

VILLAGE OF LEXINGTON  
ZONING ORDINANCE

AS ADOPTED BY THE VILLAGE COUNCIL ON AUGUST 31, 2020  
EFFECTIVE SEPTEMBER 11, 2020

FINAL FORMATTED VERSION WITH HYPERLINKS CURRENTLY IN DEVELOPMENT

TABLE OF CONTENTS

**Article 1: Title, purpose, scope, construction, validity, severability, conflict, and vested right .... 1**

Section 1.1 Title ..... 1

Section 1.2 Purpose ..... 1

Section 1.3 Scope and Construction of Regulations..... 1

Section 1.4 Validity and Severability Clause..... 2

Section 1.5 Conflict with Other Laws, Regulations, and Agreements ..... 2

Section 1.6 Vested Right..... 2

Section 1.7 Land Use Permits..... 2

**Article 2: Definitions and Rules Applying to Text..... 4**

Section 2.1 Rules Applying to Text ..... 4

Section 2.2 Definitions ..... 4

**Article 3: Administration and enforcement..... 22**

Section 3.1 Zoning Administration ..... 22

Section 3.2 Duties..... 22

Section 3.3 Special Land Uses ..... 23

Section 3.4 Site Plan Review..... 24

Section 3.5 Site Condominium Project Regulations ..... 32

Section 3.6 Use of Consultants..... 35

Section 3.7 Performance Guarantee..... 35

Section 3.8 Fees..... 36

Section 3.9 Violations and Penalties. .... 37

Section 3.10 Amendments ..... 37

Section 3.11 Conditional Rezoning..... 39

<b>Article 4: Zoning District Regulations</b> .....	<b>43</b>
Section 4.1 District Designations.....	43
Section 4.2 Zoning District Map. ....	43
Section 4.3 Application of District Regulations. ....	44
Section 4.4 Agriculture District (AG). ....	46
Section 4.5 Single-Family Residential District (R-1).....	48
Section 4.6 Multiple-Family Residential Districts (R-2 and R-3).....	50
Section 4.7 Mobile Home Park District (MHP) .....	52
Section 4.8 Mixed Use and Central Business Districts (C-MU, G-MU and CBD) .....	54
Section 4.9 GC, General Commercial District. ....	65
Section 4.10 I-MU, Industrial Mixed Use District. ....	68
Section 4.11 Schedule of Regulations. ....	71
<b>Article 5: General and Special Provisions</b> .....	<b>74</b>
Section 5.1 Intent. ....	74
Section 5.2 Cluster Housing Option.....	74
Section 5.3 Open Space Preservation. ....	77
Section 5.4 Accessory Buildings. ....	77
Section 5.5 Emergency Temporary Dwellings.....	78
Section 5.6 Building Design Standards. ....	79
Section 5.7 Mobile Home Park Requirements. ....	84
Section 5.8 Day Care Facilities.....	87
Section 5.9 Adult Foster Care Facilities .....	88
Section 5.10 Home Occupations. ....	89
Section 5.11 Seasonal Sales.....	91
Section 5.12 Garage Sales, Rummage Sales, and Similar Activities. ....	92
Section 5.13 Essential Services.....	92
Section 5.13 Self-storage Facilities.....	92
Section 5.15 Outdoor Sales and Open-Air Businesses. ....	93
Section 5.16 General, Building and Landscape Contractor’s Offices and Yards.....	93

Section 5.17	Automobile Service Stations.....	93
Section 5.18	Outdoor Displays of Products or materials Intended for Retail Sale or Rental.....	94
Section 5.19	Sidewalk Café Service.....	95
Section 5.20	Bed and Breakfast Accommodations.....	95
Section 5.21	Mineral Mining and Extractive Operations.....	96
Section 5.22	Buildings to be Moved or Demolished.....	99
Section 5.23	Adult Entertainment Establishments.....	100
Section 5.24	Wireless Communication Facilities.....	102
Section 5.25	Short-Term Rentals.....	105
Section 5.26	Alcohol Manufacturing Facilities.....	107
Section 5.27	Mixed-Use Buildings.....	107
Section 5.28	Required Sidewalks and Non-Motorized Site Amenities.....	107
 <b>Article 6: Environmental Protection and Design Provisions.....</b>		<b>109</b>
Section 6.1	Purpose.....	109
Section 6.2	Landscaping, Greenbelts and Buffers, and Screening.....	109
Section 6.3	Fences, Walls, and Screens.....	116
Section 6.4	Airborne Emissions.....	117
Section 6.5	Noise and Vibration.....	117
Section 6.6	Use, Storage and Handling of Hazardous Substance; Storage and Disposal of Solid, Liquid, and Sanitary Wastes.....	118
Section 6.7	Electrical Disturbance, Electromagnetic, or Radio Frequency Interference.....	119
Section 6.8	Glare and Exterior Lighting.....	119
Section 6.9	Fire Hazard.....	121
Section 6.10	Safety.....	121
Section 6.11	Storm Water Management.....	121
Section 6.12	Regulation of Floodplain Areas.....	122
Section 6.13	Building Grades.....	126
Section 6.14	Shoreline/Water Protection.....	126
 <b>Article 7: PUD – Planned Unit Development District.....</b>		<b>128</b>
Section 7.1	Purpose and Intent.....	128
Section 7.2	PUD Regulations.....	128

Section 7.3	Procedure for Review.....	129
Section 7.4	Project Design Standards.....	131
Section 7.5	Conditions.....	132
Section 7.6	Phasing and Commencement of Construction.....	133
Section 7.7	Effect of Approval.....	133
<b>Article 8: Signs .....</b>		<b>134</b>
Section 8.1	Intent and Purpose.....	134
Section 8.2	Permit.....	134
Section 8.3	Exemptions from Permit.....	135
Section 8.4	Definitions.....	136
Section 8.5	General Requirements for Wall and Free-Standing Signs .....	136
Section 8.6	Specific Requirements for Wall and Free-Standing Signs.....	137
Section 8.7	Permitted Projecting Signs.....	140
Section 8.8	Permitted Temporary Signs and Banners.....	140
Section 8.9	Permitted Billboards.....	141
Section 8.10	Miscellaneous Permitted Signs.....	142
Section 8.11	Prohibited Signs.....	144
Section 8.12	Substitution Clause.....	144
<b>Article 9: Off-Street Parking and Loading.....</b>		<b>145</b>
Section 9.1	Intent and Purpose.....	145
Section 9.2	General Provisions.....	145
Section 9.3	Off-Street Parking Requirements.....	146
Section 9.4	Table of Off-Street Parking Requirements.....	147
Section 9.5	Off-Street Parking Lot Design and Construction.....	150
Section 9.6	Off-Street Loading Requirements.....	151
Section 9.7	Off-Street Stacking Space for Drive -Through Facilities.....	152
Section 9.8	Outdoor Storage of Recreational Vehicles.....	152
<b>Article 10: Non-Conforming Uses, Structures, and Lots .....</b>		<b>154</b>
Section 10.1	Intent.....	154

Section 10.2	Non-Conforming Lots. ....	154
Section 10.3	Non-Conforming Uses of Land.....	154
Section 10.4	Non-Conforming Structures. ....	155
Section 10.5	Non-Conforming Uses of Structures and Land.....	155
Section 10.6	Repairs and Maintenance.....	156
Section 10.7	Uses Allowed As Special Land Uses, Not Non-Conforming Uses.....	156
Section 10.8	Change of Tenancy or Ownership. ....	156
Section 10.9	Non-Conforming Uses of Signs. ....	156
<b>Article11: Zoning Board of Appeals .....</b>		<b>157</b>
Section 11.1	Authority.....	157
Section 11.2	Membership. ....	157
Section 11.3	Removal of Member(s) Conflict of Interest.....	157
Section 11.4	Meetings.....	158
Section 11.5	Powers and Duties.....	158
Section 11.6	Procedure for Appeal. ....	160
Section 11.12.	Severability Clause.....	161
Section 11.13.	Repeal.....	161
Section 11.14.	Effective Date .....	161

# ARTICLE 1

## TITLE, PURPOSE, SCOPE, CONSTRUCTION, VALIDITY, SEVERABILITY, CONFLICT, AND VESTED RIGHT

### Section 1.1 Title

This Ordinance shall be known and cited as the Village of Lexington Zoning Ordinance.

### Section 1.2 Purpose

The purpose of this Ordinance is to promote, protect, regulate, restrict and provide for the use of land and buildings within the Village of Lexington; to meet the needs of the state's residents for places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare.

In providing for all of these uses, services and infrastructure, the Village of Lexington shall be promoting and approving the development of land and the extension of utilities in a logical and consistent pattern consistent with the continuation of the existing street patterns and the implementation of the traditional town pattern of interconnecting blocks.

The Village is divided into districts which include regulations designating land uses or activities that shall be permitted or subjected to special regulations.

It is also the purpose of this Ordinance to provide for the establishment of a Board of Appeals and its powers and duties; to provide for the administration and enforcement hereof and for penalties for its violation; and to provide for the repeal of any and all ordinances inconsistent herewith.

### Section 1.3 Scope and Construction of Regulations

**1.3.1.** This Ordinance shall be liberally construed in such manner as to best implement its purpose. In interpreting and applying the provisions of this Ordinance, the requirements shall be held to be the minimum for the promotion of the public health, safety, convenience, comfort, prosperity and general welfare.

**1.3.2.** No building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed or altered, and no new use or change of use shall be made of any building, structure, land, or part thereof, except as permitted by the provisions of this Ordinance.

**1.3.3.** Where a condition imposed by a provision of this Ordinance upon the use of any lot, building, or structure is conflicting with a condition imposed by any other provision of this Ordinance, or by the provision of an ordinance adopted under any other law, the provision which is more restrictive shall govern.

**1.3.4.** Nothing within this Ordinance shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition, any part of a building or premises declared unsafe or unhealthy.

## **Section 1.4 Validity and Severability Clause**

If a court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling.

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

## **Section 1.5 Conflict with Other Laws, Regulations, and Agreements**

Where any condition imposed by any provision of this Ordinance upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable conditions imposed by any other provision of this Ordinance or by the provision of any Ordinance adopted under any other law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.

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

## **Section 1.6 Vested Right**

It is hereby expressly declared that nothing in this Ordinance be held or construed to give or grant to any person, firm, or corporation any vested right, license, privilege or permit.

## **Section 1.7 Land Use Permits**

At the time of adoption of this ordinance, the County of Sanilac Building Department issues, regulates, and enforces building permits on behalf of the Village. The Village of Lexington regulates land uses through the issuance of land use permits. All uses of land regulated by this zoning ordinance must first receive an approved land use permit except as otherwise specified herein. All land use permits expire within one year unless construction or said activity has commenced.

### **1.7.1. Land Use Permit Application**

An application for a land use permit under this ordinance shall be made to the zoning administrator or his designated agent on a form provided by the Village and shall contain or have attached thereof the following information:

1. Name, address and telephone number of the applicant and the owner if different from the applicant.
2. The address of legal description of the lot where the proposed use will occur,
3. The applicant must demonstrate proof of legal possession of the land for the proposed use.
4. A site plan showing the location of the proposed use and its relationship to all existing and proposed structures and lot lines.

5. Plans and specifications for the proposed use including the following information:
  - a. Exact dimensions including height and distance from structures and lot lines.
  - b. The type of use according to the definitions of this zoning ordinance.
  - c. A sketch of the footprint of all buildings and structures and type and amount of paving and landscaping which will appear on the property.
  - d. The materials out of which the proposed construction is to be made.

#### **1.7.2. Permit Fees**

All applications shall be accompanied by a land use permit application fee as established in the fee schedule which shall be adopted and amended from time to time by the Village Council. The permit application fee shall reimburse the Village for the costs of checking the application for compliance with the ordinance and shall reimburse the Village for the costs of necessary inspections. The land use fees do not include electrical permits or building permit fees which may be required.



