on all sides. 	<ol style="list-style-type: none"> 1. Planning Commission may require fencing and screening.
Private clubs and lodges Public and private meeting halls and places of assembly, including churches and auditoriums. Private schools.	<ol style="list-style-type: none"> 1. Must meet district requirements for lot area and dimensions. 2. Main building setbacks shall be 50 feet on all sides. 	<ol style="list-style-type: none"> 1. Planning Commission may require fencing and screening.
Public parks and recreation areas	<ol style="list-style-type: none"> 1. Same as zoning district where the site is located. 	<ol style="list-style-type: none"> 1. The site shall include adequate vehicle access and parking facilities. 2. Planning Commission may require fencing and screening.
Riding Stables	<ol style="list-style-type: none"> 1. Minimum lot area of ten (10) acres required. 2. All buildings and structures shall be set back at least 200 feet from all property and street lines. 	<ol style="list-style-type: none"> 1. If site abuts property a residential district, the required 200 foot setback shall include a landscape buffer consisting of trees, shrubs, grass & structural screens of a type to be approved by the Planning Commission in order to effectively screen the site from adjacent areas.

Section 612(b) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
<p>Planned Unit Development (PUD)</p> <p>Condominium subdivision, including site condominiums.</p>	<ol style="list-style-type: none"> 1. A minimum parcel size of ten (10) acres is required for development of a PUD or condominium subdivision. 2. A minimum parcel width of five hundred (500) feet is required. 	<ol style="list-style-type: none"> 1. Detailed requirements for PUD or condominium development are specified in Section 612(n) in this chapter.
<p>Commercial recreation facilities not otherwise listed, including indoor facilities and outdoor facilities such as driving ranges, batting cages, and miniature golf.</p>	<ol style="list-style-type: none"> 1. For outdoor facilities, site shall be a minimum of one acre in size. 2. Site shall be at least 100 feet from any residence or residential zoning district. 	<ol style="list-style-type: none"> 1. Planning Commission may determine the need for a fence or berm. 2. All exterior lighting shall be designed to prevent glare onto adjacent properties. Maximum illumination at any property line shall not exceed 1.0 footcandle. 3. Planning Commission may limit hours of operation and impose other conditions as necessary to control noise & other off-site impacts.
<p>Golf courses and country clubs</p>	<ol style="list-style-type: none"> 1. Minimum parcel size of forty (40) acres in area. 2. Buildings shall be set back 50 feet from road right-of-way and 50 feet from adjacent property lines. 	<ol style="list-style-type: none"> 1. Six (6) foot high visual screen required on any side abutting residential property.

Section 612(c) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
Dwelling Unit (in non-residential district)	1. Must meet district requirements for lot area and dimensions.	1. Dwelling unit shall be located on second floor or higher above a permitted use. 2. Separate access to the dwelling unit from grade level must be provided. 3. Must comply with all applicable building, fire, health and safety codes.
Bed & Breakfast establishment	1. Must meet district requirements for lot area and dimensions.	1. Must provide at least one bathroom for each two sleeping rooms provided for guests. 2. Must provide one off-street parking space for the establishment plus one space for each sleeping room. 3. There shall be no separate cooking facilities for guests.
Group child care home	1. Must meet district requirements for lot area and dimensions.	1. Must be licensed by State of Michigan for Group Child Care. 2. All outdoor play areas shall be enclosed by a fence at least 6 feet in height.
Child care center	1. Must meet district requirements for lot area and dimensions.	1. Must be licensed by State of Michigan as a Child Care Center. 2. Must provide adequate off-street parking for all employees. 3. All outdoor play areas shall be enclosed by a fence at least 6 feet in height.
Mobile home park	1. Minimum site area for park shall be 20 acres.	1. All development shall conform to the Michigan Mobile Home Commission Act and its Administrative Rules. 2. Planning Commission may require fencing and screening.
Multiple Family Dwellings (Apartments)	1. Minimum site area shall be at least one acre in area. 2. Main building shall be set back at least 50 feet from any property line or road right-of-way.	1. Development must provide adequate on-site water and sewer system as determined by the County Health Dept, or be connected to municipal water and sewer. 2. Maximum density shall be 8 dwelling units per acre.

Section 612(d) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
Health care institutions, including hospitals, nursing homes & convalescent homes.	<ol style="list-style-type: none"> 1. Site shall be a minimum of two (2) acres in area. 2. All buildings shall be set back at least 50 feet from any property line or road right-of-way line. 3. Structures over 30 feet in height shall be set back one additional foot for each foot of height over 30 feet. 	<ol style="list-style-type: none"> 1. Site shall have its main access from a paved road.
Building supply establishments Warehouses and wholesale businesses Motor freight (truck) terminals	<ol style="list-style-type: none"> 1. Site shall be a minimum of two (2) acres in size. 2. Site must be at least 100 feet from any residential zone or property. 	<ol style="list-style-type: none"> 1. Site must have direct access to paved road. 2. Must have an obscuring fence or berm at least 8 feet high on all sides abutting any residential districts. 3. Planning Commission may limit hours of operation.
Crematory	<ol style="list-style-type: none"> 1. Minimum lot area of two acres required. 2. Facility must be located 200 feet from adjacent property lines and road right-of-way lines. 	<ol style="list-style-type: none"> 1. Must obtain and verify compliance with all required state permits, including those pertaining to air quality and emissions.
Hotels and motels	<ol style="list-style-type: none"> 1. Minimum site area shall be two acres. 2. All buildings shall be set back at least 50 feet from any property line or road right-of-way. 	<ol style="list-style-type: none"> 1. Site shall have at least one property line on paved road. 2. Each guest unit shall have a minimum floor area of 250 square feet.

Section 612(e) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
Junkyards	<ol style="list-style-type: none"> 1. Site shall have a minimum area of 10 acres. 2. Active area shall be at least 200 feet from all property and road right-of-way lines. 	<ol style="list-style-type: none"> 1. Site shall have its main access from a paved road or state highway. 2. The active area shall be surrounded by a solid fence or wall that is at least 8 feet high. 3. All storage, salvage, and other activities shall be confined to the enclosed area. Height of materials shall not extend above the screening fence or wall.
Self-serve storage buildings (mini-warehouses)	<ol style="list-style-type: none"> 1. Minimum lot area of 43,560 square feet (one acre). 2. Minimum lot width of 150 feet. 	<ol style="list-style-type: none"> 1. Facility shall be enclosed by a fence that is at least six (6) feet in height. 2. All storage shall be completely enclosed within the storage units. 3. Access shall be from a paved road.
Bulk fuel dealer	<ol style="list-style-type: none"> 1. Minimum lot area of 43,560 square feet (one acre). 2. Minimum lot width of 150 feet. 3. Buildings and fuel storage shall be a minimum of 100 feet from road right-of-way and adjacent property lines. 	<ol style="list-style-type: none"> 1. Access shall be from a paved road. 2. The maximum storage capacity permitted is 6,000 gallons of fuel.
Adult entertainment businesses	<ol style="list-style-type: none"> 1. No adult entertainment business may be established on a parcel that is within 1,000 feet of any parcel within a residential zoning district.. 2. No adult entertainment business may be established on a parcel that is within 1,000 feet of any parcel containing a church, school, or public park. 3. No adult entertainment business may be established on a parcel that is within 1,000 feet of any parcel that contains another adult entertainment business. 	<ol style="list-style-type: none"> 1. Windows, displays, signs, decorative, or structural elements shall not include or convey any specific examples of adult entertainment uses.

Section 612(f) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
Drive-in and drive-thru businesses	<ol style="list-style-type: none"> 1. Must meet minimum lot area requirement for district. 2. Minimum lot width of 150 feet. 3. Main building must be set back 50 feet from road right-of-way lines. 4. Main building must be set back 100 feet from residence or residential district; otherwise 50 feet from adjacent property lines. 	<ol style="list-style-type: none"> 1. Driveways shall be at least 60 feet from the right-of-way line of the nearest intersecting road. 2. The maximum width of each driveway shall not exceed 35 feet at the property line. 3. If there is more than one driveway, they shall be at least 60 feet from one another at the nearest edges. 4. There shall be no more than two (2) driveway openings per road frontage. 5. No driveway or curb cut for a driveway shall be located within 10 feet of an adjoining property line and shall be no less than 25 feet from any adjacent lot within a residential district or use. 6. Site must provide a staging area for at least 4 vehicles to wait off any public right-of-way.
Small manufacturing or processing facility with main building under 5,000 square feet, such as tool & die shop or machine shop	<ol style="list-style-type: none"> 1. Site shall be minimum of 7,500 square feet.. 2. All buildings, structures (including fences and walls), and storage areas shall be at least 50 feet from all property lines. 	<ol style="list-style-type: none"> 1. Must meet all state and local standards for noise, vibrations, dust, and fumes. Planning Commission may attach conditions in absence of other standards. 2. There shall be no burning of waste, scrap or similar materials on the premises. 3. All scrap, waste, junk or refuse, and any inoperable equipment shall be promptly removed from the premises or stored within a building or closed container.

Section 612(g) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
<p>Outdoor uses, including open-air businesses and temporary uses such as special events and sales.</p>	<ol style="list-style-type: none"> 1. Must meet district requirements for lot area and dimensions. 1. All activity areas, including parking, shall be set back a minimum of 50 feet from all road rights-of-way and adjacent property lines. 	<ol style="list-style-type: none"> 1. Zoning Administrator shall determine parking needs for the proposed use. 2. Planning Commission may impose other reasonable conditions that are designed to minimize adverse impacts on surrounding areas. 3. Portable sign permitted according to the following standards: (a) The sign shall not exceed thirty-two (32) square feet; (b) the sign must meet all required setbacks; (c) the sign shall be properly anchored and wired and shall meet all Village Building and Safety Codes; (d) the sign shall possess a nameplate or other such identification area indicating the name, address, and telephone number of the sign owner; and (e) the length of the display period shall be limited to the duration of the temporary use.
<p>Retail development consisting of 10,000 square feet or more, including shopping centers & similar uses.</p>	<ol style="list-style-type: none"> 1. Must meet district requirements for lot area and dimensions. 2. Maximum lot coverage by buildings is thirty percent (30%). 	<ol style="list-style-type: none"> 1. Sidewalks are required within a shopping center or similar retail development, and shall be designed to provide safe and convenient pedestrian access throughout the development. 2. Planning Commission may determine fencing & screening requirements between development and adjacent areas. 3. Planning Commission shall consider impacts of the development on adjacent properties, the road system, public services, community character & the natural environment, and the economic vitality of the community, and may specify appropriate measures to mitigate potential impacts.

Section 612(h) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
<p>Motor vehicle service facility, including repair, carwash and oil change facilities, but excluding vehicle sales areas.</p>	<ol style="list-style-type: none"> 1. Must meet district requirements for lot area and dimensions. 	<ol style="list-style-type: none"> 1. Driveways shall be at least 60 feet from the right-of-way line of the nearest intersecting road. 2. The maximum width of each driveway shall not exceed 35 feet at the property line. 3. If there is more than one driveway, they shall be at least 60 feet from one another at the nearest edges. 4. There shall be no more than two (2) driveway openings per road frontage. 5. No driveway or curb cut for a driveway shall be located within 10 feet of an adjoining property line and shall be no less than 25 feet from any adjacent lot within a residential district or use. 6. If drive-through washing or oil change facilities are included, the site must provide a holding area for at least 4 vehicles to wait off the public right-of-way.
<p>Sewage Treatment and Disposal Facility</p>	<ol style="list-style-type: none"> 1. Minimum parcel size of twenty (20) acres required. 2. All buildings and structures shall be set back at least 200 feet from all property and road right-of -way lines. 	<ol style="list-style-type: none"> 1. Site should be selected where operation will not cause detrimental levels of air or noise pollution impacts, or create other nuisance factors that would be detrimental to adjacent uses or property. 2. All operations shall be completely enclosed by a chain link fence not less than six (6) feet high. 3. The required 200 foot setback shall be designed as a buffer to minimize the appearance of the facility and any odors. The buffer strip shall contain grass, plant materials, and structural screens that are placed in a manner that is subject to the approval of the Planning Commission.