## ARTICLE 2 DEFINITIONS AND RULES APPLYING TO TEXT

### Section 2.1 Rules Applying to Text

The following rules shall apply to the text and language of this Ordinance:

- 2.1.1. The particular shall control the general.
- 2.1.2. In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
- 2.1.3. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- 2.1.4. Words used in the present tense shall include the future, words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.
- 2.1.5. The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”
- 2.1.6. Any word or term not defined herein shall be used with a meaning of common or standard utilization.

### Section 2.2 Definitions

For the purpose of this Ordinance, certain words and terms are herewith defined. Illustrations of specific definitions are provided.

**100-year flood plain.** The flood plain that is inundated by a flood with a magnitude that has a 1% chance of being equaled or exceeded in any given year.

**Accessory Buildings and Structures.** A supplementary building or structure on the same lot or parcel of land as the principal building, occupied by or devoted exclusively to an accessory use.

**Accessory Use.** A use reasonably and customarily, incidental and subordinate to, the principal use of the premises.

**Adult Bookstore.** An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined. For the purposes of this definition “substantial or significant portion of stock” shall be no more than 20 sq. feet.

**Adult Foster Care Facility.** A state-licensed establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, MCL 400.701, et. seq.; MSA 16.610 (61), et. seq., as amended. The following additional definitions shall apply in the application of this Ordinance:

1. **Adult Foster Care Small Group Home:** An owner-occupied facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.
2. **Adult Foster Care Large Group Home:** A facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.
3. **Adult Foster Care Family Home:** A private residence with the approved capacity to receive six (6) or fewer adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
4. **Adult Foster Care Congregate Facility:** An adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

**Adult Live Nudity Establishments.** Any establishments which provides live entertainment for its patrons, which includes the display of nudity.

**Adult Motion Picture Theater.** An enclosed building used for presenting material distinguished by an emphasis or matter depicting, describing or relating to sexual conduct or sexual excitement.

**Adult Paraphernalia Store.** An establishment having as a substantial or significant portion of its stock, devices, object, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement. The definition of “substantial or significant portion of stock” shall be no more than 20 sq. feet.

**Adult Use.** For the purposes of this definition, Adult Use shall be defined as any of the following: Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, Live Nudity Establishment and Exotic Massage Facilities.

**Adult Video Store.** An establishment having a substantial or significant portion of its stock in trade, videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement. The definition of substantial or significant is above mentioned in letter ‘A’.

**Agribusiness Establishment.** Businesses catering exclusively to the agricultural community. They may include, but not necessarily be limited to, the commercial production, processing, packaging or sale of farm products, the sale of seed and feed and livestock auctioning, but shall not include slaughter houses or tanneries. For the purposes of this ordinance, an agribusiness shall not include an open air farmers market, as defined herein.

**Agritourism Establishment.** A farm enterprise operated for the enjoyment and education of the public that may also generate additional farm income by promoting farm products. An agritourism enterprise includes, but is not limited to: u-pick fruits and vegetable operations; educational tours; historical agricultural exhibits; educational classes, lectures and seminars; petting farms, animal display and pony rides; outdoor mazes of agricultural origin, such as straw bales or corn; wagon, sleigh and hayrides; nature trails; outdoor picnic areas; the use or rental of farm buildings for special events; and, other similar uses.

Overnight sleeping accommodations, except for a bed and breakfast, are specifically excluded from this definition.

**Alcohol Manufacturing Facilities.**

1. Brewpub: a “brewpub”, as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.
2. Micro-Brewery: an establishment of a “micro brewer”, as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.
3. Brewery: an establishment of a “brewer”, as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.
4. Small Winery: an establishment of a “small wine maker”, as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.
5. Winery: an establishment of a “wine maker”, as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.
6. Small Distillery: an establishment of a “small distiller”, as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.
7. Distillery: an establishment of a “distiller”, as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.

**Automobile Dealer.** A building or premises used primarily for the sale of new or used automobiles.

**Automobile Repair.** General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair, overall painting, and vehicle rust-proofing.

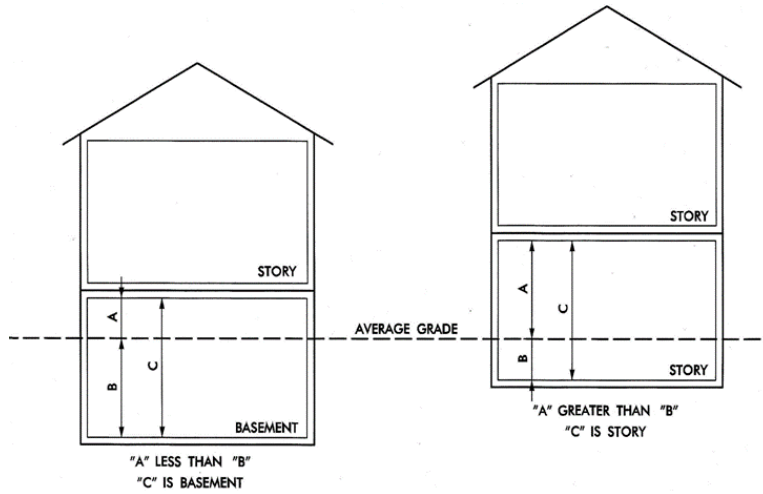
**Automobile Service Station.** A place that is used or designed to be used for the retail supply of gasoline and other fuels used for the propulsion of motor vehicles, kerosene, motor oil, lubricants or grease, including sale of accessories and services, such as: polishing, washing, cleaning, greasing, undercoating, and minor repairs, but not including bumping, painting, or refinishing thereof. In addition to automobile service, convenience stores and carry out restaurants may be included.

**Automobile Washes.** A building, or portion thereof, the primary purpose of which is that of washing vehicles either by automatic or self-service means.

**Auxiliary Parking Lot.** A parking area that is provided in excess of required parking spaces for the permitted use.

**Basement.** That portion of a building having more than one-half (1/2) of its height below finished grade (see **Figure 1**).

FIGURE 1



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

**B.F.E.** Base Flood Elevation

**Block-frontage.** One side of a street between two consecutive intersections.

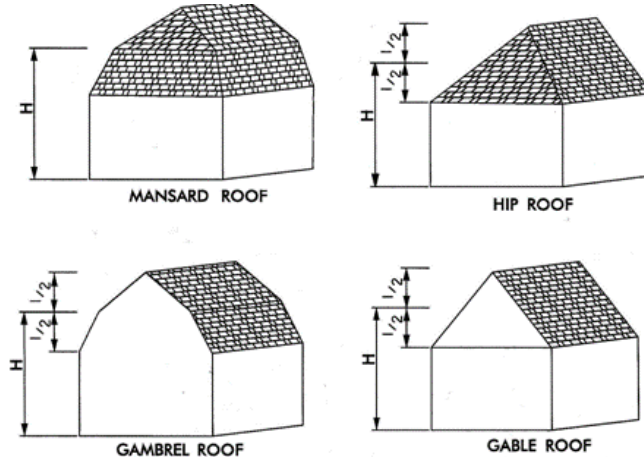
**Boarding House.** A house (often a family home) in which a lodger(s) rent one or more rooms for one or more nights.

**Building.** A structure having a roof supported by columns or walls.

**Building Code.** The currently adopted code or codes regulating building construction in the Village of Lexington.

**Building Height.** The building height is the vertical distance measured from the finished grade level to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridges of gable, hip, and gambrel roofs. Where the building may be situated on sloping terrain, this height shall be measured from the average level of the finished grade at the building wall (see Figure 2).

FIGURE 2



**Building Setback Line.** The line established by the minimum required setbacks forming the area within a lot in which a building may be located.

**Building Official.** The administrative official designated by the Village Council to enforce the Building Code.

**Campground.** A parcel of land on which more than four (4) recreational vehicles, trailer coaches, camper-trailers, tents or other types of shelter are located, used and occupied for outdoor camping and temporary living quarters for recreational, educational or vacation purposes.

**Cemetery.** One or a combination of more than one of the following:

1. A burial ground for earth interments.
2. A mausoleum for crypt entombments.
3. A crematory for the cremation for human remains.
4. A columbarium for the inurnment of cremated remains.

**Commercial Use.** The use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or personal services, and the maintenance or operation of offices.

**Convalescent or Nursing Home.** A nursing care facility, including a county medical care facility, but excluding a hospital or a facility created by Act No. 152 of the Public Acts of 1985, as amended, being Sections 36.1 to 36.12 of the Michigan Compiled Laws, which provides organized nursing care and medical treatment to seven (7) or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

**Convenience Grocery Store.** A one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). Convenience grocery stores are designed to attract a large volume of stop-and-go traffic.

**Day Care Facilities.** The following definitions shall apply in the application of this Ordinance:

1. Family Day Care Home: A state-licensed, owner-occupied private residence in which one (1) but not more than six (6) minor children are received for care and supervision for periods less than twenty-four (24) hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.
2. Group Day Care Home: A state-licensed, owner-occupied private residence in which seven (7) but not more than twelve (12) children are received for care and supervision for periods less than twenty-four (24) hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.
3. Day Care Center: A state-licensed facility, other than a private residence, receiving one (1) or more children for care and supervision for periods less than twenty-four (24) hours, and where the parents or guardians are not immediately available to the child.

**Design Review.** Process of review and approval prior to the issuance of land use permits by the Zoning Administrator and the Planning Commission of architecture renderings, building plans, exterior materials, and site plans pertaining to new construction of residential, single family dwellings proposed on cottage lots within the R-1 zone districts.

**District.** A portion of the Village within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

**Drive-through Establishment.** A business establishment so developed that its retail or service character is dependent on providing a driveway approach so as to serve patrons while in the motor vehicle rather than within a building or structure. This definition shall not include a drive-through restaurant, which is separately defined and regulated by this Ordinance.

**Dwelling.** A dwelling is a building used exclusively as a residence by not more than one (1) family but in no case shall a travel trailer, motor home, trailer coach, automobile chassis, tent or other portable building be considered a dwelling.

**Dwelling, Multiple-Family.** A building, or portion thereof, used or designed as residences for three (3) or more families living independently of each other and each doing their own cooking in the building, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling, Single-Family.** A detached building designed for, or occupied exclusively by, one (1) family, and containing one (1) dwelling unit only.

**Dwelling, Stacked.** A dwelling where units are stacked above each other such as lofts.

**Dwelling, Townhouse.** A self-contained single dwelling unit attached to a similar single dwelling unit with party or common walls, designed as part of a series of three (3) or more dwelling units, each with: a separate entryway with direct access to the outdoors at ground level, a separate basement, a separate garage, separate utility connections and defined front yards. Townhouses may also be known as attached single-family dwelling units, row houses, clustered single family dwellings or stack ranches. Any three (3) or more attached dwellings not meeting the above criteria shall be considered a multiple-family dwelling.

**Dwelling, Two-Family.** A building consisting of two (2) dwellings.

**Easement.** The right of an owner of property by reason of such ownership, to use the property of another for purposes of ingress, egress, utilities, drainage and similar uses.

**Essential Services.** Services that are erected, constructed, altered, or maintained by public utilities or municipal agencies of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, poles, and other similar equipment or accessories reasonably in connection therewith for the furnishing of adequate service by such public utilities or municipal agencies.

**Extractive Operation.** Premises from which any rock, gravel, sand, topsoil or earth in excess of fifty (50) cubic yards in any calendar year is excavated or removed for the purpose of disposition away from the premises except excavation in connection with the construction of a building or within public highway rights-of-way.

**Family.** An individual or a group of two (2) or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one (1) additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or

A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single non-commercial housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association,

lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

**FEMA.** Federal Emergency Management Agency.

**Fence.** A permanent or temporary barrier enclosing or bordering a plot of land or portion thereof composed of suitable man-made materials for the purpose of preventing or controlling entrance or to confine within or to mark boundary.

**Flea Market.** Sale activity held within a building, structure or an open area where groups of individual sellers offer goods, new and/or used for sale to the public, not to include private garage sales or rummage sales.

**Floor Area.** The sum of the gross horizontal areas of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings.

**Floor Area Ratio (FAR).** Ratio of total floor area of the home compared to the lot area, not including spaces below grade and accessory structures. (Ex. FAR = .5 and lot area = 10,000: 10,000 sq. ft. x .5 = 5,000 sq. ft. max floor area).

**Garage.** A structure which is accessory to a principal residential dwelling and which is used for the parking and storage of vehicles owned and operated by the residents thereof.

**Grade.** The degree of rise or descent of a sloping surface.

**Grade, Finished.** The final elevation of the ground surface after development.

**Grade, Natural.** The elevation of the ground surface in its natural state, before man-made alternations.

**Hardship, Unnecessary.** An unnecessary hardship is governed by the four following rules. An applicant's personal hardship that does not relate to the land is not sufficient to support a variance.

1. Unnecessary hardship is a circumstance of a property owner's land such that if used in strict compliance with the zoning ordinance, the property cannot yield a reasonable return (not "the owner's greatest desired return").
2. Furthermore, an unnecessary hardship must be unique, and not a condition that prevails generally throughout the zoning district. (Unique: A situation having no like or equal, highly unusual, extraordinary or rare.)
3. The owner must also establish that the use of the property will not change the character of the neighborhood if the variance is granted.
4. The circumstance of the asserted hardship must not be self-created.

**Home Occupation.** An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**Housing for the Elderly.** A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons sixty-two (62) years of age or older, or couples where either spouse is sixty-two (62) years of age or older. This does not include an adult foster care facility, home for the aged, or nursing home.



**IGLD 85.** International Great Lakes Datum of 1985.

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

**Kennel.** A kennel is any place or premise where three (3) or more adult dogs, cats, or other domestic pets are maintained, boarded, bred, or cared for in return for remuneration, or are kept for the purpose of sale.

**Landscaping.** The following definitions shall apply in the application of this Ordinance:

1. **Berm:** A landscaped mound of earth which blends with the surrounding terrain.
2. **Buffer:** A landscaped area composed of living material, wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of land uses.
3. **Conflicting non-residential land use:** Any non-residential use, such as office, commercial, industrial, research, parking or public road right-of-way land use which abuts a residential land use.
4. **Conflicting residential use:** Any residential land use developed at a higher density which abuts a residential land use developed at a lower density.
5. **Greenbelt:** A landscaped area, established at a depth of the minimum required front yard setback within a Zoning District, which is intended to provide a transition between a public road right-of-way and an existing or proposed land use and/or between a conflicting land use and an existing or proposed land use.
6. **Opacity:** The state of being impervious to sight.
7. **Plant material:** A collection of living evergreen and/or deciduous, woody-stemmed trees, shrubs, vines and ground cover.

**Living Quarters.** A building or area in a building designed as an abode distinguished with kitchen facilities that compliment sleeping facilities.

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

**Lodging Facility.** Any establishment in which individual units are rented to transients for periods of less than thirty (30) days for the purpose of sleeping accommodations. The term shall include hotels and motels but shall not include bed and breakfast operations, multiple-family dwellings or rooming houses.

**Lot.** Parcel of land, excluding any portion in a street or other right-of-way, of at least sufficient size to meet minimum requirements for use, coverage, lot area, and to provide such yards and other open spaces as herein required. Such lot shall have frontage on a public street, or on an approved private street, and may consist of:

1. A single lot of record;
2. A portion of a lot of record;



3. Any combination of complete and/or portions of lots of record;
4. A parcel of land described by metes and bounds.

**Lot Area.** The total horizontal area within the lot lines of a lot, but excluding that portion within a street right-of-way.

**Lot, Corner.** A lot with frontage on two intersecting streets. (See **Figure 3**)

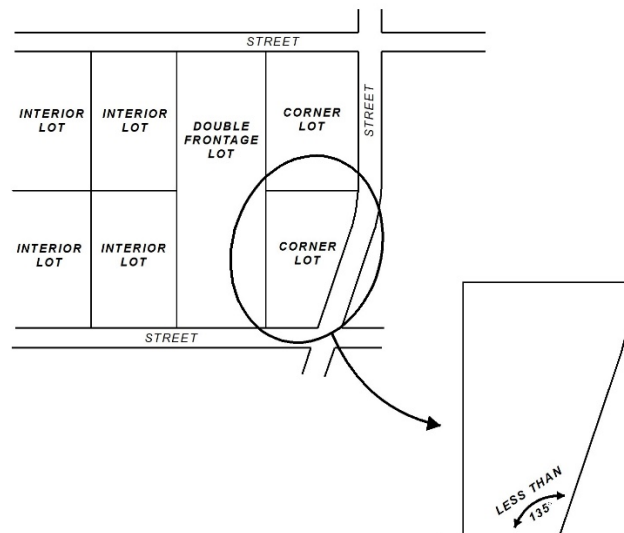
**Lot, Cottage.** A lot of record in a R-1 single family residential zone that is smaller in area or width than the requirements of the zone that it occupies. The lot must have existed prior to January 1, 2017. Cottage lots are exempt from all provisions of Article 10, the non-conformity article, of this ordinance.

**Lot Coverage.** The percentage of the lot area covered by the building area.

**Lot Depth.** The mean horizontal distance from the front line to the rear lot line; or in the case of a waterfront lot, from the lake frontage line to the street frontage line; or in the case of an acreage lot, from the front right-of-way line to the rear lot line.

**Lot, Double Frontage.** A lot other than a corner lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, one (1) street will be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing structures in the same block fronting one or both of the streets, the required front yard setback shall be observed on those streets where structures presently front. (See **Figure 3**)

**FIGURE 3**



**Lot, Interior.** An interior lot is a lot other than a corner lot with only one (1) lot line fronting on a street.

**Lot, Width.** The required horizontal distance between the side lot lines measured at the two (2) points where the required front yard setback line intersects the side lot lines. For lots located on the turning circle of a cul-de-sac, the lot width may be reduced to eighty (80%) percent of the required lot width.

**Lot Lines.** Any line dividing one lot from another or from a public right-of-way, and thus constitutes the property lines bounding a lot.

**Lot of Record.** A lot of record is a lot, the dimensions of which are shown on a subdivision plat recorded in the Office of the Register of Deeds for Sanilac County, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a Professional Engineer or Registered Surveyor, so designated by the State of Michigan, and said description so recorded or on file with the County.

**Manufactured Home.** A mass-produced structure, (premanufactured, prefabricated, modular, or mobile home), transportable in one (1) or more sections, that may be built on a chassis, designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems, and assembled at other than the final location of the unit of the building or structures by a repetitive process under circumstances intended to insure uniformity of quality and material content. Said structures to be built to either the Michigan State Construction Code Act of 1972, as amended, (MCL 125.1501-1536) and/or the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5426). For the purposes of this Ordinance, a manufactured home shall be considered and regulated as a mobile home.

**Manufacturing.** The use of land, buildings or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing or storing or adapting for sale or other use of any goods, substance, article, thing or service.

**Maximum Lot Coverage.** Total permitted area of a lot that is not open space due to structures built on the land. Structures such as principal buildings, garages, accessory buildings, decks, porches, and parking lots are counted. Ground covering such as residential driveways, gazebos, yard ornaments and signs are not counted.

**MDEQ.** Former Michigan Department of Environmental Quality, now known as the Michigan Department of Environment, Great Lakes, and Energy.

**Mezzanine.** Is an intermediate floor in any story occupying but not to exceed more than one-third (1/3) of the floor area of such story.

**Mobile Home.** A detached portable single-family dwelling, prefabricated on its own chassis and intended for long-term occupancy. The unit contains sleeping accommodations, a flush toilet, a wash basin, a tub or shower, eating and living quarters. It is designed to be transported on its own wheels or flatbed arriving at the site where it is to be occupied as a complete dwelling without permanent foundation and connected to existing utilities.

**Mobile Home Park.** Any parcel of land intended and designed to accommodate more than one (1) mobile home or manufactured home for living use which is offered to the public for that purpose; and any structure, facility, area, or equipment used or intended for use incidental to that living use.

**Native Vegetation.** An indigenous plant that occurs naturally in a particular ecosystem. See OURS TO PROTECT, Natural Features Inventory and Natural Landscaping Recommendations for Lexington's Public Lakefronts. A project of the Village of Lexington Environmental Committee, 2012. General Resource Guide available for review at the Lexington Village Office, 7227 Huron Ave. Suite 100, Lexington Mi.

**NAVD 88.** North American Vertical Datum of 1988.

**Non-Conforming Building.** A non-conforming building is a building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the provisions of the Ordinance in the zoning district in which it is located.

**Non-Conforming Use.** A non-conforming use is a use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the zoning district in which it is located.

**Nursery, Greenhouse or Garden Center.** A building or structure, and lands associated therewith, for the growing of flowers, fruits, vegetables, plants, shrubs, trees, or similar vegetation together with gardening tools and implements which are sold at retail from such building or lot to the general public.

**Off-Street Parking Area.** A land surface or 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) automobiles.

**OHWM.** Ordinary High Water Mark.

**Open Air 'Farmers Market'.** A 'Farm Market' is defined as an open air market within the Village of Lexington. The Farm Market is required to be permitted by the Village and is limited in days and times as provided by the rules, fees and conditions as prescribed by the Village Council. Retail sales may include;

1. Retail fruits, vegetables and perishable foods.
2. Retail sale of trees, shrubbery, flowers, seeds, bulbs, topsoil and organic fertilizer.
3. Home baked goods such as pies, bread, cookies and cakes.
4. Canned pickles, fruit and vegetables
5. The products listed in #3 and #4 shall be compliant with the rules of the Sanilac County Health Department (SCHD) and be labeled appropriately.
6. Wine – Local wine makers may offer samples; sell their product providing they display a permit from MLCC (Michigan Liquor Control Commission) and are in compliance with SB 79 of 2013.

**Ordinary High Water Mark.** The line of the shore established by fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character soil, destruction of terrestrial vegetation, the presence of litter and debris or other appropriate mean that consider the characteristics of the surrounding areas.

**Parking Space.** One (1) unit of a parking area provided for the parking of one (1) vehicle, and shall be exclusive of driveways, aisles, or entrances giving access thereto and shall be fully accessible for the storage or parking of permitted vehicles.

**Principal Building or Structure.** The main building or structure in which the primary use is conducted.

**Public Utility.** Any person, firm, corporation, or municipal agency authorized under Federal, State, County or municipal regulations to furnish electricity, gas, communications, transportation, water, or sewer services.

**Recreational Vehicle.** "Recreational Vehicles" shall include the following:

1. Boats and Boat Trailers: "Boats" and "boat trailers" shall include boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
2. Folding Tent Trailer: A canvas folding structure, mounted on wheels and designed for travel and vacation use.

3. **Motor Home:** A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.
4. **Other Recreational Equipment:** Other recreational equipment includes snowmobiles, all-terrain or special terrain vehicles, utility trailers, plus the normal equipment to transport them on the highway.
5. **Pickup Camper:** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
6. **Travel Trailer:** A portable vehicle on a chassis, not exceeding thirty-six (36) feet in length or nine (9) feet in width, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.

**Restaurant.** A restaurant is any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, sit down restaurant, or bar/lounge, or combination thereof, as defined below.

1. **Restaurant, Carry-Out:** A carry-out restaurant is a restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
2. **Restaurant, Drive-in:** A restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages, or other food served directly to or permitted to be consumed by patrons in cars or other vehicles parked on the premises, or permitted to be consumed by patrons elsewhere on the site outside the main building.
3. **Restaurant, Drive-through:** A restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a window, permitting the customer to remain in its vehicle, for consumption primarily off the premises.
4. **Restaurant, Fast Food:** A fast food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside or outside of the structure, or for consumption off the premises, but not in a motor vehicle at the site.
5. **Restaurant, Sit Down:** A sit down restaurant is a restaurant whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.
6. **Bar/Lounge:** A bar or lounge is a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

**Right-of-Way.** A legal right of passage over real property typically associated with roads and railroads.

**Rooming House.** A dwelling in which more than three (3) persons either individually or as families are housed or lodged for hire without meals.