Section 612(i) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
<p>Vehicle sales lot for outdoor display of new and used vehicles, including cars, trucks, recreational vehicles, boats, trailers, and farm machinery.</p>	<ol style="list-style-type: none"> 1. Must meet district requirements for lot area and dimensions. 2. Buildings shall conform to requirements for the district in which the site is located, but shall be no closer than 50 feet to any property line of a residential district or use, unless separated by a public street. 	<ol style="list-style-type: none"> 1. Driveways shall be at least 60 feet from the right-of-way line of the nearest intersecting road. 2. The maximum width of each driveway shall not exceed 35 feet at the property line. 3. If there is more than one driveway, they shall be at least 60 feet from one another at the nearest edges. 4. There shall be no more than two (2) driveway openings per road frontage. 5. No driveway or curb cut for a driveway shall be located within 10 feet of an adjoining property line and shall be no less than 25 feet from any adjacent lot within a residential district or that contains a residential use. 6. Parking space for inventory shall be not less than 10 feet by 20 feet for each vehicle. 7. Site shall contain a permanent structure of at least 200 square feet for use as a business or sales office. Temporary structures are not permitted. 8. Devices for transmission or broadcasting of voice or music shall be prohibited outside of any building. 9. Outdoor lighting shall be shielded from all adjacent residential areas. 10. Applicant shall furnish proof that he or she possesses a valid State of Michigan used car dealer's license.

Section 612(j) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
Communication Towers	<ol style="list-style-type: none"> 1. Any tower structure must be centrally located on a parcel having dimensions not less than the height of the tower, as measured from the base of the tower to all points on each property line. 2. A tower must meet the minimum yard setback requirements for the zoning district in which it is located, except that no portion of any tower, including guywires and support structures, shall be located closer than fifty (50) feet to any property line. 3. The minimum spacing between communications tower locations shall be one (1) mile to prevent a concentration of towers in any single area. 4. Tower height must comply with any Airport Zoning Regulations that are in effect. 	<ol style="list-style-type: none"> 1. The base of any tower shall be enclosed with a security fence at least six (6) feet in height. 2. All towers shall meet the standards of the Federal Aviation Administration and the Federal Communication Commission. 3. All towers shall be constructed in compliance with all applicable local statutes, regulations, and standards, including design requirements for withstanding wind loading and grounding for lightning strike protection. 4. Towers shall not be artificially lighted unless required by the Federal Aviation Administration. 5. Towers shall not display advertising or identification of any kind, except as required for emergency purposes. 6. Accessory structures associated with a tower shall not exceed six hundred (600) square feet in area. 7. Owner shall notify the Village of any change in ownership or operation of a tower, including the addition or removal of any equipment. 8. The Village may require a performance bond to ensure the proper construction and maintenance of a tower.

Section 612(k) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
<p>Natural Resources Extraction: Sand, gravel, clay, and topsoil mining or removal.</p>	<ol style="list-style-type: none"> 1. Minimum site area shall be 10 acres. 2. Minimum width (frontage) shall be 250 feet. 3. No extractive or processing operations shall be conducted within 500 feet of a residence that existed at the time of application for a permit. 4. All fixed equipment and machinery shall be located at least 200 feet from any property or road right-of-way line. 5. No cut or excavation shall be made closer than 100 feet to any property or road right-of-way line. 6. Applicant must obtain all required permits from Michigan DEQ and County Public Works Commission 	<ol style="list-style-type: none"> 1. Owner or agent must obtain and maintain compliance with a Soil Erosion and Sedimentation Control Permit as required by Part 91 of Act 451 PA 1994, as amended. 2. Site plan shall include a Mining Operations Plan that shows a chronological plan for the extractive use and all other land disturbing activities, and the restoration of the site to a usable condition for agriculture or development. 3. Excavated areas shall be restored so that no finished grade is greater than one foot of vertical rise in three feet of horizontal distance. A vegetative cover consisting of appropriate grass types shall be established on all graded areas to minimize soil erosion. All slopes shall be treated in conformance with Part 91 of Act 451 PA 1994, as amended. 4. As part of Site Plan Review, Planning Commission may require fencing, berms, landscaping, or other means to adequately screen the use from adjacent properties, and to minimize public hazards. 5. Applicant shall provide a date for completing the mining operation, based on the volume of material to be extracted and the average annual extraction rates. The Special Use Permit shall expire upon that date. Any extension of operations beyond that date shall require the issuance of a new Special Use Permit.

Section 612(l) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
<p>Wind Turbine Generators (WTG's)</p>	<ol style="list-style-type: none"> 1. The minimum lot area is two (2) acres per WTG tower proposed 2. Each WTG tower must be set back from all adjacent property lines and road right-of-way lines a minimum distance equal to the height of the tower, including the top of the blade in its vertical position. 3. The lowest point of the arc created by rotating blades on any WTG tower shall have a minimum clearance of thirty (30) feet over any structure, land or tree within a two hundred (200) foot radius of the tower. 	<ol style="list-style-type: none"> 1. WTG structure shall be secured to prohibit access by unauthorized persons; Planning Commission may require security fence. 2. WTG shall comply with all applicable building and electrical codes. 3. Maximum noise level generated by any WTG shall not exceed 60 decibels, measured at the property line, including downwind from the installation. Applicant shall provide certification that noise level is not exceeded, both before and after construction. 4. WTG shall not cause human detectable vibrations at the property line. 5. If towers are to be lighted, applicant must apply to Federal Aviation Administration (FAA) for lighting that meets the following standards: 6. Lighting used shall be the lowest intensity allowable. 7. Shall avoid strobe lighting or other intermittent white lighting fixtures. 8. May utilize a green or red top light that does not pulsate or blink. 9. All lighting shall comply with the minimum FAA requirements. A written FAA report shall be submitted to verify lighting requirements. 10. Each WTG shall be equipped with both a manual and an automatic braking device capable of stopping the WTG operation in high winds (40mph or greater).

Section 612 (m) Special Land Use Requirements

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
RV Park or Campground	<ol style="list-style-type: none"> 1. Minimum area of twenty (20) acres required. 2. Individual camp sites or RV sites shall be a minimum of 2000 square feet. 3. Each site shall include designated parking area of at least 400 square feet. 4. Building setbacks shall be at least 60 feet from road rights-of-way and adjacent property lines. 5. Individual camp sites shall be at least 75 feet from road right-of-way or neighboring property line. 	<ol style="list-style-type: none"> 1. Spaces may be used only for temporary occupancy. 2. Facility shall be supervised by a resident manager who shall be accessible to park tenants at all times when spaces are rented. Manager's residence may include business office for the park and living space for the manager's family. 3. Must maintain compliance with all regulations of the Saginaw County Health Department and the State of Michigan that apply to such facilities. 4. Perimeter shall be enclosed by fence at least four (4) feet high. 5. Park shall be served by not more than one access point to each abutting road. Access points and roads within the park shall be designed to facilitate the safe movement of vehicles and trailers, including adequate clear vision areas. 6. Park shall provide at least one public telephone for each 40 sites. 7. Park or campground shall include restroom and bathing facilities in heated, all-weather structures.

Section 612(n). Special Land Use Requirements

Planned Unit Developments (PUD) and Condominium Subdivisions Review and Approval Requirements

- A. **Intent.** This Section is intended to encourage innovation in land use patterns and variety in design for development of large parcels as well as encouraging economy and efficiency in provision of public services, and in the use of land, natural resources and energy. These regulations provide flexibility for developers while protecting public values.
- B. **Applicability.** Planned Unit Developments (PUD) and Condominium Subdivisions are permitted as special uses in the A (Primary Agriculture) and R (Residential) zoning districts. This section provides additional standards used in the special use approval process.
- C. **Initial Information.** Concurrently with notice required to be given Village of Merrill pursuant to Section 71 of Public Act 59 of 1978, as amended (the Condominium Act), a person, firm, or corporation intending to develop a condominium subdivision shall provide the following information:
- (1) The name, address, and telephone number of:
 - i. All persons, firms, or corporations with an ownership interest in the land on which the condominium subdivision will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee).
 - ii. All engineers, attorneys, architects, or registered land surveyors associated with the project.
 - iii. The developer or proprietor of the planned unit development or condominium subdivision.
 - (2) The legal description of the land on which the condominium subdivision will be developed together with appropriate tax identification numbers.
 - (3) The acreage of the land on which the condominium subdivision will be built.
 - (4) Whether or not a community water system is contemplated.
 - (5) Whether or not a community septic system is contemplated.
 - (6) The names of abutting development projects or subdivisions, if any.
 - (7) A map of the entire area scheduled for development if the proposed condominium subdivision is a portion of a larger holding intended for subsequent development, and staging of development of the entire condominium development, as well as the relations of each stage to the entire development shall be clearly shown.
 - (8) A location map showing the relationship of the proposed development to the surrounding area.
 - (9) The land use and existing zoning of the proposed subdivision and adjacent tracts.
 - (10) Streets, street names, alleys, sidewalks, rights-of-way and roadway widths, as well as surfacing of all streets.
 - (11) Other rights-of-way or easements, showing location, width and purpose.
 - (12) Condominium unit lines, and total number of units shown by numerical order commencing with number one, with no omissions or duplications. Also, setback requirements and area of condominium units shall be shown with any lands reserved for public use and the conditions of dedication.
 - (13) A site report as described in the Rules of the State Department of Public Health if the proposed subdivision is not being served by public water and sewer systems.
 - (14) Location and size of all existing and proposed sanitary sewer, storm sewer, and water supply facilities; points of connection to existing lines, elevations and grades, direction of flow, location of wells, valves and hydrants, as well as location of gas, electric and telephone lines.
 - (15) Street lighting standards, curbs, manholes, catch basins and underground conduits showing location thereof.
 - (16) Topography, existing and proposed, at two (2) foot intervals and proposed grading and filling.

- D. **Information to be Kept Current.** The information shall be furnished to the Village Zoning Administrator and shall be kept updated until such time as a Certificate of Occupancy has been issued by the Zoning Administrator.
- E. **Master Deed, Restrictive Covenants, and “As Built” Survey to be Furnished.** The condominium subdivision developer or proprietor shall furnish the Zoning Administrator with the following: One (1) copy of the recorded Master Deed, one (1) copy of all restrictive covenants, and two (2) copies of any “as built survey.”
- F. **Monuments Required.** All condominium subdivisions shall be marked with monuments of survey points as provided in this subsection.
- (1) All monuments used shall be made of solid iron or steel bars at least one-half (1/2) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
 - (2) Monuments shall be located in the ground at all angles in the boundaries of the condominium subdivision; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium subdivision and at the intersection of alleys with the boundaries of the condominium subdivision; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys and at all angles of an intermediate traverse line. It is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium subdivision if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.
 - (3) If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
 - (4) All required monuments shall be placed flush with the ground where practicable.
 - (5) The Village Council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the developer or proprietor deposits with the Village Clerk cash or a certified check, or irrevocable bank letter of credit to Village of Merrill, whichever the developer or proprietor selects in an amount to be established by the Village Council by resolution. Such cash, certified check, or irrevocable bank letter of credit shall be returned to the developer or proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.
- G. **Occupancy.** The Zoning Administrator may allow occupancy of the PUD or condominium subdivision before all improvements required by this Ordinance are installed provided that cash, a certified check, or an irrevocable bank letter of credit is submitted sufficient in amount and type to provide for the installation of improvements before the expiration of the Temporary Occupancy Permit without expense to the Village. Such occupancy may only be granted in an instance where improvements that are not critical for the health and safety of occupants remain to be installed. An example would be the completion of a structure in the late autumn, awaiting installation of landscape material in the spring.
- H. **Single-Family Detached Condominiums.** Pursuant to authority conferred by Section 141 of the Condominium Act, Act 59 of 1978, as amended, all condominium subdivision plans must be approved by the Village Planning Commission. In determining whether to approve a condominium subdivision plan, the Planning Commission shall consult with the Zoning Administrator, Village Attorney, Village Engineer and Village Planner regarding the adequacy of the Master Deed, deed restrictions, utility systems and streets, development layout, and design and compliance with all requirements of the Condominium Act and Village Zoning Ordinance.
- (1) Requirements and standards. A single-family detached condominium subdivision shall be subject to all the requirements and standards of the applicable zoning district or approved Planned Unit Development (PUD) Plan.