**Screen.** A structure providing enclosure, such as a fence, and/or visual barrier between the area enclosed and the adjacent property. A screen may also consist of living materials such as trees and shrubs.

**Seasonal Parking Lot.** A parking area designed to service a limited, defined group of users less than six (6) months per year during the non-winter months.

**Senior Assisted Living.** A type of semi independent housing facility for senior citizens containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.

**Senior Independent Living.** Typically multiple-family dwelling units occupied by persons 55 years of age or older. Units will include individual kitchen facilities; however, common dining and community facilities may be provided.

**Setback.** The minimum required horizontal distance between the building or structure and the front, side, and rear lot lines and natural features.

**Shopping Center.** More than one (1) commercial establishment, planned, developed, owned, and managed as a unit, with off-street parking provided on the property.

**Short term rental.** The rental of a residential dwelling or a portion of a dwelling for lodging for compensation (including but not limited to financial and monetary exchanges, barter, borrow, care or similar compensation) for a term of less than 30 days at least three (3) times per year.

**Sidewalk Café.** A designated outdoor space operated by a street-level restaurant establishment, which is located on or adjacent to the site of such establishment and which is used exclusively for dining and drinking.

**Sign.** A device which is affixed to, or otherwise located or set upon a building, structure or parcel of land which directs attention to an activity, or business. The definition includes interior signs which are directed at persons outside the premises of the sign owners and exterior signs, but not signs primarily directed at persons within the premises of the sign owner. The definition does not include goods for sale displayed in a business window. The following additional definitions are provided.

1. **Accessory sign:** A sign which is incidental and subordinate to the principal identification of a business, commodity, profession, activity, attraction or service.
2. **Awning:** A structure made of cloth, canvas, metal, plastic or other material that serves as a shelter, decoration or advertisement as over a storefront, window, door or deck which projects beyond the face of the building. An awning by itself is not a sign. An awning with lettering, a logo or some form of advertising display is considered to be a sign.
3. **Banner:** A sign intended to be hung either with or without a frame, possessing characters, lettering or ornamentations applied to paper, plastic or fabric of any kind including flags, streamers, emblems and insignias which are displayed for non-commercial purposes.
4. **Bulletin Board:** A sign containing a surface upon which is displayed the name of a religious institution, school, library, community center or similar institutional or community service use, and the announcement of its services or activities.
5. **Canopy:** A structure other than an awning made of cloth, plastic, metal or material framing affixed to a building and carried by a frame which is supported by the ground.

6. Canopy Sign: A sign displayed and affixed flat on the surface of a canopy and which does not extend vertically or horizontally beyond the limits off the canopy.
7. Changeable Copy Signs: A sign on which the copy or symbols change either automatically through electronic means or manually through placement of letters or symbols on a panel mounted on a track system.
8. Digital displays: The portion of a sign message made up of internally illuminated components capable of changing the message periodically. Digital displays include, for example, LCD, LED, and plasma displays.
9. Display Surface Area: The net geometric area enclosed by the display surface of the sign, including the outer extremities of all letters and characters: provided, however, 'display surface area' shall not include the structural supports for free standing signs: Only one face of a double faced sign shall be considered in determining the display surface area.
10. External Illumination: Illumination of a sign which is affected by an artificial source of light which is not contained within the sign itself.
11. Feather Flag Sign: A sign with or without characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing. Feather flag signs are generally a single sign attached to a support post and typically having a dimensional ratio of at least 4 high to 1 wide. Such signs are also known as tear drop flags, windfeather flags, flutter signs, or bow flags.
12. Flashing Signs: A sign whose artificial illumination is not kept constant in intensity at all times when in use and which exhibits changes in light, color, direction or animation.
13. Free Standing/Ground Sign: A sign which is not attached to any part of a building or structure. The supported structure of the sign shall be set firmly in or below the ground surface and shall not be attached to any other structure. A pole sign is a ground sign. A billboard is not considered a ground sign.
14. Illuminated Sign: Any sign which has characters, letters, figures, designs or outlines illuminated by an electric light or luminous tubes as part of the sign proper. An LED or digital sign is a type of illuminated sign.
15. Interactive Signs: An electronic or animated sign that reacts to the behavior or electronic signals of automobiles.
16. Marquee: A sign on a marquee which is a roof-like structure, often meant to bear a signboard, projecting over an entrance, such as to a theater.
17. Mechanical Movement signs: A sign having parts that physically move rather than merely appear to move (as might be found in a digital display).
18. Murals: A large picture or art work painted on or affixed on a wall.
19. Nameplate Sign: An accessory sign stating a name, a street or street number, a person, a firm, a building or institution of a certain permitted use.
20. Non-accessory Sign (Off-premises sign, billboard): A sign which advertises goods, services, facilities, events or attractions not on the premises where located and does not pertain to the principal use of the premises.

21. **Non-Conforming Sign:** A sign existing at the effective date of the adoption of this section which could not be built under the terms of this chapter. A sign which does not adhere to one (1) or more of the provisions in this ordinance.
22. **Permanent Sign:** Any sign which is not portable or temporary and is affixed to a building, a structure or anchored in the ground.
23. **Portable Sign:** Any sign that is designed to be transported, including, but not limited to signs:
  - a. With wheels removed.
  - b. With chassis or support constructed without wheels.
  - c. Designed to be transported by trailer or on wheels.
  - d. Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related businesses when the vehicle is being used in the normal day to day operations of that business.
  - e. Attached temporarily to 'A' or 'T' frames.
  - f. Attached temporarily to the ground, a structure or another sign.
  - g. Search light stands, and
  - h. Inflatable balloons, characters or umbrellas used for advertising.
24. **Projecting Sign:** Any sign affixed to a building or structure at an angle or perpendicular to the wall it is attached to. A projecting sign may also be a sign that is affixed to a wall and projects past the building's exterior wall or roofline.
25. **Real Estate Sign:** A temporary sign placed upon property for the purpose of advertising to the public the sale or lease of said property.
26. **Roof Sign:** Any sign wholly erected to, constructed/or maintained on the roof structure of any building.
27. **Sandwich Board Sign:** A temporary sign designed in an A-frame fashion, having back-to-back sign faces to identify businesses, and not permanently attached to the ground, building or other structure.
28. **Sign Surface:** That part of the sign upon, against, or through which the message is displayed or illustrated.
29. **Temporary Sign:** A non-permanent sign erected, affixed or maintained on a premises for a short, usually fixed period of time.
30. **Wall Sign:** A sign which is affixed parallel to the wall or printed on the wall of any building. For the purposes of this section any sign which is affixed to the sloping surface of a mansard roof, an awning and signs affixed to a building face marquee or a canopy shall be considered a wall sign. Further, portions of murals shall be considered wall signs if they include specific services, goods or products, or a representation of the types of services, goods or products provided. No portion of the mural may include advertisement of services, goods or products that are off-premises.
31. **Window Sign:** A sign installed inside a window and intended to be viewed from the outside.

**Site Condominium.** A condominium development containing residential, commercial, office, industrial, or other structures or improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be



constructed, herein defined as a condominium unit, as described in the master deed. The following additional definitions are provided:

1. **Condominium Act:** Act 59, Public Acts of 1978, as amended.
2. **Condominium Documents:** The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.
3. **Condominium Lot:** The condominium unit and the contiguous limited common element surrounding the condominium unit, which shall be the counterpart of "lot" as used in connection with a project developed under the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended.
4. **Condominium Unit:** The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.
5. **General Common Elements:** The common elements other than the limited common elements.
6. **Limited Common Elements:** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.
7. **Master Deed:** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by Section 8 of the Condominium Act.

**Special Land Use.** A use which typically exhibits certain characteristics related to its operation or installation, such as noise, traffic, odor, hours of operation, etc., which may not in all circumstances be compatible with other uses in the zoning district in which it is permitted and, as a result, is subject to a special review process and requirements or conditions not applicable to other uses in the same zoning district.

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

**Story, One-Half.** A story under the gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story and the floor area shall not exceed two-thirds (2/3) of the area of the floor below.

**Street.** A public or private thoroughfare which affords the principal means of access to abutting property.

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

**Structure.** Anything constructed or erected above ground level or which is attached to something located on the ground. Structures typically include such things as buildings, amateur radio towers, sheds, and decks.

**USACE.** United States Army Corps of Engineers.

**Veterinary Office or Hospital.** An institution which is licensed by the Michigan Department of Health to provide for the care, diagnosis, and treatment of sick or injured animals, including those in need of medical or surgical attention. A veterinary office or hospital may include customary pens or cages for the overnight boarding of animals and such related facilities as laboratories, testing services, and offices.

**Wireless Communication Facilities.** Transmitters, antenna structures, towers and other types of equipment necessary for providing wireless communication services and all commercial mobile services, including all



those that are available to the public (for-profit or not-for-profit) which give subscribers the ability to access or receive calls from the public switched telephone network. Not included within this definition are: citizen band radio facilities; short wave facilities; ham amateur radio facilities; satellite dishes; and, governmental facilities which may be subject to state or federal law or regulations which preempt municipal regulatory authority. For purposes of this Ordinance, the following additional terms are defined:

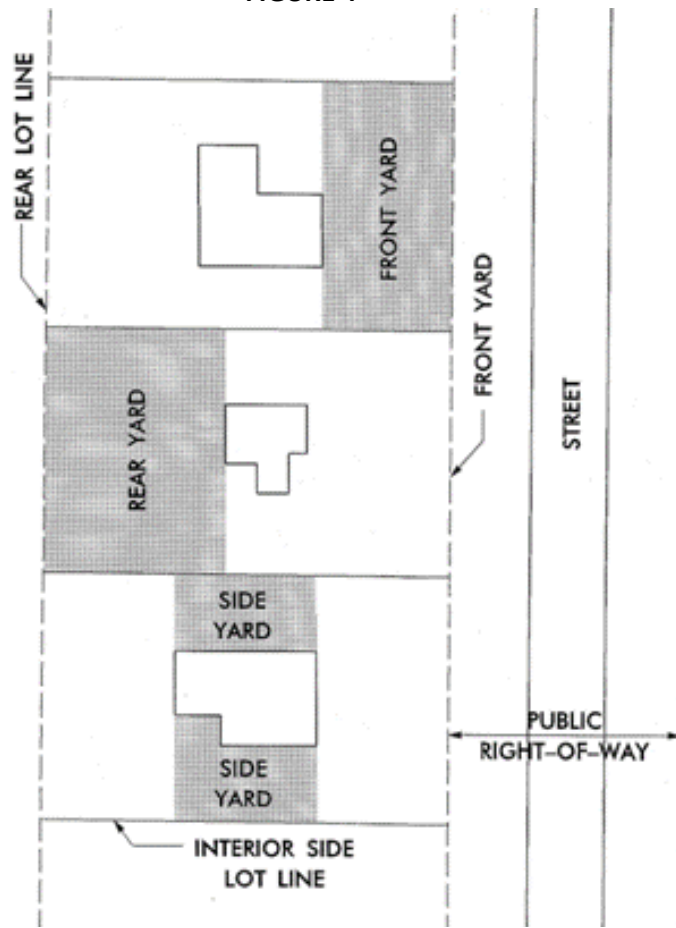
1. **Equipment Compound.** An area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.
2. **Wireless Communications Equipment (WCE).** The set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.
3. **Wireless Communication Support Structures (WCSS).** A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.
4. **Collocation.** To place or install wireless communications equipment on an existing wireless communications support structure or in an existing wireless communication equipment compound. Collocate has a corresponding meaning.

**Yard, Front.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the principal building and the front lot line, and measured perpendicular to the building at the closest point to the front lot line. In all cases, the front lot line shall be considered to be that portion of the lot which abuts a public road right-of-way, private road easement or shoreline (see **Figure 4**).

**Yard, Rear.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building (see **Figure 4**).

**Yard, Side.** A yard between any building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest point of principal building (see **Figure 4**).

FIGURE 4



## ARTICLE 3 ADMINISTRATION AND ENFORCEMENT

### **Section 3.1 Zoning Administration**

The Zoning Administrator, or his/her designees, shall be appointed by the village council and designated to administer and enforce the provisions of this Ordinance.

### **Section 3.2 Duties**

The Zoning Administrator Shall:

- 3.2.1.** Receive and review for completeness all applications for site plan review and special land use permits which the Planning Commission is required to decide under this ordinance and refer such applications to the Planning Commission for determination.
- 3.2.2.** Receive and review for completeness all applications for appeals, variances, or other matters which the Zoning Board of Appeals is required to decide under this Ordinance and refer such applications to the Zoning Board of Appeals for determination.
- 3.2.3.** Receive and review for completeness all applications for amendments to this Ordinance and refer such applications to the Planning Commission and Village Council for determination.
- 3.2.4.** Review applications and site plans, make site inspection, and issue land use permits for residential (R-1 AND MHP) and commercial (C-MU, G-MU, GC AND CBD) districts. Commercial Applications are limited to signs, parking, fences, accessory buildings, new business registration, demolition, additions/alterations/remodeling of less than 25% of the existing principal building, and other limited uses as authorized by this ordinance.
- 3.2.5.** Make periodic site inspections of the Village to determine Ordinance compliance, and answer complaints on Zoning Ordinance violations.
- 3.2.6.** Shall, after determining a violation of the Ordinance, revoke the LUP. Violations determined after the completion of the LUP permit shall be notified by mail and given ten (10) days to comply. Failure to comply with the ordinance shall result in a ticket issued or served by the Zoning Administrator or Village Police Department. Any person who violates this Ordinance or fails to comply with any of the requirements of this Ordinance shall be fined pursuant to the Civil Infraction Schedule as established in the Village and shall be required to pay all costs and expenses incurred by the Village in prosecuting the violator. The owner of record of real property, a tenant on any real property, and any builder, architect, contractor or agent or person who commits, participates in, assists in, or maintains such violation may be found responsible of a separate offence and the penalties herein provided. The imposition of any fine, and/or cost shall not exempt or relieve the violator(s) from compliance with the provisions of this Ordinance.
- 3.2.7.** Implement the decisions of the Planning Commission and Village Council.

## Section 3.3 Special Land Uses

### 3.3.1. Application

Applications for special land use permits authorized in this Ordinance shall be submitted to the Zoning Administrator on a form provided by the Village. In addition to a complete application form, the applicant is required to submit a preliminary site plan prepared in accordance with Section 3.4 Site Plan Review.

### 3.3.2. Procedures

1. Special land use permits may be granted by the Planning Commission at its discretion.
2. The Zoning Administrator shall review the proposed application and preliminary site plan to determine if all required information has been supplied, and forward the completed application, preliminary site plan, and supporting data to the Planning Commission for a recommendation.
3. Upon receipt of a completed application for special land use, a public hearing shall be held by the Planning Commission with advance notice provided in accordance with the requirements of Section 103 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
4. After the public hearing, the Planning Commission may deny, approve, or approve with conditions a request for a special land use. The decision of the Planning Commission shall be incorporated in a statement of conclusions relative to the special land use under consideration. Any decision which denies a request or imposes conditions upon its approval shall specify the basis for the denial or the conditions imposed.

The Planning Commission may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the purposes of this Ordinance and the general spirit and purpose of the district in which the special land use is proposed will be observed.

### 3.3.3. Basis of Determinations

The Planning Commission shall review the proposed special land use in terms of the standards states within this Ordinance and shall establish that such use and the proposed location:

1. Will be harmonious and in accordance with the general objectives or any specific objectives of the Master Plan.
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.
3. Will not be hazardous or disturbing to existing uses or uses reasonably anticipated in the future.
4. Will be an improvement in relation to property in the immediate vicinity and to the Village as a whole.
5. Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.
6. Will not create excessive additional public costs and will not be detrimental to the economic welfare of the Village.

7. Will be consistent with the intent and purposes of this Ordinance in general, and Section 3.4.4.(3), Standards for Review of site plans in particular.

#### **3.3.4. Duration, Voiding, and Extensions of Permit**

Unless otherwise specified by the Planning Commission, any special land use permit (SLU) granted under this section shall be null and void unless the development proposed shall have its first building permit issued within one (1) year from the date of the granting of the permit. The Zoning Administrator shall give notice by certified mail to the holder of a permit two (2) months before voidance is actually declared. Said notice shall be mailed to the permit holder at the address indicated on said permit. A six (6) month extension may be approved by the Village Zoning Administrator if a written request is submitted no less than one (1) month prior to the one-year expiration date. The applicant must describe in detail the reasoning for the delay. Only one (1) extension will be granted for good cause for a period no to exceed one (1) year.

Good Cause shall be defined as: The loss of the primary contractor, severe weather-related delays, loss of financial backing and/or debilitating illness or death of the primary landowner to his/her immediate family.

The Zoning Administrator may suspend or revoke a SLU permit issued under the provisions of this Ordinance whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent and is in violation of any of the provisions of this Ordinance or of any other ordinances or regulations of the Village.

#### **3.3.5. Reapplication**

No application for a special land use permit, which has been denied wholly or in part, shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or change of conditions found to be sufficient to justify reconsideration by the Planning Commission.

### **Section 3.4 Site Plan Review**

The Planning Commission shall have the authority to review and to approve or reject all site plans (i.e. preliminary, final and combined site plans). Prior to the issuance of land use permits, building permits or commencement of construction, a site plan review and approval is required in accordance with the procedures contained in this section.

#### **3.4.1. Where required.**

1. Site plan review is required for all new construction of any nonresidential building or structure on any parcel and for any new residential development (single-family, two-family or multiple-family). All such construction or developments shall be consistent with the purpose of this Ordinance as presented in Section 1.2 of this Ordinance.
2. Site plan review is required for all proposed uses and certain existing uses within the Village where an alteration, addition, expansion, change or conversion constitutes an increase or reduction to the existing structure or use of more than five hundred (500) square feet or ten (10%) percent, whichever is less; or would require a variance from the provisions of this Ordinance, regardless of its size, or if there is a change of use from the existing use. Site plan review shall also be required prior to the paving of any

off-street parking for any use for which off-street parking is required by this Ordinance, or for the construction of new parking lots or driveways.

3. A full site plan reviewed and approved by the Planning Commission shall not be required for individual single-family dwellings, or residential accessory storage or garages. However, a site plan shall accompany a land use application to be reviewed and approved by the Zoning Administrator to ensure such improvements meet all of the requirements of this ordinance.
4. Design Review for Cottage Lots. In the case of additions to or new construction of a single family residential dwelling, garage, accessory buildings, decks or porches on a cottage lot as defined and deemed a legal lot of record, a design review shall be completed by the Zoning Administrator and the Planning Commission in accordance with the following procedures:
  - a. Applicant shall provide a residential site plan for design review that includes, but may not be limited to:
    - i. A current Boundary Survey depicting lot lines, easements and required setbacks.
    - ii. A site map that depicts footprint and dimensions of proposed dwelling, proposed setbacks, lot coverage/floor area ratio, location, dimension and construction material of sidewalks, driveway/parking, accessory buildings, water and sewer lines, fences or other screening materials (proposed and existing) and location and setbacks of adjacent buildings.
    - iii. Architectural renderings and building plans for residential dwelling and accessory building that indicate square footage, structural dimensions (including roof heights, access points, steps, porches, chimney, overhangs or similar features), exterior materials and related amenities.
    - iv. Landscaping or other elements, unique topography or natural features for consideration.
  - b. The Zoning Administrator shall conduct a design review of the residential site plan proposal and upon receipt of a proposal which is complete shall forward same to the Planning Commission for design review and consideration for approval at the next scheduled Planning Commission meeting. Time for public comment will be scheduled at the Planning Commission's scheduled meeting. Public notification will be made through the Planning Commission Agenda and posted at the Village hall and other normal posting locations. Both in person and written public comments will be permitted at the Planning Commission meeting.
  - c. Basis of Determination. The Zoning Administrator and Planning Commission shall review the design and site plan and consider the following criteria:
    - i. The site is properly zoned and its development as a residential dwelling will not create a hazardous condition or detriment to the general health and safety of the surrounding properties.
    - ii. The proposed structure's form, placement on the lot, overall size and floor area ratio, dimensions, setbacks, architectural design and exterior building materials are similar, compatible and complimentary in style with the majority of existing residential dwellings within a 300 foot radius of the site.

- iii. The site will be supported by infrastructure, including but not limited to municipal water, sewer, drainage and easements (both private and public) in accordance with local, state and federal codes and ordinances.
  - d. Zoning ordinance requirements regarding access, parking, setbacks, fire codes, line of sight, landscaping and related ordinances are met so as not to unfairly impose upon implied property rights, existing privacy, and safe access of neighboring properties.
  - e. The Planning Commission after conducting the design review may deny, approve, or approve with modifications the design review and issue such decision in writing to the applicant.
- 5. The Village shall not issue a land use permit until a final site plan has been approved and is in effect. A use, not involving a building or structure, shall not be commenced or expanded, nor shall the Zoning Administrator or their designee issue a land use permit for such use until a final site plan has been approved and is in effect.
- 6. No grading, removal of trees or other vegetation, land filling or construction of improvements shall commence for any development which requires site plan approval until a final site plan is approved and is in effect, except as otherwise provided in this Article.
- 7. In Commercial, Industrial and Multi-family developments a landscape plan is required. The plan shall accompany both the preliminary and the final site plan and be approved.

#### **3.4.2. Administrative Review**

1. Intent. The intent of this section is to permit the submittal of a sketch plan for administrative review in certain specific instances where a complete site plan is not considered essential to ensure compliance with the intent and standards of this ordinance. The intent is to also provide for an administrative review by the Zoning Administrator of Planning Commission approved site plans for compliance with conditions as imposed by the Planning Commission.
2. Applicability. In lieu of a complete site plan prepared in accordance with Sections 3.4.3 and 3.4.4, a sketch plan may be submitted for the uses or activities identified below.
  - a. Accessory uses incidental to a conforming existing use where said use does not require any variance or further site modifications.
  - b. Expansion and/or addition of one thousand five hundred (1,500) square feet or less to an existing conforming structure or use.
  - c. Alterations to off-street parking layout or installation of pavement or curbing improvements provided the total number of spaces does not change the number of parking spaces by more than 5% or to meet various federal, state, or ADA requirements.
  - d. Improvements or installation of walls, fences, lighting or trash containers/enclosures.
  - e. Change of use limited to a use not exceeding one thousand five hundred (1,500) square feet.
3. Procedure.
  - a. The procedure for administrative approval of a sketch plan shall involve the submittal of a sketch plan meeting the requirements of subsection 4, below. Additionally, the required application form and fee shall be submitted. The Zoning Administrator shall review the sketch plan in accordance with the standards of Section 3.4.4,(3). The Zoning Administrator shall make a report of administrative reviews to the Planning Commission.