- (2) Permitted uses. A Planned Unit Development (PUD) or condominium subdivision may include all uses by right and special uses listed for the zoning district which applies to its site.
- (3) Use density and parcel coverage. Parcel coverage limits for the applicable zoning district must be met overall for the PUD or condominium subdivision.
- (4) Dimensional requirements. Front yard setback requirements for the applicable zoning district shall apply along all boundaries of the PUD or condominium subdivision. Building height limitations and minimum yards between dwelling structures shall be as specified for the applicable zoning district. If plots of land in a PUD or condominium subdivision are proposed for resale as either fee simple parcels or as condominium units, the parcels or condominium units, and any buildings thereon, must meet the parcel dimension and yard requirements for the applicable zoning district.
- (5) Open space. At least ten percent (10%) of any parcel containing a PUD or condominium subdivision must be devoted to landscaped open space. Forest, wetland or other unique environmental areas may be left in a natural state. Cropland may not be counted as landscaped open space, nor may yard (setback) areas of individual residential lots or condominium units be included.
- (6) Signs. Sign regulations as described in Article 9 shall apply for the PUD or condominium subdivision.
- (7) Design. The design of a single-family detached condominium subdivision shall be subject to the design layout and engineering standards, as provided below, except as may otherwise be provided by this Ordinance.
 - a. Location, Arrangement and Design of Streets.
 - i. The street layout shall provide for continuation of collector streets in the adjoining subdivisions or of the proper projection of streets when adjoining property is not subdivided; or conform to a plan for a neighborhood unit drawn up and adopted by the Planning Commission.
 - ii. The street layout shall include minor streets so laid out that their use by through traffic shall be discouraged.
 - iii. Should a proposed condominium subdivision border on or contain an existing or proposed County primary road or State highway, the Planning Commission shall require marginal access streets, reverse frontage, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazards.
 - iv. Half streets shall be prohibited.
 - b. Right of way and pavement widths. Street right-of-way and pavement widths shall conform to the Saginaw County Road Commission's Standards for Plat Road Development. All roads shall be paved to the standard Saginaw County Road Commission cross section.
 - c. Easements.
 - i. Locations of utility line easements shall be provided as necessary for utility lines. Such easements shall be a total of not less than twelve (12) feet wide, six (6) feet from each parcel.
 - ii. Recommendations on the proposed layout of telephone and electric company easements should be sought from all of the utility companies serving the area. It shall be the responsibility of the developer or proprietor to submit copies of the proposed condominium subdivision plan to all appropriate public utility agencies.
- (8) Condominium units. Condominium units within detached condominium subdivisions shall conform to the following standards:
 - a. Area and width of condominium units shall conform to the district regulations for the applicable zoning district.

- b. Every condominium unit shall front or abut a street.
 - c. Side condominium unit lines shall be at right angles to the street lines or radial from a cul de sac.
 - d. Where condominium units border upon bodies of water, the front yard may be designated as the waterfront side of such condominium unit, provided the unit has sufficient depth to provide setback on the street side equal to the front setback for all structures.
 - e. Where condominium units are developed so that they abut on existing primary roads, freeways, shopping areas or industrial properties, the developer or proprietor shall record with the Saginaw County Register of Deeds and restrictive covenant running with the land providing that no right to access by vehicular traffic to the existing primary road, freeway, shopping area or industrial property is permitted from or onto such condominium units. Access to such condominium units shall be provided internally from streets constructed within the proposed development. Such condominium units shall contain a landscape easement along any side abutting the primary road, freeway, shopping area or industrial property at least fifty (50) feet wide to restrict access thereto in addition to any utility easement. When a landscape easement is required to be provided herein, the developer or proprietor shall provide a landscaped earth berm and tree plantings.
 - f. Residential condominium units extending through a block and having frontage on two local streets shall be prohibited.
- (9) Natural features. The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves, water courses, wetlands and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the developer or proprietor and the dedication and provision of adequate barriers, where appropriate, shall be required. Disturbance of any wetland or waterway must be subject to either a permit or waiver of jurisdiction by the Michigan Department of Environmental Quality.
- (10) Walkways. Walkways shall be installed in all single-family detached condominium subdivisions which are served by public storm sewers. Such walkways shall be a minimum of five (5) feet in width along both sides of all streets. Access to all general common areas shall be provided. Upon review of the site plan, the Planning Commission may approve alternate locations for the walkways, or may waive the walkway requirement in locations where it would not serve the purpose of providing adequate pedestrian circulation. Walkways shall have a minimum lateral slope of one-fourth (1/4) inch per foot away from the property line. Walkways shall be concrete, four (4) inches thick with six (6) inches thick under driveways. Driveway aprons shall not break the sidewalk level.
- (11) Landscaping. All unimproved surface area of the site shall be planted with grass, ground cover, shrubbery, or other suitable landscape materials, except that patios, terraces, decks and similar site features may be allowed.
- (12) Utilities.
- a. An adequate storm drainage system, including necessary storm sewers, drain inlets, manholes, culverts, bridges, and other appurtenances, shall be required in all condominium subdivisions. The mainline drain system shall be designed and constructed to convey a 10 year design storm, as determined by the Saginaw County Public Works Commissioner. A catch basin shall be provided on each lot line, and no driveway culverts will be permitted. Each lot shall be provided with a minimum of a six inch storm drainage service, from the basin, for a sump outlet and any rear lot drainage. Rear lot drains are to be constructed at the home owner's expense, not the Village's. The drainage requirements for each condominium subdivision shall be reviewed by the Saginaw County Public Works Commissioner.
 - b. If the proposed condominium subdivision will be served by an existing and extendable public water supply system, the developer or proprietor shall provide water mains and necessary appurtenances thereto within the condominium subdivision and shall pay one hundred (100) percent of the construction cost for said installation, including fire hydrants and other required appurtenances. Said construction cost shall not include the cost of off-site installations.

- c. If there is no existing or accessible public water supply system, the developer or proprietor shall comply with any rule or ordinance adopted by Saginaw County or promulgated by the Saginaw County Department of Public Health relative to private water supplies.
 - d. Where it is determined in the judgment of the Planning Commission, with the advice of the Village Engineer and the Saginaw County Department of Public Health, that a condominium subdivision cannot be economically connected with an existing public sewer system or that a public sewer system cannot be provided for the condominium subdivision itself, then approved septic tanks and disposal fields may be allowed which shall comply with all requirements of the Saginaw County Department of Public Health or ordinance of Saginaw County. However, where studies by the Village Planning Commission or the Village Engineer indicate that construction or extension of sanitary trunk sewers to serve the property being developed appears probable within three (3) years, sanitary sewer mains and house connections may be required to be installed and capped.
- (13) Final documents to be provided. After the condominium subdivision plan and bylaws are submitted as part of the Master Deed, the developer or proprietor shall furnish to the Village a copy of the site plan on a mylar sheet of at least thirteen by sixteen (13 x 16) inches with an image not to exceed ten and one-half by fourteen (10 ½ x 14) inches.

Chapter 7

Off-Street Parking and Loading Space Requirements

701. Purpose

Before any building or use is occupied, or is enlarged or increased in capacity, off-street parking spaces for motor vehicles must be provided and maintained as described in this Chapter.

702. General Requirements

- a. If the use of a building or premises changes, the parking requirements applicable to the new use shall apply. If a building or use is enlarged, the parking requirements shall apply to the total area of the structure or premises. A structure or premises shall not be used or enlarged unless the required parking is provided.
- b. In any Residential Zoning District, no parking area shall be used for storing of any commercial vehicle exceeding one ton in capacity. The storage of merchandise, motor vehicles for sale (other than a resident's private vehicles), or the repair of vehicles exceeding one ton capacity is prohibited in any required parking area.

703. Parking Surface Requirements

- a. **Gravel Surface.** As a minimum requirement, parking areas shall be surfaced with a material that provides a durable, smooth and dustless surface that shall be graded to drain and dispose of all collected surface water within a reasonable time, as determined by the Zoning Administrator.
- b. **Paved Surface (Optional).** Parking areas that are to be paved shall be paved with concrete, plant mixed asphalt or similar materials. All parking areas shall be graded and provided with adequate drainage to dispose of all collected surface water within a reasonable time, as determined by the Zoning Administrator. Paving shall conform to either of the following:
 - (1) Six (6") inches of cement concrete; or
 - (2) Two (2") inches of asphalt surface laid over a base of crushed stone with a compacted thickness of six (6") inches.

704. Parking for Uses Not Specifically Mentioned

In the case of uses that are not specifically mentioned in this Chapter, the requirements for a use that is mentioned and to which the proposed use is similar in character in terms of parking demand shall apply. The Zoning Administrator is authorized to determine the parking requirements for a use that is not specifically mentioned.

705. Mixed Uses in the Same Building

In the case of mixed uses in the same building which each occupy at least twenty (20) percent of the floor area, the total required number of parking spaces for the building shall be reduced to ninety (90) percent of the sum of parking spaces required for the individual uses when computed separately.

706. Reduction in Required Parking for Public Benefits

a. ***Joint Provision of Parking***

Where two or more abutting parcels in any Business Zoning District provide vehicular access between parking areas in a manner which allows travel from one parcel to another without the use of a public street, the total number of off-street parking spaces required for each parcel may be reduced by ten percent (10%), in addition to reductions allowed by other provisions of this Chapter.

b. ***Further Reductions for Public Benefits***

In any Business Zoning District, uses on parcels fronting on county primary roads or state highways, except limited access freeways, may reduce the required number of off-street parking spaces by ten percent (10%) if at least three (3) of the following conditions are met. This shall be in addition to reductions allowed by other provisions of this Chapter.

- (1) The parcel has no driveway openings onto the major road.
- (2) No freestanding signs are located in the required front yard setback area for the building.
- (3) The principal building is set back at least one hundred (100) feet from the major road right-of-way.
- (4) A portion of the parcel equal to at least thirty-five (35) percent of the total area devoted to parking, including driveways and aisles, is left unpaved and undeveloped except for landscape plantings.
- (5) Sidewalks are provided along the full length of the parcel's frontage on the major road, with curb cuts to provide barrier-free non-motorized travel.

707. Additions or Expansions to Buildings and Uses

Additional parking shall be provided in proportion to any increase in floor area, change in use, or expansion of a building's use capacity.

708. Driveway Spacing Requirements

Each parcel in a Business Zoning District shall have no more than one driveway entrance and exit opening to a public road for each three hundred (300) feet of frontage or fraction thereof. Where more than one driveway is allowed, the driveways shall be located at

least one hundred fifty (150) feet apart. No driveway shall be located within thirty (30) feet of a neighboring property line, or within fifty (50) feet of a street intersection.

709. Parking Space Dimensions

Each parking space (also known as a “parking stall”) shall be a minimum of ten (10) feet wide and twenty (20) feet long. Barrier free parking spaces shall be a minimum of twelve (12) feet wide and twenty (20) feet long. Barrier free spaces shall also comply with all requirements of the State of Michigan Barrier Free Code.

710. Driveway and Aisle Configurations

Driveways and aisles for any off-street parking area built to accommodate more than twenty (20) vehicles shall comply with the following requirements:

- a. **Aisle Width.** Aisles in off-street parking areas shall be at least twenty (20) feet wide.
- b. **Driveway Configuration.** Each driveway shall be a minimum of fifteen (15) and a maximum of twenty (20) feet in width per direction. Lanes for entering and exiting traffic shall be clearly marked on the pavement. The driveway shall include an on-site stacking area equivalent to five (5) percent of the total number of spaces in the parking area. The stacking area shall not function as an access aisle for parking spaces. The driveway shall intersect the abutting street at a ninety (90) degree angle.
- c. **Deceleration Lane.** Where the posted speed limit for a public thoroughfare is greater than thirty (30) miles per hour, a driveway opening onto the thoroughfare shall be served by a right turn deceleration lane that is at least two hundred (200) feet long in advance of the driveway.

711. Setbacks Required

Parking and loading areas shall conform to a twenty (20) foot front yard setback from any street right-of-way line and to the side yard setback requirements for accessory buildings. Off-street parking areas shall be no closer than five (5) feet to any principal building. Bumper guards or curbs shall be installed to prevent yard encroachment.

712. Permit Required.

No parking area shall be constructed unless and until a Building Permit has been issued.