- b. The Zoning Administrator retains the option to require additional information or a complete site plan for review by the Planning Commission, particularly for sites which do not comply with previously approved site plans, sites with parking deficiencies, sites abutting residential districts or sites experiencing problems with drainage, traffic, noise, aesthetics or other general health and safety issues. If a complete site plan is required, the Zoning Administrator shall inform the applicant to submit a set of plans in accordance with this Section within 14 days of receipt of the application. The Zoning Administrator shall also have authority to refer any site plan eligible for administrative review to any consultants employed by the Village for the purposes of site plan review.
4. Information Required. The following information shall be required to be provided on a sketch plan for administrative review:
  - a. Proprietors', applicants', and owners' names, addresses and telephone numbers.
  - b. Location map with north point indicated.
  - c. Details of the proposed changes to the use or structure in question.
  - d. Locations of existing landscaping, lighting, parking, refuse collection, and other information pertinent to the project or necessary to determine compliance with Ordinance requirements.
  - e. Gross acreage and building figures.
  - f. Zoning classification of petitioners' parcel and all abutting parcels.

### **3.4.3. Preliminary Site Plan**

1. Application. Any applicant may submit a request for preliminary site plan review by filing with the Zoning Administrator completed forms, payment of the review fee, and ten (10) copies of the preliminary site plan drawing(s). The Administrator, upon receipt of the application, shall transmit only complete submittals of the preliminary site plan drawings to the Planning Commission prior to its next regular meeting. The purpose of such preliminary review is to confirm general compliance with Village standards as well as to suggest changes, if necessary, for final site plan approval.

Preliminary and/or final site plan review materials shall also be provided to the DPW, Police and Fire departments for their comment. All comments shall become a part of the site plan review documents and be contained in material packets provided to the Planning Commission prior to the site plan review.
2. Information Required. Each preliminary site plan submitted for review shall provide the following information:
  - a. property owners and applicant's name and address;
  - b. scale, north arrow, and date of plan;
  - c. location, description, dimensions, and area of the site; zoning classification; and, demonstration of compliance with lot area, width, coverage and setback requirements.
  - d. general topography and soils information and existing natural and man-made features to be retained or removed;
  - e. location and dimensions of proposed buildings/structures; including floor area, number of floors, height, number and type of dwelling units (where applicable);



- f. proposed streets/drives; including general alignment, right of way, surface type, and width to be consistent with adjacent streets and drives and the expansion of advancement of the purpose of the traditional town plan;
  - g. proposed parking; including location and dimensions of spaces and aisles, and surface type;
  - h. adjacent land uses, property owners, and zoning and location of adjacent buildings and drives/streets;
  - i. proposed phasing;
  - j. location and width of any easements on the site.
3. Planning Commission Action. The Planning Commission may approve, approve with conditions or deny the preliminary site plan within sixty (60) days from the date of the Planning Commission meeting at which the site plan is first heard. The Planning Commission shall set forth the reason for its action in the record of the meeting at which action is taken. The time limit may be extended upon a written request by the applicant and approval by the Planning Commission.
  4. Effect of Approval. Approval of a preliminary site plan by the Planning Commission shall indicate its general acceptance of the proposed layout of buildings, streets and drives, parking areas, other facilities and overall character of the proposed development. The Planning Commission may, at its discretion, and with appropriate conditions attached, authorize issuance of grading and foundation permits on the basis of the approved preliminary site plan. The authorization, however, will be used only in those situations in which seasonable conditions, such as the onset of frost, or other severe time limitations might, in the Planning Commission's opinion, unduly delay the commencement of construction until after the final site plan is approved. The Planning Commission shall attach appropriate conditions to such authorization.
  5. Expiration of Approval. Approval of a preliminary site plan shall be valid for a period of one hundred eighty (180) days from the date of approval and shall expire and be of no effect unless an application for a final site plan is filed with the Zoning Administrator within that time period. The Zoning Administrator or duly appointed agent shall, within ten (10) days of the date of approval of the preliminary site plan by the Planning Commission, transmit a written certification of such approval to the applicant.

#### **3.4.4. Final Site Plan.**

1. Application. The applicant shall submit to the Zoning Administrator ten (10) copies of a final site plan as well as other data and exhibits hereinafter required, the review fee, and a completed application form. The Administrator, upon receipt of the application, shall transmit only complete submittals of the final site plan drawing(s) to the Planning Commission prior to its next regular meeting.
2. Information Required. A Final Site Plan submitted for review and approval shall contain all of the following data presented in a clear and legible format. Site Plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" x 36" with plan view drawn to a scale of no greater than 1" = 50' for property less than three acres or no greater than 1" = 100' for property three or more acres.

##### *General Information*

- a. Proprietors', applicants', and owners' names, addresses and telephone numbers.
- b. Date of preparation, including revisions.
- c. Scale.

- d. Northpoint.
- e. Location map drawn at a scale of 1" = 2,000' with north point indicated.
- f. Architect, Engineer, Surveyor, Landscape Architect, or Planner's seal.
- g. Existing and proposed lot lines, building lines, structures, parking areas, etc., on the parcel and within one hundred (100) feet of the site.
- h. Centerline and existing and proposed right-of-way lines of any street.
- i. Zoning classification of petitioner's parcel and all abutting parcels.
- j. Gross acreage figure.

*Physical Features*

- a. Acceleration, deceleration and passing lanes and approaches.
- b. Proposed locations of access drives, street intersections, driveway locations, sidewalks, and curbing.
- c. Location of existing and proposed service facilities above and below ground, including:
  - i. Chemical and fuel storage tanks and containers.
  - ii. Water supply facilities.
  - iii. Sanitary sewage disposal facilities.
  - iv. Storm water control facilities and structures.
  - v. Location of all easements.
- d. Location of all structures with setback and yard dimensions.
- e. Dimensioned parking spaces and calculation, drives and method of surfacing.
- f. Exterior lighting locations and illumination patterns.
- g. Location and description of all existing and proposed landscaping, berms, fencing and walls.
- h. Trash receptacle pad location and method of screening.
- i. Transformer pad location and method of screening.
- j. Dedicated road or service drive locations.
- k. Entrance details including sign locations and size.
- l. Designation of fire lanes.
- m. Any other pertinent physical features.

*Natural Features*

- a. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service, Soil Survey of Sanilac County, Michigan.
- b. Existing topography with a maximum contour interval of two (2) feet. Topography on the site and beyond the site for a distance of one hundred (100) feet in all directions should be indicated. Grading plan, showing finished contours at a maximum interval of two (2) feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading.

- c. Location of existing drainage courses and associated bodies of water, on and off site, and their elevations.
- d. Location of existing wetlands.
- e. Location of natural resource features, including woodlands and areas with slopes greater than ten (10%) percent (one (1) foot of vertical elevation for every ten (10) feet of horizontal distance).

*Additional Requirements for Residential Developments*

- a. Density calculations by type of unit by bedroom counts.
- b. Designation of units by type and number of units in each building.
- c. Carport or garage locations and details where proposed.
- d. Specific amount and location of recreation spaces.

*Additional Requirements for Commercial and Industrial Developments*

- a. Loading/unloading areas.
- b. Total and useable floor area.
- c. Number of employees in peak usage.

3. Standards for Review. In reviewing the final site plan, the Planning Commission shall determine whether the plan meets the following specifications and standards:
  - a. The plan conforms to the approved preliminary site plan and with all Zoning Ordinance regulations;
  - b. All required information is provided;
  - c. The proposed use will not be injurious to the surrounding neighborhood and protects the general health, safety, welfare and character of the Village.
  - d. There is a proper relationship between major thoroughfares and proposed service drives, driveways and parking areas. Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be so arranged as to permit emergency vehicle access by some practical means to all sides of the buildings.
  - e. The location of buildings is such that the adverse effects of such uses will be minimized for the occupants of that use and surrounding areas.
  - f. Natural resources will be preserved to the maximum extent possible in the site design by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, soils, groundwater and woodlands.
  - g. Storm water management systems and facilities will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and will not substantially reduce or increase the natural retention or storage capacity of any wetland, water body or water course, or cause alterations which could increase flooding or water pollution on or off site.
  - h. Wastewater treatment systems, including on-site septic systems, will be located to minimize any potential degradation of surface water or groundwater quality and meet County and State standards.

- i. Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby water bodies in accordance with County and State standards.
  - j. Landscaping, including grass, trees, shrubs and other vegetation is provided to maintain and improve the aesthetic quality of the site and area.
  - k. The proposed use is in compliance with all Village Ordinances and any other applicable laws.
4. Planning Commission Action. The Planning Commission may approve, approve with conditions, or deny the final site plan within sixty (60) days of the date of the Planning Commission meeting at which the site plan is first heard. The time limit may be extended upon a written request by the applicant and approved by the Planning Commission. The Planning Commission may suggest and/or require modifications in the proposed final site plan as are needed to gain approval.
  5. Effect of Approval. Approval of a final site plan authorizes issuance of a land use permit.
  6. Expiration of Approval. Approval shall expire and be of no effect unless a land use permit shall have been taken out within one hundred eighty (180) days of the date of approval of the final site plan. Also, approval of a final site plan shall expire and be of no effect one year following the date of approval unless construction has begun on the property in conformance with the approved final site plan.

#### **3.4.5. Combining Preliminary and Final Site Plans.**

An applicant may, at his discretion and risk, combine a preliminary and final site plan in application for approval. In such a situation the portion of the review process concerning preliminary site plan application and review shall not apply. However, the Planning Commission shall have the authority to require submittal of a preliminary site plan separate from a final site plan, where, in its opinion, the complexity and/or scale of the site for the proposed development so warrants. A preliminary and final site plan shall not be combined for: any development consisting of two (2) or more phases; projects requiring special land use approval; and, site condominiums.

#### **3.4.6. Amendment of Approved Site Plan.**

The Zoning Administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan or is of a minor nature and can be allowed and not materially alter the circumstances for which the site plan was given. A site plan may be amended upon application and in accordance with the procedure herein for a final site plan. A minor change would be other than those explicitly mentioned as follows.

Major changes defined as:

1. An addition of property to the area already approved.
2. The establishment of any additional use(s)/
3. The addition of more interior floor areas, dwellings or an outdoor display area.
4. An expansion or increase if the intensity of the use(s).

Any changes not listed in a-d shall be reviewed by the Zoning Administrator for compliance with this Ordinance. If approved, the Zoning Administrator shall make a record of such approval and place a copy in the property file.

#### **3.4.7. Modification of Plan During Construction.**

All improvements shall conform to the final site plan. It shall be the responsibility of the applicant to notify the Zoning Administrator of any such changes prior to such change being made. Any changes which result in a material alteration of the site plan approved by the Planning Commission shall require resubmittal to the Planning Commission. The Planning Commission or Zoning Administrator may require the applicant to correct the changes so as to conform to the approved final site plan.

#### **3.4.8. Phasing of Development.**

The applicant may, at his discretion, divide the proposed development into two (2) or more phases. In such case, the preliminary site plan shall cover the entire property involved and shall clearly indicate the location, the size, and character of each phase. A final site plan may be submitted for review and approval for each phase.

#### **3.4.9. Inspection.**

The Zoning Administrator or designee shall be responsible for inspecting all improvements for conformance with the approved final site plan, prior to issuing a certificate of occupancy. All sub-grade improvements such as utilities, sub-base installations for drives and parking lots, and similar improvements shall be inspected and approved prior to covering. The applicant shall be responsible for requesting the necessary inspection.

#### **3.4.10. Violations.**

The approved final site plan shall regulate development of the property and any violation of this Article, including any improvement not in conformance of the approved final site plan, shall be deemed a violation of this Ordinance as provided in Article 1 of the Code of Ordinances, and shall be subject to all penalties therein.

### **Section 3.5 Site Condominium Project Regulations**

#### **3.5.1. Intent.**

Pursuant to the authority conferred by Section 141 of the Condominium Act, preliminary and final site plans shall be regulated by the provisions of this Ordinance and subject to the review by the Planning Commission and approval of the Village Council.

#### **3.5.2. General Requirements.**

1. Each condominium lot shall be located within a zoning district that permits the proposed use.
2. Each condominium lot shall front on and have direct access to a public street approved by the Village.
3. For the purposes of this ordinance, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which located, and the provisions of any other statutes, laws, ordinances, and/or regulations applicable to lots in subdivisions.
4. In the case of a site condominium containing single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a

condominium lot with any other principal structure or use except in a PUD district. Required yards shall be measured from the boundaries of a condominium lot.