713. Table of Off-Street Parking Requirements

The number of off-street parking spaces for specific uses is shown in Table 7-1, "Table of Off-Street Parking Requirements," which appears at the end of this Chapter.

Recommended parking area surfaces are also indicated in the table.

714. Off-Street Loading Spaces

Off-street loading spaces shall be provided and maintained for buildings (including additions to existing buildings) that are occupied by uses that require the receipt or distribution of goods and materials in commercial vehicles. The number of loading spaces required shall be based on the gross floor area of a building or addition as follows:

- a. **Retail Uses.** Buildings used for retail sales or eating and drinking establishments shall include one (1) off-street loading space for every six thousand (6,000) square feet of public area or fraction thereof.
- b. **Wholesale, warehouse, and industrial uses:**
 - (1) Buildings up to and including twenty thousand (20,000) square feet of gross floor area shall provide at least one (1) space.
 - (2) Buildings more than twenty thousand (20,000) square feet in area, but less than fifty thousand (50,000) square feet shall provide a minimum of two (2) spaces.
 - (3) Buildings fifty thousand (50,000) square feet and greater shall provide three (3) spaces plus one (1) space for each additional fifty thousand (50,000) square feet or fraction thereof.

715. Other Loading Space Requirements

- a. **Hard Surface Required.** Loading spaces must be paved with a surface providing the equivalent load strength of nine (9) inches of concrete.
- b. **Dimensions of Loading Spaces.** Each loading space must be at least ten (10) feet wide and twenty-five (25) feet long. If roofed, a loading space must have at least fifteen (15) feet of vertical clearance. Where a use involves semi-trucks making deliveries on a daily basis or requires that semi-trailers will be parked in the space for more than one hour at any time, the loading space must be at least sixty (60) feet long.
- c. **Location of Loading Spaces.** Loading spaces must be located within or immediately adjacent to the building to be served, and they must be arranged so that maneuvering of trucks using the space does not take place on a public street.

Table 7-1. Off-Street Parking Requirements

Land Use	Paving Recommended?	Number of Parking Spaces Required
1. Automobile sales facilities	Yes	One (1) customer parking space for each 500 square feet of floor area.
2. Automobile & other vehicle service facilities.	Yes	Two (2) spaces for each service stall plus two (2) spaces for each employee.
3. Barber & Beauty shops	Yes	Three (3) spaces for each chair or booth.
4. Bowling Alleys	No	Six (6) spaces for each lane.
5. Churches	No	One (1) space for each three (3) seats in the main area of worship.
6. Commercial outdoor recreation	No	Twenty-five (25) percent of the total lot area shall be reserved for parking, but there shall be at least ten (10) spaces.
7. Assembly hall, dance hall, or exhibition hall without fixed seats.	No	One (1) space for each one hundred (100) square feet of floor area.
8. Drive-in & drive-thru facilities (in addition to required parking for indoor facilities and employees).	Yes	Two (2) spaces for each drive-in window plus four (4) stacking spaces for each drive-in window.
9. Dwellings	No	Two (2) spaces per dwelling unit.
10. Funeral homes & mortuaries	Yes	One (1) space for each twenty-five (25) square feet of floor area in service parlors and chapels, plus one (1) space for each funeral vehicle maintained on the premises.
11. Furniture sales (retail)	Yes	One (1) space for each five hundred (500) square feet of floor area.
12. Hospitals, nursing homes, & related health care facilities.	Yes	One (1) space for each two (2) beds plus one (1) space for each employee, including doctors.
13. Hotels & Motels	Yes	One (1) space for each lodging room plus one (1) space for each full-time employee.

Land Use	Paving Recommended?	Number of Parking Spaces Required
14. Libraries, museums & government administration buildings.	Yes	One (1) space for each one hundred (100) square feet of floor area.
15. Manufacturing & industrial uses	Yes	Two (2) spaces for each employee on the largest shift. If there is only one shift, there shall be one (1) space for each employee.
16. Medical offices & clinics, including veterinary clinics.	Yes	Six (6) spaces for each doctor plus one (1) space for each additional employee.
17. Office buildings (for business & professional offices), banks, and financial institutions.	Yes	One space for each two hundred (200) square feet of floor area.
18. Retail sales & personal services.	Yes	One (1) space for each one hundred (100) square feet of floor area.
19. Restaurants, taverns, and similar establishments (exclusive of drive-in or drive-thru facilities).	No	One (1) space for each three (3) seats provided for patrons plus one (1) space for each employee.
20. Schools: Elementary, Middle, and Junior High Schools.	Yes	Two (2) spaces for each three (3) employees plus one (1) space for each eight (8) auditorium seats.
21. Schools: Senior High Schools & colleges, including vocational & trade schools.	Yes	One (1) space for each employee plus one (1) space for each two (2) students enrolled, plus parking as required for gymnasiums and sports facilities.

**Table 7-1. Off-Street Parking Requirements,
Continued**

Land Use	Paving Recommended?	Number of Parking Spaces Required
22. Stadiums, gymnasiums, and sports facilities.	Yes	One (1) space for each three (3) seats or six (6) feet of bench seating.
23. Theaters and auditoriums (not incidental to schools).	Yes	One (1) space for each four (4) seats plus one (1) space for each two (2) employees.
24. Warehouses, storage buildings, lumber & building supply facilities, and wholesale outlets.	Yes	One (1) space for each five hundred (500) square feet of gross floor area plus one (1) space for each employee.

Chapter 8 Sign Regulations

801. Intent and Purpose

The intent of this article is to regulate the type, number, physical dimensions, erection and placement of signs in the Village of Merrill. The purpose of these regulations is to:

- a. Promote the public health, safety, and welfare of residents and visitors;
- b. Reduce hazardous distractions to motorists, pedestrians, and air traffic;
- c. Protect commercial districts from visual clutter and chaos;
- d. Protect property values;
- e. Protect the community character and esthetics of the Village of Merrill.

802. Zoning Permit Required

Unless a sign is exempt from permit requirements as specified in Section 803, a Zoning Permit must be obtained from the Village Zoning Administrator prior to the construction or placement of any sign.

803. Signs and Activities Exempt From Permit

Subject to the standards as noted and other applicable ordinance requirements, the following signs and related activities are permitted by right and are exempt from the permit requirements of this Ordinance.

- a. **Temporary Construction Signs:**
One (1) construction sign for each street frontage at a construction project, not to exceed thirty-two (32) square feet in sign area per sign. Such signs may be erected no more than thirty (30) days prior to commencement of construction and must be removed no longer than thirty (30) days after completion of construction.
- b. **Directional Signs:**
On-premise directional signs, not to exceed four (4) square feet per sign, shall be permitted as a means of directing traffic to parking, loading, customer service, and related areas.

c. **Political Signs:**

Political signs shall not exceed thirty-two (32) square feet in area per sign. Such signs shall be placed only on private property and only with permission of the property owner. Signs may be placed no more than thirty (30) days before the election or referendum and must be removed within seven (7) days following the election or referendum.

d. **Public Signs or Notices:**

Public signs or notices of Village of Merrill, Saginaw County, the State of Michigan, or the United States of America may be erected as deemed necessary and appropriate by the unit of government.

e. **Real Estate Signs:**

Signs advertising parcels of land or buildings for sale, lease, or rent are permitted as follows, provided the signs are located on the land or building intended to be sold, leased, or rented.

(1) For parcels less than two (2) acres, one (1) non-illuminated real estate sign not to exceed eight (8) square feet in area is permitted.

(2) For parcels two (2) acres or more, one (1) non-illuminated real estate sign not to exceed thirty-two (32) square feet in area, or one (1) non-illuminated sign per two hundred (200) feet of lot frontage provided the total area of all such signs shall not exceed thirty-two (32) square feet.

The signs shall be removed within thirty (30) days after the property is sold, leased, or rented.

f. **Name Plates:**

One (1) nameplate sign per premises not to exceed four (4) square feet in sign area.

g. **Garage or Yard Sale Signs:**

Two (2) signs not to exceed six (6) square feet in sign area per sign. Signs shall be removed within twenty-four (24) hours after the sale.

h. **Retail Fuel Pricing Signs:**

Retail fuel pricing signs typically and historically displayed by service stations and convenience stores with fuel sales which indicate the per gallon and/or per liter price of fuel.

i. **Corporate Logo Signs:**

Corporation logo signs of less than six (6) square feet and independent of other advertising of messages. The number of such signs shall be limited to one (1) per street frontage.

j. **Historic Sites:**

Signs designating sites recognized by the State Historical Commission.

k. **Miscellaneous Signs:**

Placards posted to control or prohibit hunting or trespassing on public or private property, and signs that identify crop varieties.

l. **Street Banners**

Fabric signs that are suspended across public streets and advertising a public entertainment of event are permitted if specifically permitted by the public agency that has jurisdiction over the street where the banner(s) will be placed. In general these agencies will be the Michigan Department of Transportation for M-46 (Saginaw Street) and the Village of Merrill for all other local streets.

m. **Replacement of Copy:**

The replacement or changing of copy on an approved sign does not require a Zoning Permit. However, if the replacement creates a sign that violates the provisions of this Chapter, it shall be deemed a violation of this Ordinance and any Zoning Permit issued for the sign shall be invalidated.

n. **Maintenance:**

Painting, cleaning, light bulb replacement, and other normal maintenance or repair of a sign or its supporting structure does not require a Zoning Permit. However, any structural change or relocation of a sign or its supporting structure does require a Zoning Permit.

804. Prohibited Signs

Signs listed in this section are prohibited in all zoning districts.

- a. Abandoned signs or signs in disrepair that have become safety hazards.
- b. Signs that incorporate flashing or moving lights in any manner.
- c. Any sign that moves or has any moving or animated parts or images, whether the movement is caused by any mechanical or electronic device, or by wind or other means. This prohibition shall not pertain to electronic message boards as defined in Chapter 2. Also, banners, pennants, streamers, and so forth are permitted when used in accordance with Section 807 of this Ordinance.
- d. Signs, that by their location, cause a hazard to pedestrian or vehicular traffic by depriving the pedestrian or driver of a clear and an obstructed view of approaching, intersecting, or merging traffic.
- e. Billboards, as defined by this Ordinance, are prohibited within the Village of Merrill.
- f. Signs that do not comply with the Building and Safety Codes of Village of Merrill.

- g. Signs, other than public signs or notices, placed in a designated public right-of-way unless permission to authorize such placement has been given, in writing, by the public agency having jurisdiction over the right-of-way. A copy of such written permission shall be provided to the Village prior to placement of such sign.
- h. Signs imitating or resembling official traffic or government signs or signals.
- i. Signs that by their location and character cause a hazard to air traffic.
- j. Signs that do not advertise or identify a product, service, or establishment located on the parcel to which the sign is attached.

805. General Sign Standards

- a. Illumination, if permitted, shall be by a non-flashing reflective light. The source of illumination shall be shielded from direct view of adjacent properties.
- b. All signs shall be subject to the Building and Safety Codes of Village of Merrill.
- c. All signs shall be set back a minimum of three (3) feet from the front lot line and ten (10) feet from all other property lines and road right-of-way lines, except where otherwise required by this Ordinance.
- d. No signs shall be placed in required clear vision areas.
- e. No person shall erect or relocate or cause to be erected, any sign without first obtaining a Zoning Permit.
- f. No person shall repair or alter, or cause to be repaired or altered, any sign without obtaining a Zoning Permit if one-half (1/2) of the replacement value of the sign or billboard will be exceeded.
- g. A sign shall be removed by the owner or lessee of the premises upon which a sign is located when the business which it advertises is no longer conducted on the premises. Failure to remove the sign is a violation of this Ordinance. However, if a successor to a defunct business agrees to maintain the existing sign(s) as provided in this Ordinance, this removal requirement shall not apply.

806. Residential Zoning Districts (R-1A, R-1 and R-2 Districts)

Signs as specified in Section 803 are allowed without obtaining a permit. In addition, the following signs are also permitted, provided that a permit is obtained as specified in Section 802.

- a. One (1) on premise, non-illuminated, wall-mounted sign not more than six (6) square feet in area.
- b. Ground signs located at the entrance to platted subdivisions, residential site condominiums, multiple family housing developments, mobile home parks, or residential PUD's. No more than one sign not exceeding thirty-two (32) square feet in area, nor more than six (6) feet in height may be erected at any single entrance.

807. Commercial and Industrial Zoning Districts (C-1, C-2, and M-1 Districts)

Signs as specified in Section 803 are allowed without obtaining a permit. In addition, the following signs are also permitted, provided that a permit is obtained as specified in Section 802.

- a. One freestanding -sign per establishment or use, not exceeding thirty-two (32) square feet in area per sign face, nor more than twenty-five (25) feet in height, as measured from grade level to the highest point of the sign.
- b. Wall signs, provided that such signs do not exceed thirty-two (32) square feet in area. Wall signs shall be attached and parallel to the face of the building wall.
- c. Electronic Message Boards. The portion of a sign that is an electronic message board may not exceed one-third (1/3) of the total sign size, including the supporting structures.
- d. Signs may be attached to or painted on a marquee or canopy, provided that such signs are at least ten (10) feet above grade.
- e. No sign shall project above the roof line of the building to which it is attached.
- f. One portable sign not to exceed thirty-two (32) square feet, provided:
 - (1) The sign must meet required setbacks.
 - (2) The sign shall be properly anchored and wired and shall meet all Village Building and Safety Codes.
 - (3) The sign shall possess a nameplate or other such identification area indicating the name, address, and telephone number of the sign owner.
 - (4) The length of the display period shall be limited to two (2) periods of not more than thirty (30) days each within a single twelve (12) month period.
 - (5) A sign permit is required for each occasion.

- g. Pennants and banners may be displayed on commercial property of a retail sales nature provided that they shall be securely anchored.
- h. Illumination of signs is permitted, provided that it complies with the standards specified in Section 808.

808. Illumination

- a. The light from any illuminated sign shall be shaded, shielded, and directed in such a manner so that the light intensity or brightness will not be objectionable to surrounding areas.
- b. No sign shall have blinking, flashing or fluttering lights, or other illuminating devices that have a changing light intensity, brightness, or color. No sign shall utilize moving patterns of light that convey an illusion of motion or animation. Beacon lights are not permitted. This section shall not be interpreted to prohibit electronic message boards as defined in Chapter 2.
- c. No colored lights shall be used at any location or in any manner that imitates or might be confused with traffic control devices.
- d. Neither direct nor reflected light from primary light sources shall create a traffic hazard to motor vehicle operators on public roads.
- e. No exposed reflective type bulbs and no strobe light or incandescent lamp that exceeds fifteen (15) watts shall be used on the exterior surface of any sign in a manner that would expose the face of the bulb, light, or lamp to any public road or adjacent property.

809. Non-Conforming Signs

A non-conforming sign or sign structure existing and in place as of the date of the enactment of this Article may continue to have the copy or message on the sign changed and may also have normal maintenance performed. However, a non-conforming sign existing on the day of enactment of this Chapter *shall not*:

- a. Be changed to another non-conforming sign;
- b. Be structurally altered so as to prolong the life of the sign or change the shape, size, location, type, or design of the sign;
- c. Be re-established after the activity, business, or use to which it relates has been discontinued for thirty (30) days or longer; or

- d. Be re-established after damage by any means if the damage is in excess of the State Equalized Value (SEV) of the sign, as determined from its most recent assessed valuation.

810. First Amendment Protection

The placement of directional signs, signs at entrances to residential developments, historical site signs, and flags is specifically authorized in this Ordinance. All other signs allowed under this Ordinance may contain any lawful message.

Chapter 9

Administration and Enforcement

SECTION 901. RESPONSIBILITIES IN THE ZONING PROCESS.

The provisions of this ordinance shall be carried out by the Merrill Village Planning Commission, the Zoning Board of Appeals, the Village Council, and the Village Zoning Administrator in conformance with the Michigan Zoning Enabling Act (Act 110 of 2006, as amended).

- (1) **ZONING ADMINISTRATOR.** The Merrill Village Council, with the recommendation of the Planning Commission, shall employ a Zoning Administrator to carry out the day-to-day administration and enforcement of this Ordinance. Conditions of the Zoning Administrator's employment, including compensation, shall be established by the Village Council. Additional staff may be employed, under the supervision of the Zoning Administrator, to assist with administration and enforcement of this Ordinance.

The Zoning Administrator's duties shall include the following items and any other tasks that may be assigned by the Village Council or provisions of this Ordinance.

- (A) **APPLICATIONS AND PERMITS.** All applications for Zoning Permits shall be submitted to the Zoning Administrator who shall keep a record of them and their disposition. When all applicable provisions of this Ordinance have been met regarding any application, the Zoning Administrator shall issue a Zoning Permit for the proposed use. When conditions are not met, the Zoning Administrator shall consult with the applicant regarding a further course of action. The Zoning Administrator shall maintain a record of all applications, related documentation and resulting Zoning Permits.
- (B) **WRITTEN DENIAL.** When any application for a Zoning Permit is denied, the Zoning Administrator shall provide the applicant with a written denial, stating the reasons for the denial.
- (C) **NOTICE OF HEARINGS.** Whenever a zoning matter is the subject of a public hearing before the Planning Commission or the Zoning Board of Appeals, the Zoning Administrator shall prepare and disseminate hearing notices as required by this Ordinance.
- (D) **INSPECTIONS.** For purposes of this Ordinance, the Zoning Administrator shall have the power to make inspections of any building or parcel as necessary to enforce this Ordinance.
- (E) **RECORD NONCONFORMING USES.** The Zoning Administrator shall

record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of Chapter 4, Section 404.

- (F) **RECORD SPECIAL USES.** The Zoning Administrator shall keep a record of all Special Use Permits issued under the terms of this Ordinance for the purpose of carrying out provisions of Chapter 6.
 - (G) **RECORD VARIANCES, ADMINISTRATIVE REVIEWS, AND INTERPRETATIONS.** The Zoning Administrator shall maintain a concise record of all variances, administrative reviews, and interpretations of this Ordinance rendered by the Zoning Board of Appeals under Section 904. This record shall be consulted whenever interpretation questions arise to determine whether any applicable precedents have been set.
 - (H) **PUBLIC INFORMATION.** The Zoning Administrator shall respond to inquiries and dispense information or copies of this Ordinance to help the public understand the provisions of this Ordinance. Public awareness and acceptance of this Ordinance should help to maintain compliance with it.
 - (I) **RESPOND TO COMPLAINTS.** The Zoning Administrator shall respond within five (5) business days, whenever possible, to any complaint alleging a violation of the terms or conditions of this Ordinance or of any permit issued pursuant to it. The Zoning Administrator shall summarize the nature and disposition of recent complaints at each regular Planning Commission meeting.
 - (J) **MAY NOT CHANGE ORDINANCE.** Under no circumstances is the Zoning Administrator permitted to make changes in the Ordinance or to vary the terms of this Ordinance.
 - (K) **PUBLICIZE AMENDMENTS.** The Zoning Administrator shall file copies of all amendments to this Ordinance with the Village Clerk and publish notices of all amendments as required by Section 905.
- (2) **PLANNING COMMISSION.** The Merrill Village Council has previously designated the Village's Planning Commission as the organization to function in the capacity of the Zoning Commission identified in Act 110 of 2006, the Michigan Zoning Enabling Act. The Planning Commission shall also comply with the requirements of Act 33 of 2008, the Michigan Planning Enabling Act. The Planning Commission shall be responsible for the following administrative and enforcement activities under this Ordinance.
- (A) **SITE PLAN APPROVAL.** The Planning Commission shall review Site Plans and issue its approval, conditional approval or denial of same as

provided by Section 907.

- (B) **SPECIAL USE PERMITS.** The Planning Commission shall conduct a public hearing on any application for a Special Use Permit. Following a public hearing, the Planning Commission shall review and approve or deny said application. The Planning Commission shall also take any necessary action to revoke a Special Use Permit as provided by Section 502(6).
- (C) **REZONING OR AMENDMENT.** The Planning Commission shall conduct public hearings for proposals to rezone property or amend the text of this Ordinance as provided by Section 903. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed rezoning or text change to the Village Council. The Planning Commission may initiate a text change or rezoning, subject to the requirements for notice, hearing and Village Council approval.
- (D) **PLAT REVIEW.** The Planning Commission shall review proposed plats and land divisions as provided by Section 908.

(3) ZONING BOARD OF APPEALS.

- (A) **CONTINUATION OF CURRENT BOARD.** The Village Council, under the authority of Act 110 of the Public Acts of 2006, as amended, has previously established the Village Zoning Board of Appeals (ZBA). Upon adoption of this Ordinance, the Zoning Board of Appeals previously created shall continue to function and remain in office, including all members thereof.
- (B) **MEMBERSHIP.**
 - (i) **REGULAR MEMBERS.** The Merrill Village Zoning Board of Appeals shall consist of five (5) members. The first member of the Board of Appeals shall be the chairperson of the Village Planning Commission, one member shall be a member of the Village Council, and the remaining members shall be selected and appointed by the Village Council from among the electors residing in the Village. An elected officer of the Village may not serve as chairperson of the Zoning Board of Appeals. An employee or contractor of the Village Council may not serve as a member or employee of the Zoning Board of Appeals. Members of the ZBA shall be removable by the Village Council for nonperformance of duty or misconduct in office upon written charges and after public hearing.

- (ii) **ALTERNATE MEMBERS.** The Village Council may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called upon to serve as a regular member of the Zoning Board of Appeals in the absence of a regular member if the regular member is absent from or will be unable to attend two (2) or more consecutive meetings of the ZBA, or is absent from or will be unable to attend meetings for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member shall serve in the case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

- (C) **TERMS OF OFFICE.** Terms of Zoning Board of Appeals members shall be for three (3) years, except for members serving because of their membership on the Planning Commission or Village Council, whose terms shall be limited to the time they are members of said bodies and the period stated in the resolution appointing them. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.

- (D) **PER DIEM OR EXPENSES.** The total amount allowed such Board of Appeals in one (1) year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum, which shall be appropriated annually in advance by the Village Council.

- (E) **RULES OF PROCEDURE.** The Board of Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose its chairperson, and in the chairperson's absence, an acting chair.

- (F) **MEETINGS.** Meetings shall be held at the call of the chair and at such other times as the Board in its rules of procedure may specify. A simple majority of the membership of the Board of Appeals shall constitute a quorum and may conduct any items of business brought before the Board. All meetings of the Board shall be open to the public.

- (G) **RECORDS.** Minutes shall be recorded of all proceedings and shall contain evidence and dates relevant to every case considered, together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the Village Clerk and are public records.

- (H) **MAJORITY VOTE REQUIRED.** The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any decision of the Zoning Administrator, to decide in favor of the applicant any matter upon which the board is required to pass, or to grant any variance of the terms or conditions of this Ordinance.
- (I) **DECISIONS.** The Zoning Board of Appeals shall return a decision upon each case within thirty (30) days of a request or appeal, unless a further time is agreed upon by the applicant. Any decision of the Zoning Board of Appeals shall not take effect until the expiration of five (5) working days after the date of the decision, unless the Board of Appeals certifies on the record that the decision must be given immediate effect for the preservation of property or personal rights. No Zoning Permit authorized by such a decision shall be issued until the decision has taken effect.
- (J) **CONFLICT OF INTEREST.** A member of the Zoning Board of Appeals shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct in office.
- (K) **DUTIES.** The Merrill Village Zoning Board of Appeals shall have the power to act on those matters where this Ordinance provides for an administrative review, interpretation, or variance as defined herein. The ZBA shall *not* have the power to alter or change the Zoning District classification of any property, or to change the terms or intent of this Ordinance.
 - (1) **VARIANCES.** The Zoning Board of Appeals shall have the power to authorize variances from any quantifiable requirements of this Ordinance. See Section 903(1) and Section 903(5).
 - (2) **ADMINISTRATIVE REVIEW.** The ZBA shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or denial made by the Zoning Administrator. See Section 903(2) and Section 903(5).
 - (3) **INTERPRETATION.** Upon request, the ZBA shall have the power to interpret the provisions of this Ordinance so as to carry out its intent and purpose. See Section 903(3) and Section 903(5).
- (4) **VILLAGE COUNCIL.** On recommendation of the Planning Commission, the Village Council has adopted the Zoning Ordinance, making it the enforceable policy of Village government. The Village Council may take other actions related

to this Ordinance, as follows:

- (A) **AMEND.** The Village Council, upon the advice of the Planning Commission, may amend the text of this Ordinance or the boundaries of Zoning Districts (rezoning), according to the procedures defined in Section 905.
- (B) **SET FEES.** The Village Council shall, by resolution, set fees to be charged to applicants for various actions to be conducted under this Ordinance. These fees shall apply to Zoning Permit applications, Special Use Permits, rezoning applications, Site Plan Reviews, text amendments, actions by the Zoning Board of Appeals, and any other actions the Village Council sees fit to add.
- (C) **WAIVE FEES.** By resolution, the Village Council may waive the fee for any application requesting one or more of the actions listed above.