### **3.5.3. Site Plan Approval Requirements.**

Preliminary approval of the site plan and final approval of the site plan and condominium documents including Master Deed and Bylaws by the Planning Commission and Village Council shall be required as a condition to the right to construct, expand or convert a site condominium project. No permits for erosion control, building construction, grading, or installation of public water or sanitary sewerage facilities shall be issued for property in a site condominium development until a final site plan has been approved by the Village Planning Commission and Village Council and is in effect. Preliminary and final approval shall not be combined.

#### **1. Preliminary Approval.**

- a. A preliminary site plan pursuant to the standards and procedures set forth in Section 3.4 of this Ordinance shall be submitted to the Planning Commission for preliminary review.
- b. If the site plan conforms in all respects to applicable laws, ordinances and design standards, preliminary approval shall be granted by the Planning Commission.
- c. If the site plan fails to conform, the Planning Commission shall either deny the application, or grant preliminary approval with conditions, provided such conditions are met before final approval.

#### **2. Final Approval.**

- a. Following preliminary approval, the applicant shall submit a final site plan, Master Deed, and Bylaws pursuant to the standards and procedures set forth in Section 3.4.4 of this Ordinance. In addition to the final site plan, the Condominium Documents shall be submitted to the Village for the review by the Village Attorney and other appropriate staff and consultants. The Condominium Documents shall be reviewed with respect to all matters subject to regulation by the Village including, without limitation: ongoing preservation and maintenance of drainage, retention, wetland and other natural and/or common area; and maintenance of storm water, sanitary, and water facilities and utilities.
- b. The applicant shall also submit engineering plans in sufficient detail for the Village, to determine compliance with applicable laws, ordinances and design standards for construction of the project.
- c. Upon completion of the review of the Condominium Documents and engineering plans and receipt of the recommendations and findings from the Village Attorney, Engineer and Planner, the site plan shall be submitted to the Village Council for final review.
- d. If the site plan, Condominium Documents and/or engineering plans conform in all respects to applicable laws, ordinances and design standards, final approval shall be granted by the Village Council.
- e. If the site plan, Condominium Documents and/or engineering plans fail to conform, final approval shall be denied by the Village Council.
- f. In the interest of insuring compliance with this Ordinance and protecting the health, safety and welfare of the residents of the Village, the Village Council, as a condition of final approval of the site plan, shall require the applicant to deposit a performance guarantee as set forth in Section

3.7 of the Zoning Ordinance for the completion of improvements associated with the proposed use.

**3.5.4. Required Improvements:**

1. All design standards and required improvements that apply to a subdivision, under the Subdivision Regulations adopted by the Village Council, shall apply to any condominium development.
2. Each condominium unit shall be connected to the Village water, sanitary and storm sewers. Utility standards stated in Chapter 70 shall apply to all condominium units. Furthermore, the utility provisions stated in Chapter 10, Subdivision Regulations shall apply to all condominium units proposed for location on property which is not subdivided and recorded, or property which is to be further subdivided. Each individual condominium unit shall be considered a residential equivalent unit as defined in Chapter 10.
3. Monuments shall be set at all boundary corners and deflection points and at all road right of way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines.

The Village may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one (1) year, on condition that the developer deposit with the Village Clerk cash, a certified check, or an irrevocable bank letter of credit running to the Village, whichever the developer selects, in an amount as determined from time to time by resolution of the Village Council. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified. If the developer defaults, the Village Council shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans, at a cost not-to-exceed the amount of the security deposit which shall include Village administrative costs.

4. Road rights-of-way shall be described separately from individual condominium lots, and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The right-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing of public utilities. The developer shall declare easements to the Village for all public water and sanitary sewer lines and appurtenances.
5. All improvements in a site condominium shall comply with the design specifications as adopted by the Village Council and any amendments thereto.

**3.5.5. Information Required Prior to Occupancy.**

Prior to the issuance of an occupancy permit for any condominium unit, the applicant shall submit the following to the Zoning Administrator:

1. A copy of the recorded Condominium Documents (including exhibits, Master Deed, and Bylaws).
2. A copy of any recorded restrictive covenants.
3. A copy of the site plan on laminated photo static copy or mylar sheet.
4. Evidence of completion of improvements associated with the proposed use including two copies of an “as-built survey”.

### **3.5.6. Revision of Site Condominium Plan.**

If the site condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the Planning Commission before any land use permit may be issued, where such permit is required.

### **3.5.7. Amendment of Condominium Documents.**

Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan or any conditions of approval of a preliminary or final site plan shall be reviewed and approved by the Village Attorney and Planning Commission before any land use permit may be issued, where such permit is required. The Planning Commission may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the site plan.

### **3.5.8. Relocation of Boundaries.**

Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents, as provided in Section 48 of the Condominium Act, shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the by-laws and recorded as part of the master deed.

### **3.5.9. Subdivision of Condominium Lot.**

Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in Section 49 of the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium by-laws and recorded as part of the master deed.

## **Section 3.6 Use of Consultants.**

From time to time, the Village Council and/or Planning Commission may employ planning, engineering, legal, traffic or other special consultants to assist in the review of special land use permits, site plans, re-zonings or other matters related to the planning and development of the Village. Prior to contracting any professional for consultation, the applicant will be made aware of the additional cost, in writing. All costs for the use of these professionals will be bore by the applicant.

## **Section 3.7 Performance Guarantee.**

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety, and welfare of the residents of the Village and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Village Council upon the recommendation of the Planning Commission shall require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, streets, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping.

**3.7.1.** Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of 125% the estimated cost of the improvements to be made as determined by the



applicant and acceptable by the Village. The Village shall be authorized to employ the Village engineering consultant to review cost estimates and conduct periodic inspection of the progress of improvements.

**3.7.2.** Where the Village Council requires a performance guarantee, said performance guarantee shall be deposited with the Village prior to the issuance of a land use permit for the development and use of the land. Upon the deposit of the performance guarantee the Village shall issue the appropriate permits.

**3.7.3.** The approval shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the land use permit.

**3.7.4.** The Zoning Administrator, upon the written request of the applicant, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.

**3.7.5.** Upon the satisfactory completion, as determined by the Village, of the improvement for which the performance guarantee was required, the Village shall return to the applicant the performance guarantee deposited and any interest earned thereon. However, the Village is not required to deposit the performance guarantee in an interest-bearing account.

**3.7.6.** In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Village, the Village shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically, the right to enter upon the subject property to make the improvements.

If the performance guarantee is not sufficient to allow the Village to complete the improvements, the applicant shall be required to pay the Village any of the additional costs of completing the improvements. Should the Village use the performance guarantee, or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Village's administrative costs including, without limitation, attorney fees, planning consultant fees, and engineering consultant fees in completing the improvement with any balance remaining being refunded to the applicant.

If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the Village to insure completion of an improvement the applicant shall not be required to deposit with the Village a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the Village and prior to the issuance of a land use permit, the applicant shall enter an agreement incorporating the provisions hereof with the Village regarding the performance guarantee.

### **Section 3.8 Fees.**

The Village Council shall establish a schedule of fees, charges, escrow for consultants, and expenses, and a collection procedure, for land use permits, building permits, certificates of occupancy, appeals, and other matters pertaining to this ordinance. The Village shall have the authority to include fees for the use of engineering, planning, legal or other special consultants. The schedule of fees shall be posted in the Village Offices, and may be altered or amended only by the Village Council. No permit, certificate, special land use approval, or variance shall be issued unless or until such costs, charges, fees, or expenses have been paid in full,

nor shall any action be taken on proceedings before the Board of Appeals, unless or until preliminary charges and fees have been paid in full.

### **Section 3.9 Violations and Penalties.**

Uses of land, buildings, or structures, including tents and mobile homes, erected, altered, razed, or converted in violation of this Ordinance are hereby declared to be nuisances per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, mobile home, or land shall be adjudged guilty of maintaining a nuisance per se. Anyone violating any of the provisions of this Ordinance shall upon conviction thereof be subject to a fine of not more than "as per Council Resolution" and the costs of prosecution thereof, by imprisonment in the County Jail for a period not to exceed thirty (30) days, or both. Each day that a violation is permitted to exist from the time of formal citation by the Village shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

### **Section 3.10 Amendments**

#### **3.10.1. Initiation of Amendment.**

The Village Council may, from time to time, amend this Ordinance by changing or supplementing the district map, the districts on said map or the boundaries of such districts, district regulations or other provisions of this Ordinance. An amendment may be initiated by the Village Council, by an interested person(s) or their agent(s), or by the Planning Commission, and when requested by an interested party shall be accompanied by a fee in an amount established by resolution of the Village Council.

#### **3.10.2. Amendment Review Procedure.**

The amendment and application materials shall be prepared in accordance with the provisions of this Section, and shall be reviewed in accordance with the following procedure. Amendments or application materials that do not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the Planning Commission.

1. **Technical Review.** Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate Village staff and applicable outside agencies and designated Village consultants for review.
2. **Public Hearing.** A public hearing shall be held for all proposed amendments in accordance with the procedures set forth in Michigan Public Act 110 of 2006, as amended.
3. **Planning Commission Consideration.** Subsequent to the hearing, the Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this Section, and shall report its findings and recommendation to the Village Council.
4. **Village Council Action.** Upon receipt of the report and recommendation from the Planning Commission, the Village Council shall consider the proposed amendment. If determined to be necessary, the Village Council may refer the amendment back to the Planning Commission for further consideration. In the

case of an amendment to the official Zoning Map, the Village Council shall approve or deny the amendment, based upon its consideration of the criteria contained herein this Section.

### **3.10.3. Re-application.**

Whenever an application for an amendment to this Ordinance has been denied by the Village Council, a new application for the same amendment shall not be accepted by the Planning Commission for consideration for a period of three hundred sixty five (365) days, unless, upon recommendation by the Zoning Administrator, the Planning Commission determines that one or more of the following conditions has been met:

1. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application.
2. New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed.
3. The new application is materially different from the prior application.

### **3.10.4. Criteria for Amendment of Zoning District Map.**

In considering any petition for an amendment to the official zoning districts map, the Planning Commission and Village Council shall consider the following criteria in making its findings, recommendations, and decision:

1. Consistency with the goals, policies and objectives of the Village Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.
2. Compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.
3. Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) or more of the uses permitted under the current zoning.
4. Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
5. The capacity of Village's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the Village.
6. The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
7. The apparent demand for the types of uses permitted in the requested zoning district in the Village in relation to the amount of land in the Village currently zoned to accommodate the demand.
8. Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district.

### **3.10.5. Protests.**

Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to the zoning ordinance which is the object of the petition shall be passed only by a two-thirds (2/3) vote of the Village Council. The protest petition shall be presented to the Village Council before final council action on the amendment, and shall meet signatory requirements of the following subparagraphs (1) or (2):

1. The owners of at least twenty (20) percent of the area of land included in the proposed change.
2. The owners of at least twenty (20) percent of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land in the proposed change.

For the purposes of the subsection, publicly-owned land shall be excluded in calculating the twenty (20) percent land area requirement.

## **Section 3.11 Conditional Rezoning.**

### **3.11.1. Intent.**

It is recognized that there are certain instances where it would be in the best interests of the Village, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Zoning Enabling Act, Public Act 110 of 2006, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

### **3.11.2. Application and Offer of Conditions.**

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
6. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.

7. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
8. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Village Council provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

### **3.11.3. Planning Commission Review.**

The Planning Commission, after public hearing and consideration of the standards for approval set forth in Section 3.11.5, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

### **3.11.4. Village Council Review.**

After receipt of the Planning Commission's recommendation, the Village Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Village Council's deliberations shall include, but not be limited to, a consideration of the standards for approval set forth in Section 3.11.5. Should the Village Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Village Council shall, in accordance with the Michigan Zoning Enabling Act, refer such amendments to the Planning Commission for a report thereon within a time specified by the Village Council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

### **3.11.5. Criteria.**

In reviewing an application for the rezoning or land where there is an offer of conditions, the Planning Commission and Village Council shall consider the criteria outlined in Section 3.10.4 of this Ordinance.