SECTION 902. ADMINISTRATIVE PROCESSES.

- (1) **ZONING PERMIT REQUIRED.** The issuance of a Zoning Permit signifies compliance with the requirements of this Ordinance. A Zoning Permit must be obtained from the Zoning Administrator before any of the following activities may legally take place:
 - (A) Occupancy and use of vacant land (including parking lot construction).
 - (B) Any change in the use of a parcel of land or a building, including any construction or structural alteration of a building that requires issuance of a Building Permit. A Zoning Permit must be obtained before a Building Permit may be issued. When erected at the same time as the principal building, accessory structures shall not require a separate Zoning Permit. A change in use of a parcel or existing building from one Use by Right in the applicable Zoning District to another Use by Right does not require a Zoning Permit.
 - (C) Any use of a parcel or a building that is identified as a Special Use by the Table of District Regulations in Chapter 3 for the Zoning District in which the parcel is located.
 - (D) Any change of a nonconforming use or building.
- (2) **APPLICATION FOR ZONING PERMIT.** Application for a Zoning Permit shall be made at least ten (10) days before construction of a new or enlarged building or structure, or a new or enlarged use of a parcel, is intended to begin.

The application package may be submitted by the property owner, or by any other person with the owner's signed permission. A permit fee in the amount established by the Village Council shall accompany the application package. The application shall consist of the following material:

- (A) **APPLICATION FORM.** Applicants for a Zoning Permit shall submit a Zoning Application Form with all requested information completely filled in.
 - (B) **SUBMISSION WITH BUILDING PERMIT APPLICATION.** When a Building Permit is also required, application for a Zoning Permit may be made at the same time. If the Village Building Inspector also acts as the Zoning Administrator, the Inspector may elect to accept information submitted for a Building Permit without duplication on the Zoning Permit application form.
 - (C) **PROPERTY INFORMATION.** The Zoning Application Form must be accompanied by a copy of a property survey, deed or tax records that are sufficient to allow identification of the parcel in the Village Assessor's property maps. When the applicant is anyone other than the property owner identified by the Assessor's records, evidence of the owner's concurrence of a change in ownership must also be submitted.
 - (D) **PLOT PLAN.** The Zoning Application Form must also be accompanied by a plot plan drawn at a size and scale sufficient to clearly identify the exact dimensions of the parcel, all abutting streets, alleys or easements, and the size, position and height of all existing and proposed buildings or structures thereon. The Zoning Administrator may also require any other information deemed necessary for the proper enforcement of this Ordinance.
- (3) **APPLICATION REVIEW PROCESS.** On submission of an application for a Zoning Permit, the Zoning Administrator shall review the application material. Whenever possible, it is desirable for this review to be conducted with the applicant present to facilitate any necessary explanation. If all requirements have been met, the Zoning Administrator shall issue a Zoning Permit. When failure to meet any requirement prohibits the issuance of a permit, the problem shall be identified and the applicant advised of his or her options. In all cases, a full review shall be conducted to identify all potential obstacles to issuance of a Zoning Permit.
- (4) **PERFORMANCE GUARANTEE.**
- (A) **AUTHORIZATION AND INTENT.** The Planning Commission and

Zoning Board of Appeals are hereby authorized to require a sum of money be deposited with the Village Treasurer, payable by check or money order, as a guarantee of performance for any conditions attached to approval of Zoning Permits that come before either group. It is intended that a cash deposit will not be required for trivial items, but will be uniformly imposed when items vital to the protection of the health, safety and welfare of the public are concerned. The Treasurer shall hold this sum in escrow in the name of the Village, the applicant, and any other party providing the funds.

- (B) **AMOUNT.** The Planning Commission or Zoning Board of Appeals shall specify the amount of any required cash deposit and the conditions for which a deposit is required in the resolution granting conditional approval with the required guarantee. The amount should be sufficient to enforce compliance with the specified condition.
- (C) **USE OF ESCROWED FUNDS.** If the Zoning Administrator determines that a condition of a Zoning Permit has been violated and that the permit holder has not acted to correct said violation in a timely fashion, he or she may recommend to the Planning Commission that funds escrowed as a performance guarantee for that condition be used to bring about compliance with said condition. At its first meeting after such a recommendation is made, the Planning Commission shall decide whether to approve said recommendation for action to the Village Council. The Village Council shall consider such action at its first meeting after the Planning Commissions' review. ***ESCROWED FUNDS MAY ONLY BE SPENT UPON AN AUTHORIZING RESOLUTION OF THE MERRILL VILLAGE COUNCIL.*** Said resolution shall direct the Zoning Administrator to take any action or procure any services which he or she deems necessary to bring about compliance with said condition.
- (D) **RETURN OF CASH DEPOSIT.** The Zoning Administrator must certify, in writing, to the Village Treasurer that any condition has been satisfied for which a cash deposit has been made as a performance guarantee. Said certification shall identify the condition, the amount of deposit specified for its guarantee, and any amount that may have been used to enforce compliance with the remaining balance (if any). The Treasurer shall issue a check to the party named on the escrow account in the amount specified, following standard Village procedures for authorization of such disbursements.
- (5) **RECORD MAINTAINED.** The Zoning Administrator shall keep a record of each application for a Zoning Permit that has been submitted, including the disposition of each one. This record shall be a public record and open for inspection upon request.

- (6) **VALIDITY OF ZONING PERMIT.** A Zoning Permit remains in effect for a period of one (1) year from the date it is issued. By that time, the activity authorized by the Zoning Permit must have begun. This means that any use of land or of an existing building must be underway, or a Building Permit for any new construction must have been issued and construction commenced. The validity of a Zoning Permit may be extended not more than once by the Zoning Administrator, for a period not to exceed one (1) additional year. An extension must be requested in writing by the permit holder before the expiration of the initial permit period.
- (7) **VOIDING OF ZONING PERMIT.** If the permit holder fails to initiate the activity authorized by the Zoning Permit by the end of one (1) year from the date the permit was issued, the Zoning Permit is automatically null and void. Any additional rights associated with the Zoning Permit that have been granted by the Planning Commission or the Zoning Board of Appeals, such as Special Use Permits or variances, expire together with the Zoning Permit.

Any performance guarantee shall be refunded to the permit holder unless the failure to initiate activity has resulted in costs to the Village that were to be covered by the guarantee. If any amount of the guarantee remains after the costs are satisfied, the balance of the guarantee shall be released and returned to the permit holder.

- (8) **RE-ISSUANCE OF PERMIT.** Re-issuance of a Zoning Permit that has expired requires a new Zoning Application Form to be filed with the Zoning Administrator and fully processed.

SECTION 903. AUTHORITY OF THE ZONING BOARD OF APPEALS.

The Zoning Board of Appeals may grant variances, hear appeals from administrative actions, and make interpretations of this Ordinance as follows:

- (1) **VARIANCE.** Upon a showing of practical difficulty, the Board may grant variances to such requirements as lot area and width regulations, yard and depth regulations, and off-street parking and loading space requirements. Any requirement of this Ordinance which can be expressed in terms of numbers may be considered for a variance. In passing upon variances, the Board may vary or modify the provisions of the Ordinance as authorized above so that the spirit of the Ordinance is observed, public safety is secured, and substantial justice done.
- (2) **APPEALS OF ADMINISTRATIVE ACTIONS.** The Zoning Board of Appeals is empowered to review and reverse or modify any order, decision or determination made by the Zoning Administrator. The Board is also empowered to review decisions of the Planning Commission regarding Special Use Permits and Site Plan Review.

- (A) **REQUESTS FOR ADMINISTRATIVE REVIEW.** An Administrative Review by the Zoning Board of Appeals may be requested by any aggrieved person, or by any officer, department, or board of local, county, or state government. Any such request must be made in writing not more than ten (10) days after the date of the decision being appealed. The request shall be filed with the Zoning Administrator and shall identify the applicant, the proposed activity, the action being appealed, and the grounds for the review. The Zoning Administrator shall immediately transmit to the Chairperson of the Board of Appeals any papers constituting the record upon which the action being reviewed was taken.
 - (B) **STAY.** An appeal shall stay all proceedings in furtherance of the action being reviewed, except as follows. If the Zoning Administrator certifies in writing to the Zoning Board of Appeals, after an appeal has been filed, that a stay would cause imminent peril to life or property, the proceedings shall not be stayed unless a restraining order is issued by the Zoning Board of Appeals or by court action.
- (3) **INTERPRETATION.** The Zoning Board of Appeals (ZBA) may interpret provisions of this Ordinance as outlined below. Each such interpretation shall establish the precedent for future treatment of the issue being addressed. To achieve the objective of consistent enforcement of this Ordinance, whenever an interpretation question arises that has been addressed previously by the Zoning Board of Appeals, the earlier interpretation shall apply without requiring further action by the Board. The Zoning Administrator shall keep a concise record of all interpretations made by the Zoning Board of Appeals to facilitate such reference.
- (A) **DISTRICT BOUNDARIES.** The ZBA may determine the precise location of the boundary lines between zoning districts.
 - (B) **ACTIVITY CLASSIFICATION.** The ZBA may classify any activity which is not specifically mentioned in the Table of District Regulations in Chapter 5 for any Zoning District as a Use by Right or Special Use within at least one Zoning District, provided that the classification shall be consistent with the classification of similar uses and with the purpose and intent of each Zoning District.
 - (C) **PARKING AND LOADING SPACES.** The ZBA may determine the off-street parking and loading space requirements of any use for which these requirements are not determinable using the information provided for this purpose in Chapter 5, District Regulations.
 - (D) **CLARIFICATION.** The Board may interpret any portion of this Ordinance when the Zoning Administrator is unable to clearly determine

its intent or effect.

(4) **FEES.** A fee as established by the Village Council shall be paid to the Zoning Administrator at the time of filing application with the Board of Appeals. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, and other expenses incurred by the Board of Appeals for the appeal.

(5) **RULES FOR ZONING BOARD OF APPEALS ACTIONS.**

(A) **PUBLIC HEARING.** The Zoning Board of Appeals must hold a public hearing before making a decision on a variance, appeal, or interpretation. Mailed notice, as specified by Section 906, shall be given not less than fifteen (15) days before the date of the hearing. At the hearing, a party may appear in person or may be represented by an agent or attorney.

(B) **INTENT.** Any decision by the Zoning Board of Appeals must not be contrary to the public interest or to the intent and purpose of this Ordinance.

(C) **USE VARIANCE PROHIBITED.** No variance, site plan approval, or administrative review may be construed to allow the establishment any use which is not permitted by right or by Special Use Permit in the applicable Zoning District. The Zoning Board of Appeals may only classify a use which is not specifically mentioned along with a comparable permitted use for the purpose of the use regulations of a zoning district. In exercising the power of administrative review, the Zoning Board of Appeals must apply, and not vary, the terms of the Zoning Ordinance.

(D) **CONSIDER PROPERTY VALUES.** In any decision, the Zoning Board of Appeals must try to avoid causing a substantial adverse effect on property values in the vicinity of the subject property or on other parcels in the Zoning District in which the subject property is located.

(E) **SINGLE PARCEL.** Any action brought before the Zoning Board of Appeals may relate only to a single parcel that must be under control of the applicant. If the applicant is not the owner of the property, evidence must be provided that the owner concurs with the request for ZBA action.

(F) **PROFIT IS NOT A MOTIVE.** No approval shall be granted by the ZBA simply to prevent an economic loss. The improvement of an owner's opportunity to profit from the sale of a parcel is *not* an objective of this Ordinance.

- (G) **RESUBMISSION.** Any request that has been denied wholly or in part by the Zoning Board of Appeals may not be resubmitted for a period of one (1) year from the date of the last denial. However, if new evidence or changed conditions are found, the ZBA may elect to rehear a case.
- (H) **CONDITIONS.** The Board of Appeals may attach any reasonable conditions to the approval of any request to secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate any Zoning Permit granted pursuant to the Zoning Board of Appeals action. When it attaches any conditions to the approval of a request, the Board of Appeals may require that a bond of ample sum be furnished to ensure compliance with the conditions imposed, as specified by Section 902(4).
- (I) **PRACTICAL DIFFICULTY.** A variance may only be granted upon a showing of practical difficulties by the applicant that prevent carrying out the strict letter of this Ordinance. These practical difficulties are to be evaluated in terms of the applicants's ability to physically locate a permitted use on the particular parcel of land. They must not have resulted from any act of the applicant or property owner.
- (J) **ISSUANCE OF PERMIT.** A variance or site plan approval granted under the provisions of this Section becomes a condition of the Zoning Permit granted pursuant to such action. If the Zoning Permit expires as defined by Section 902(6), any rights granted by the Zoning Board of Appeals expire together with the Zoning Permit.
- (K) **REQUIRED RECORDS.** The minutes of the Zoning Board of Appeals meeting at which any decision was made regarding a variance, appeal, or interpretation must specify the reasoning used by the Board in making the decision, and any conditions that may be attached to issuance of a Zoning Permit.
- (L) **RECURRENT ISSUES.** If certain conditions are so widespread as to make similar variances a frequent issue for the Zoning Board of Appeals, the ZBA shall suggest a general regulation for such conditions to be considered by the Planning Commission.

SECTION 904. ENFORCEMENT.

- (1) **RESPONSIBILITY.** The Zoning Administrator shall enforce the provisions of this Ordinance.
- (2) **VIOLATIONS AND PENALTIES.** Violations of any provisions of this Ordinance are declared to be a nuisance *per se*. Any and all building or land use

activities which are considered to be possible violations of the provisions of this Ordinance, and which are observed by or communicated to a Village Official or employee, shall be reported to the Zoning Administrator.

- (A) **INSPECTION AND ORDER.** The Zoning Administrator shall inspect each alleged violation he or she observes or is made aware of and shall order correction, in writing, of all conditions found to be in violation of this Ordinance.
 - (B) **CORRECTION PERIOD.** Orders to correct violations shall allow a correction period of not less than thirty (30) days or a longer time period, not to exceed six (6) months, as the Zoning Administrator deems necessary.
 - (C) **PENALTIES.** Every person, whether as principal agent, servant, employee, or otherwise, including the owners of any building, structure or premise or part thereof where any violation of this Ordinance shall exist or shall be created, who shall violate or refuse to comply with any of the provisions of this Ordinance, shall be in violation of the Merrill Village Civil Infraction Ordinance. All penalties for violations shall be determined by the Village Civil Infraction Ordinance.
 - (D) **CUMULATIVE RIGHTS AND REMEDIES.** The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.
- (3) **CONFLICTING REGULATIONS.** In the interpretation, application, and enforcement of the provisions of this Ordinance, whenever any of the provisions or limitations imposed or required by the Ordinance are more stringent than any other law or Ordinance, then the provisions of the Ordinance shall govern, *provided* also that whenever the provisions of any other law or Ordinance impose more stringent requirements than are imposed or required by this Ordinance, the provisions of such other law or Ordinance shall govern.

SECTION 905. AMENDMENT.

- (1) **VILLAGE COUNCIL MAY AMEND.** The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Zoning District Map may be amended, supplemented, or changed by ordinance by the Village Council in accordance with the applicable enabling legislation of the State.
- (2) **INITIATION OF AMENDMENTS.** Proposals for amendments, supplements, or changes may be initiated by the Village Council of its own action, by the Planning Commission, or by petition of one (1) or more persons having an

interest, by ownership or option to purchase, in property to be affected by the proposed amendment.

(3) AMENDMENT PROCEDURE.

(A) **PETITION TO VILLAGE CLERK AND PAYMENT OF FEE.** Each petition by one (1) or more owners or their agents, for an amendment shall be submitted upon an application of standard form to the Village Clerk. A fee as established by the Village Council shall be paid at the time of application to cover costs of necessary advertising for public hearings and processing of the amendment request. The Village Clerk shall transmit the application to the Planning Commission for recommended action.

(B) **PUBLIC HEARING.** Before voting on any proposed amendment to this Ordinance, the Planning Commission shall conduct a public hearing, with notice being given by the Zoning Administrator as specified by Sections 906(1) and (2) and by the following paragraphs:

(1) **PUBLISHED NOTICE.** Notice shall be given by publication in a newspaper of general circulation in the community not less than fifteen (15) days before the date of such hearing.

(2) **MAILED NOTICE.** In any instance involving the rezoning of one or more parcels, or when the owner or other party having an interest in any parcel has requested a text change which will affect use of that parcel, notice of the proposed amendment shall be mailed as specified by Sections 906(3) and (4).

(C) **RECOMMENDATION.** The Planning Commission shall consider each proposed amendment in terms of the likely effect of such proposal upon the development plans for the community as well as in terms of the merits of the individual proposal. The Planning Commission may recommend any additions or modifications to the original amendment petition.

(D) **VILLAGE COUNCIL ACTION.** The Village Council shall review the recommendation of the Village Planning Commission. The Village Council may deny or adopt the amendment with or without changes by a majority vote of its membership, following its standard procedures for the adoption of ordinances. The Village Council may also refer the amendment back to the Village Planning Commission for further changes or clarification.

(1) **ADDITIONAL PUBLIC HEARING.** The Village Council shall grant a hearing on the proposed amendment to any party who has filed a written request to be heard with the Village Clerk. The request must be received prior to the meeting at which the proposed amendment

would first be considered by the Village Council. The Planning Commission shall be notified of the hearing, which may be held at a regular meeting or at a special meeting called for that purpose.

- (2) NOTICE. Notice of the hearing, including all information required by Section 906(1), shall be published in a newspaper which circulates in the Village not less than fifteen (15) days before the hearing. Mailed notice of the hearing is not required.

If the Village Council deems advisable any changes to the amendment recommended by the Planning Commission, it shall refer these changes back to the Planning Commission for a report thereon within thirty (30) days.

The Village Council may deny or adopt the amendment with or without changes, by a majority vote of its membership, following the Council's standard procedures for adoption of ordinances, unless a protest petition is filed in accordance with 905(3)(E).

- (E) PROTEST PETITION. Upon presentation of a protest petition in accordance with the requirements of this section, an amendment that is the object of a petition shall be approved only by a 2/3 vote of the Village Council. The protest petition shall be presented to the Village Council before final action on the amendment and shall be signed by one of the following:
- (1) The owners of at least 20% of the land area included in the proposed amendment.
 - (2) The owners of at least 20% of the land area included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed amendment.

(F) AMENDMENT TO CONFORM WITH COURT DECREE. An amendment for the purpose of conforming a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the Village Council and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for in this Ordinance.

- (G) RE-SUBMITTAL. No application for a rezoning which has been denied by the Village Council shall be re-submitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions which, upon inspection by the Village Council, are found to be valid.

SECTION 906. NOTICE REQUIREMENTS FOR PUBLIC HEARINGS.

- (1) **CONTENT.** Each public hearing notice required by this Ordinance shall include the following information:
 - (A) Identification of the applicant, if any.
 - (B) Identification of all parcels that are the subject of the request.
 - (C) Nature of the matter to be considered.
 - (D) Identification of the public body conducting the hearing and deciding on the matter.
 - (E) The date, time, and place of the public hearing.
 - (F) The places and times at which any proposed text and/or map amendments may be examined and copies purchased.
 - (G) A statement of where and when both written and verbal comments will be received concerning the request.
- (2) **AFFIDAVIT OF MAILING.** An affidavit of mailing that identifies all parties to whom notice has been sent, including railroad and public utility companies, shall be prepared and filed with other material relating to the public hearing prior to the meeting at which it is to be held.
- (3) **MAILED NOTICE.** Whenever this Ordinance requires mailed notice of a public hearing, the mailing list shall be compiled from the following sources:
 - (A) The owner(s) of the parcel(s) in question.
 - (B) All persons to whom real property is assessed in Merrill Village or any adjoining governmental unit, where any part of their parcel lies within three hundred feet (300') of the parcel that is the subject of the hearing.
 - (C) The occupants of all buildings on parcels within three hundred (300') of the parcel that is the subject of the hearing. Each dwelling unit or tenant in such buildings shall receive one (1) notice of the hearing. If the name of an occupant is not known, the term "occupant" may be used in the address. For any building containing more than four (4) dwelling units, the notice may be mailed to the manager or the owner of the building who shall be requested to post the notice at the building's primary entrance.
- (4) **NOTIFICATION OF RAILROADS AND PUBLIC UTILITIES.** Notice of

any public hearing regarding amendment of this Ordinance shall be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the zone or district affected, and the airport manager of each airport that registers its name and mailing address with the Village Clerk for the purpose of receiving such notices.

SECTION 907. SITE PLAN REVIEW

The various provisions of this Ordinance require review of site plans before certain approvals may be granted. The Village Zoning Administrator conducts a review of site plans for each Zoning Permit issued. The Zoning Board of Appeals conducts such reviews before granting various types of requests. For certain activities, however, a more formal Site Plan Review before the Village Planning Commission is required to insure conformance with the intent and objectives of this Ordinance. This section defines the procedures and standards to be used for formal Site Plan Review.

- (1) **SITUATIONS THAT REQUIRE SITE PLAN REVIEW.** Site plan review and approval shall be required as described below. Site plan approval must be obtained before a land use-building permit can be issued, and prior to the commencement of land clearing or excavation necessary for the construction of site improvements. Site plan review and approval is required:
 - (A) For all non-residential land uses permitted in all zoning districts, except home occupations and farming operations.
 - (B) For all special uses. A site plan shall be submitted at the time application is made for a Special Use Permit. Review of the site plan shall be concurrent with deliberations on the application for a Special Use Permit.
 - (C) For all Planned Unit Developments (PUD's), if permitted elsewhere in this Ordinance. A site plan shall be submitted at the time application is made for PUD approval. Review of the site plan shall be concurrent with deliberations on the application for the PUD.
 - (D) All site condominium and condominium subdivisions developed pursuant to the Condominium Act (P.A. 59 of 1978, as amended).
- (2) **SITE PLAN REVIEW NOT REQUIRED FOR REZONING.** Site Plan Review shall not be required as part of the decision process for a rezoning application. The decision to rezone property is based on consideration of its effect on the long-range development of the Village, especially in regard to all the potential uses that the rezoning would permit on the subject parcel. In contrast, the scope of site plan review is limited to the specific use that is proposed. Also, conditions may be attached to site plan approval. Conditions may *not* be attached to the rezoning of property.

(3) THE SITE PLAN REVIEW PROCESS.

(A) **APPLICATION DEADLINE.** If a Zoning Permit application requires a Site Plan Review pursuant to Section 907(1), the complete application package must be received at least fifteen (15) days before the Planning Commission meeting at which the application is to be considered. If a Site Plan Review is being conducted for a Special Use Permit or subdivision plat, the application deadline for the specific process will apply.

(B) **APPLICATION MATERIAL.** The application material for a Site Plan Review must meet the requirements of Section 902(2) and be accompanied by a Site Plan Review fee as established by the Village Council and at least four (4) copies of a site plan that meets the requirements of Section 907(3)(C) as described below. The application will not be reviewed until all the listed items have been received.

(C) **SITE PLAN REQUIREMENTS.** Any details depicted in the site plan will be relied upon by the Planning Commission in its review. Therefore, these details become conditions for approval of the site plan. Failure to abide by such conditions is a violation of the terms of any Zoning Permit issued pursuant to site plan approval, and is subject to enforcement under Section 904 of this Ordinance. The site plan shall show the following information:

- (1) Scale and north arrow. The scale shall be not less than 1" = 20' for property under three (3) acres and at least 1" = 100' for parcels three (3) acres or more in size.
- (2) Name, address, and phone number of the applicant(s). Name, address, and phone number of the person or firm that prepared the site plan.
- (3) The date on which the site plan was prepared. In the event that revisions of the site plan are required, then the subsequent revision dates shall also be indicated.
- (4) Tax identification number of the property subject to the application.
- (5) Name and address (or approximate location) of the proposed land use or land development project.
- (6) Size of the property in acres and square feet.
- (7) Area in square feet to be occupied by buildings, parking areas, roadways, landscaped areas, and unimproved open space.

- (8) A small-scale map (1" = 200') indicating the location of streets, highways, watercourses, and lakes located within one-half (1/2) mile of the subject property shown on the site plan. The property subject to review must be highlighted.
- (9) The exterior property lines (boundaries) of the property subject to the application.
- (10) The zoning classification of the property subject to review, as well as that of adjoining properties.
- (11) The location, name, pavement width, and right-of-way width of existing and proposed streets, highways, easements, and rights-of-way that adjoin or cross the property.
- (12) The location, name, pavement width, and right-of-way width of existing and proposed private roadways.
- (13) The location, width, and purpose of other existing and proposed easements or rights-of-way.
- (14) Locations and dimensions of existing and proposed buildings and other structures. The distance between existing and proposed buildings, and existing and proposed setbacks from property lines must be indicated in feet.
- (15) Location and layout of existing and proposed parking and loading areas, including proposed surface type. The direction of travel on driveways and driving lanes must be indicated. Parking spaces must be consecutively numbered.
- (16) The location of existing and proposed stormwater management facilities. The Planning Commission may require that applicants submit a separate storm drainage plan.
- (17) The location and height of existing fences or walls, including the type of fencing proposed.
- (18) The location of required landscaped buffers and screening, as well as other landscape improvements. The Planning Commission may require that applicants submit a separate landscaping plan.
- (19) The location and type of existing natural features on the site, including but not limited to, wetlands, watercourses, floodplains, ponds, wooded areas, major topographic features, and so forth.

Indicate the location and type of existing trees and other vegetation to be retained on the site.

- (20) The location, height, and design of existing and proposed signs and exterior lighting fixtures.

- (D) **STAFF REVIEW OF SITE PLAN.** Within two (2) working days of receipt of a site plan for review by the Planning Commission, the Zoning Administrator shall notify all Village departments that it has been received. Any interested department may comment on the site plan in writing to the Zoning Administrator at least five (5) days before the Planning Commission meeting at which the site plan is to be reviewed. Reviewers shall address the considerations identified in Section 907 (4) and any applicable Special Use Permit Standards listed in Chapter 6. After reviewing such comments, the Zoning Administrator shall recommend to the Planning Commission what action should be taken.

- (E) **PLANNING COMMISSION REVIEW OF SITE PLAN.** The Planning Commission shall conduct their Site Plan Review at a public meeting. A public hearing on the site plan will be held only if any party submits a written request for a hearing to the Village Clerk prior to the Planning Commission meeting. In such cases, the public will be heard before the Planning Commission acts on the site plan. However, a Site Plan Review conducted pursuant to Section 907(1) does not require special notification of any party. The staff's review findings and any public comments shall be considered by the Planning Commission, but they are not binding on it in any way. The Planning Commission should take one of the following actions at the meeting that considers the Site Plan:
 - (1) **APPROVAL.** An affirmative vote by a majority of the Planning Commission is necessary to approve a site plan. An approved site plan becomes a condition of any resulting Zoning Permit. Deviations from the site plan are permitted only as specified by Section 907(3)(F).

 - (2) **CONDITIONAL APPROVAL.** The Planning Commission may attach conditions to approval of a site plan as justified by the requirements of this Ordinance, or other local, state, or federal laws. These conditions and their justification must be identified in the motion for site plan approval and communicated to the applicant in writing. The conditions then become part of the site plan, just as if they were part of the original submission, and they shall be reflected in any resulting Zoning Permit. Deviations from the conditions are permitted only as described by Section 907(3) (F). Approval of any site plan that must also be approved by other

public agencies shall be conditioned upon the granting of the other agency approvals, including variances from the Zoning Board of Appeals. Approval of a variance that specifies conditions different from those depicted on the site plan or identified in a conditional approval does not require an additional Site Plan Review.

- (3) DENIAL WITH EXPLANATION. Failure to comply with one or more of the standards listed in Section 907(4) is the only justification for denial of a site plan. A majority vote of the Planning Commission is required to deny a site plan. The motion to deny must state which Review Standards were not met by the site plan, and it failed to meet them. The applicant shall be notified in writing of the denial of the site plan, with the full text of the motion to deny reproduced in the communication.
- (4) TABLE TO SPECIFIED MEETING. The Planning Commission may choose to delay its decision for any specified reason by tabling the action to another meeting. The date, time, and place of the meeting shall be identified in the motion to table and clearly stated for the benefit of any persons in attendance.
- (F) ACCEPTABLE DEVIATIONS FROM APPROVED SITE PLAN. Unforeseen circumstances can cause changes in a project during its development. Therefore, minor deviations from an approved site plan are permitted if the Zoning Administrator determines that all Site Plan Review standards have been met. These deviations shall be documented as described in Section 907(2)(H).
- (G) UNACCEPTABLE DEVIATIONS FROM SITE PLAN. If the Zoning Administrator finds that a deviation from an approved site plan does not comply with the Review Standards, he or she shall immediately notify the permit holder, the Village Building Inspector, and the Planning Commission in writing that the site plan approval has been suspended. The notice to the permit holder shall be sent by certified mail. If construction has begun, a stop work order should be issued by the Building Inspector with respect to that portion of the project that is not in compliance with the Site Plan Review Standards. Once site plan approval has been suspended, the permit holder may change the project plans to conform to the Review Standards, or restart the Site Plan Review process. When the issue has been resolved, the Zoning Administrator shall send a written notice of this to the permit holder, the Village Building Inspector, and the Planning Commission.

This provision shall not prohibit phased development of a project, provided that each phase complies with the requirements of the Review Standards and the approved site plan.

- (H) **RECORD TO BE MAINTAINED.** The Zoning Administrator shall maintain the record relating to any approved site plan with the records pertaining to the Zoning Permit for the project. This record shall include an official copy of the site plan as approved by the Planning Commission. The official copy shall be signed and dated by the permit holder, the Planning Commission Chair, and the Zoning Administrator. The record shall also include documentation of any conditions attached to the site plan approval, evidence that these conditions have been satisfied, and documentation of any allowed deviations from the approved site plan. If any deviations from an approved site plan are made, an “as built” version of the site plan shall be provided to the Zoning Administrator before the Building Inspector issues final approval for the project and before any performance guarantee attached to the Zoning Permit may be fully refunded.

- (4) **SITE PLAN REVIEW STANDARDS.** All Site Plan Reviews shall use only the following set of standards to determine whether a site plan should be approved or denied. No off-site improvements can be required as conditions for site plan approval, unless the applicant volunteers to construct such improvements as documented by the site plan drawings. If the lack of such off-site improvements will create conditions that are contrary to the intent and objectives of this Ordinance, this lack is sufficient justification for denial of the site plan.
 - (A) There must be a proper relationship between the proposed use and existing streets and highways within the vicinity of the proposed use.
 - (B) Proposed driveway entrances and exits, parking areas, service drives, and other internal circulation routes must be located and arranged so as to assure the safety and convenience of pedestrian and vehicular traffic.
 - (C) All buildings, structures, driveways, internal circulation routes, parking areas, and storage areas must be designed and located so as to minimize potential adverse impacts on adjacent and nearby properties.
 - (D) As many natural features of the landscape as possible shall be incorporated into the design and layout of the site so as to buffer the site from adjacent incompatible land uses, to assist in preserving the general appearance of the surrounding area, and to help control erosion of the soil and the discharge of water. Reasonable buffer and open space areas may be required.
 - (E) The site shall be improved with a storm drainage system that maintains stormwater runoff at a pre-development rate. Runoff shall be managed in a manner that prevents off-site impacts.

- (F) Adverse impacts upon adjoining land uses shall be minimized by appropriate screening, fencing, or landscaping.
- (G) The land use subject to review and approval shall comply with all applicable provisions of this Ordinance.
- (H) All buildings, structures, parking areas, and storage areas will be accessible to emergency vehicles at all times of the year. Particular attention shall be paid to site access in the event of fire or other emergency.
- (I) The site plan as approved must be consistent with the intent and purpose of this Zoning Ordinance to promote the public health, safety, and general welfare.

908 REVIEW OF SUBDIVISION PLATS AND LAND DIVISIONS

- (1) **ZONING.** All plats and land divisions shall be subject to the provisions of the Zoning District in which they are located. Any Zoning District changes that may be necessary to accommodate a proposed plat or land division shall be made according to the amendment procedure specified in Section 905. After the effective date of this Ordinance, no proposed plat of a new or redesigned subdivision or any other land division shall be approved unless the proposed lots equal or exceed the minimum lot area and dimensional requirements for the applicable Zoning District.
- (2) **PLAT APPROVAL PROCESS**
 - (A) **SUBMISSION OF PLAT.** When a preliminary of final plat has been submitted to the Merrill Village Council for approval, the Village Clerk shall forward a copy of the plat to the Zoning Administrator. Since the Village Council must act on the plat within ninety (90) days of submission, the Zoning Administrator and Planning Commission Chair shall convene a special meeting of the Planning Commission, if necessary, to provide a recommendation to the Village Council.
 - (B) **PLANNING COMMISSION REVIEW AND RECOMMENDATION.** The Planning Commission shall review the plat to determine if it complies with all provisions of this Ordinance, and any other applicable Village ordinances, at an open public meeting. A public hearing is not required. However, any person who wishes to address the Planning Commission shall be permitted to do so. If all standards are met, the Planning Commission shall recommend approval of the plat to the Village Council. If all standards are not met, the Planning Commission shall recommend denial of the plat, noting which standards were not met.

SECTION 909. ACTIONS SUMMARY TABLE

The following table is a summary of the basic requirements for the various administrative actions to be carried out under this Zoning Ordinance. It supplements the preceding text, but it is not a substitute for it. Note that a fee, as established by the Village Council, is required for each of the actions listed. However, as previously described in Sec. 901(4)(C), the Village Council may waive any of these fees at its discretion.

**Zoning Ordinance Actions Table
Summary of Procedural Requirements for Zoning Decisions**

Type of Action	Who May Initiate Action?	What Body Makes the Decision?	Is a Public Hearing Required?	Published Notices – Number of Days Before Hearing	Mailed Notice to All Owners and Occupants Within 300 feet – Days Before Hearing	Where Can Applicant Appeal a Denial ?
Variance	Applicant or Zoning Admin.	Zoning Board of Appeals	Yes	Not less than 15 days.	Not less than 15 days.	Circuit Court
Interpretation	Applicant or Zoning Admin.	Zoning Board of Appeals	Yes	Not less than 15 days.	Not less than 15 days.	Circuit Court
Administrative Review, including appeal of Zoning Administrator’s Decision	Any aggrieved party ¹	Zoning Board of Appeals	Yes	Not less than 15 days.	Not less than 15 days.	Circuit Court
Site Plan Review (See Sec. 907(1) for when this is required)	Applicant or Zoning Admin.	Planning Commission	Not required	Not required	Not required	Circuit Court
Special Use Permit	Applicant or Zoning Admin.	Planning Commission	Yes	Not less than 15 days.	Not less than 15 days.	Circuit Court
Text or Map Amendment (Rezoning)	Applicant, Zoning Admin, Planning Commission, or Village Council	Step 1: Planning Commission recommends to Village Council	Yes	Not less than 15 days.	Not less than 15 days.	No appeal until after Village Council action
		Step 2: Village Council acts on amendment	If requested by any property owner by certified mail to Clerk.	Not less than 15 days.	Not less than 15 days.	Circuit Court or may resubmit to Village after one year
Fee Waiver	Applicant	Village Council	No	Not required	Not required	None

Note: (1) Includes any state, county, or Village officer, board, bureau, or department.

Village of Merrill Zoning Ordinance

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Appendix

Village of Merrill Zoning Map (Reference Copy Only)

**Village of Merrill
Zoning Ordinance**
Village of Merrill, Saginaw County, Michigan

*Final Document
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Prepared by the

Merrill Village Zoning Ordinance

Merrill Village Planning Commission

With the assistance of the

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