### **3.11.6. Approval.**

1. If the Village Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Village Council to accomplish the requested rezoning.
2. The Statement of Conditions shall:
  - a. Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Village Council.
  - b. Contain a legal description of the land to which it pertains.

- c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  - d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be recorded with the Register of Deeds of Sanilac County by the owner with a copy of the recorded document provided to the Village within forty-five (45) days of its recording.
  - f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Village Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
  4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the owner with the Register of Deeds of Sanilac County. The owner shall provide a copy of the recorded document to the Village within forty-five (45) days of the date of its recording. The Village Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Village or to any subsequent owner of the land.
  5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

**3.11.7. Compliance with Conditions.**

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

**3.11.8. Time Period for Establishing Development or Use.**

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 36 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Village Council if:

1. it is demonstrated to the Village Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and
2. the Village Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy; and
3. the written request shall be made to the Village Council requesting the extension within 6 months of the end of the 36 month period.

#### **3.11.9. Reversion of Zoning.**

If approved development and/or use of the rezoned land does not occur within the time frame specified under Section 3.11.8 above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405(2). The reversion process shall be initiated by the Village Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

#### **3.11.10. Subsequent Rezoning of Land.**

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Section 3.11.9 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Village Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

#### **3.11.11. Amendment of Conditions.**

1. During the time period for commencement of an approved development or use specified pursuant to Section 3.11.8 above or during any extension thereof granted by the Village Council, the Council shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

#### **3.11.12. Village Right to Rezone.**

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Village from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act.

#### **3.11.13. Failure to Offer Conditions.**











The Village shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance

# ARTICLE 4

## ZONING DISTRICT REGULATIONS

### Section 4.1 District Designations.

For the purpose of the Ordinance, the Village of Lexington is hereby divided into the following districts:

	AG	Agriculture District
	R-1	Single-Family Residential
	R-2	Multiple-Family Residential, Low Density
	R-3	Multiple-Family Residential, Medium Density
	MHP	Mobile Home Park District
	C-MU	Corridor Mixed Use District
	G-MU	Gateway Mixed Use District
	CBD	Central Business District
	GC	General Commercial
	I-MU	Industrial Mixed Use District
	PUD	Planned Unit Development (Article 7)

### Section 4.2 Zoning District Map.

#### 4.2.1. Identified.

The zoning districts as provided in Section 4.1 are bounded and defined as shown on the map entitled "Zoning District Map of the Village of Lexington." The Zoning District Map, along with all notations, references, and other explanatory information, shall accompany and be made a part of this Ordinance.

#### 4.2.2. Authority.

Regardless of the existence of purported copies of the Zoning District Map which may be published, a true and current copy of the Zoning District map available for public inspection shall be located in and maintained by the office of the Village Clerk. The Clerk's copy shall be the final authority as to the current status of any land, parcel, lot, district, use, building, or structure in the Village.

#### 4.2.3. Interpretation of District Boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Zoning District Map, the following rules shall apply:

1. A boundary indicated as approximately following the centerline of a highway, alley, or easement shall be construed as following such centerline.
2. A boundary indicated approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line.



3. A boundary indicated as approximately following a municipal boundary line shall be construed as following such line.
4. A boundary indicated as following a railroad line shall be construed as being located midway in the right-of-way.
5. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in the shoreline shall be construed as following the shoreline existing at the time the interpretation is made.
6. The boundary indicated as following the centerline of a stream or river, canal, lake or other body of water shall be construed as following such centerline.
7. A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
8. Where an existing physical feature is at variance with that shown on the Official Zoning Map or any other circumstances not covered by (1) through (7) preceding, the Zoning Board of Appeals shall interpret the location of the zoning district boundary.

### **Section 4.3 Application of District Regulations.**

The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land, buildings, structure, or uses throughout each district.

No building shall hereafter be erected, altered, or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises is located, except by appeal as herein described by this Ordinance. Wherever the requirements of this Ordinance are at variance with the requirements of any other adopted regulations, or ordinances, the most restrictive or those imposing the higher standards shall govern. Except as hereinafter provided, district regulations shall be applied in the following manner.

#### **4.3.1. Uses in Districts.**

(See also Appendix A, Summary Table of Uses by Zoning District)

1. Permitted Uses. Permitted uses shall be permitted by right only if specifically listed as principal permitted uses in the various zoning districts or are similar to such listed uses, as determined by the Zoning Administrator.
2. Accessory Uses and Buildings. Accessory uses are permitted only if such uses are clearly incidental to the permitted principal uses.
3. Special Land Uses. Special land uses are permitted only if specifically listed or if similar to the listed special land uses, as determined by the Zoning Administrator.

#### **4.3.2. Application of Area and Width Regulations.**

(See also Section 4.11, Schedule of Regulations)

1. The area or width of a lot shall not be reduced below the minimum requirements herein established for the district in which such lot is located.

2. Every parcel of land shall meet the minimum lot width requirements set forth in Section 4.5 Schedule of Regulations and shall have frontage on and/or direct access to a public street which has been accepted for maintenance by the Village.
3. Access to a single-family dwelling shall be limited to one individual driveway.

#### **4.3.3. Application of Yard Regulations.**

1. No part of a yard required for any building for the purposes of compliance with this Ordinance shall be included as a part of a yard or other open space similarly required for another building.
2. All front yard setback lines shall be the minimum perpendicular distance measured from the right-of-way of the road upon which a lot or parcel fronts to the nearest point of the principal structure.
3. All side and rear yard setback lines shall be the minimum perpendicular distance between the nearest point on the side or rear of the structure and the side or rear lot line parallel thereto.
4. On corner lots the required front yards shall be provided along both street frontages.
5. No building, structure, fence, or other permanent improvement shall be permitted to be erected or located within a public right-of-way except for those improvements authorized by the Village.

#### **4.3.4. Application of Height Regulations.**

1. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit hereinafter established for the district in which the building is located, as set forth in Section 4.11, Schedule of Regulations.
2. Exception to Height Regulations. Roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, and screens, flagpoles, chimneys, smokestacks, water tanks, or similar structures may be erected above the height limits herein prescribed. No such structure shall exceed by more than fifteen (15) feet the height limit of the district in which it is located.
3. Communications towers shall be subject to the regulations set forth in Section 5.24.

#### **4.3.5. Location and Number of Buildings on Lot of Record.**

1. Every building erected, altered, or moved shall be located on a lot of record as defined herein.
2. There shall be only one (1) single-family dwelling permitted per lot in the Agriculture or single family zoning districts. Where there is more than one (1) single-family dwelling located on a lot of record at the time of adoption of this Ordinance, said dwelling shall not be divided from the lot except in conformity with the requirements of this Ordinance.

## Section 4.4 Agriculture District (AG).

### 4.4.1 Intent.

This District is composed of those areas of the Village whose principal use is farming, along with related uses that support and enhance the agricultural heritage of the Village, such as agriculture-based tourism uses. The regulations of this District are designed to conserve, stabilize, enhance and develop farming and related resource-utilization activities, to minimize conflicting uses of parcels, lots, buildings and structures detrimental to or incompatible with these activities, and to prohibit uses of parcels, lots, buildings, and structures which require streets, drainage and other public services of a different type and quantity than those normally required by these activities.

### 4.4.2 AG District Use Table

In the AG District, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right and uses denoted by a "SLU" are considered special land uses and may be approved by the Planning Commission subject to the procedures and standards of Section 3.3, Special Land Uses. Additional applicable use standards are listed in the column at right.

Category/Uses Allowed	AG District	Add'l Req'ts
<b>RESIDENTIAL USES</b>		
Single-family detached dwellings	P	
<b>AGRICULTURAL USES</b>		
Agribusiness establishments	SLU	
Agritourism establishments	SLU	
Farming operation, which includes the land, plants, buildings, structure, including ponds used for agricultural or aqua cultural activities, machinery, equipment and other appurtenances used in the commercial production of farm products, and in accordance with the Michigan Right to Farm Act, Public Act 93, 1981	P	
Farm supply and feed stores	SLU	
Nurseries, greenhouses and garden centers	SLU	Sec. 5.15
Open air farmers markets: A farm market shall be subject to an application, fee and the rules as set forth by the Village Council. Each vendor shall sign, receive and adhere to the application, the fee structure and the general rules of operation as established by the Lexington Village Council.	P	
Public and private recreation and conservation areas, including forest preserves, game refuges and reserves, and similar public and private uses of low intensity use	P	
Roadside stands	P	
<b>INSTITUTIONAL, EDUCATIONAL AND ASSEMBLY USES</b>		
Cemeteries	SLU	
Churches and other institutions for religious worship	SLU	
Public buildings and uses, but not including outdoor storage yards	SLU	
Public and private elementary, middle and high schools	P	
Public and private nursery schools and kindergartens	P	

<b>RECREATION USES</b>		
Campgrounds and RV parks	SLU	
Golf courses, including golf driving ranges	SLU	
Petting zoos	SLU	
Public parks and playgrounds	P	
<b>RETAIL USES</b>		
Flea markets	SLU	
<b>FOOD &amp; DRINK ESTABLISHMENTS</b>		
Micro-breweries, small wineries and small distilleries, provided the brewing, wine-making and distilling area is less than 2,500 square feet	SLU	
<b>INDUSTRIAL USES</b>		
Office, showroom or workshop of an artist, craftsman, carpenter and similar creative services	SLU	

Accessory uses, buildings or structures incidental to the permitted or special land uses are also allowed and regulated by Section 5.4.

## Section 4.5 Single-Family Residential District (R-1)

### 4.5.1 Intent.

This District is composed of those areas of the Village served by a public water supply system and public sanitary sewer system where the principal use is intended to be single-family dwellings on moderately sized lots. In addition to the dwellings permitted in this Zoning District, there are certain non-residential and public uses which may be permitted by the Village.

### 4.5.2 R-1 District Use Table

In the R-1 District, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right and uses denoted by a "SLU" are considered special land uses and may be approved by the Planning Commission subject to the procedures and standards of Section 3.3, Special Land Uses. Additional applicable use standards are listed in the column at right.

Category/Uses Allowed	R-1 District	Add'l Req'ts
<b>RESIDENTIAL USES</b>		
Cluster housing	SLU	Sec. 5.2
Home occupations	P	Sec. 5.10
Short term rentals	P	Sec. 5.25
Single-family detached dwellings	P	
Two family dwellings	SLU	
<b>RESIDENTIAL CARE FACILITIES</b>		
Adult foster care family homes	P	Sec. 5.9
Adult foster care small group homes serving 6 persons or less	P	Sec. 5.9
Adult foster care small group homes serving more than 6 persons	SLU	Sec. 5.9
Adult foster care large group homes	SLU	Sec. 5.9
Family day care homes	P	Sec. 5.8
Group day care homes	SLU	Sec. 5.8
<b>INSTITUTIONAL, EDUCATIONAL AND ASSEMBLY USES</b>		
Churches and other institutions for religious worship	SLU	
Day care centers	SLU	Sec. 5.8
Public buildings and uses, but not including outdoor storage yards	SLU	
Public and private elementary, middle and high schools	P	
Public and private nursery schools and kindergartens	P	
<b>RECREATION USES</b>		
Country clubs, public swimming pools and recreation clubs	SLU	
Golf courses, but not including golf driving ranges	SLU	
Public parks and playgrounds	P	
<b>LODGING USES</b>		
Bed and breakfast establishments	SLU	Sec. 5.20

Accessory uses, buildings or structures incidental to the permitted or special land uses are also allowed and regulated by Section 5.4.

**Section 4.6 Multiple-Family Residential Districts (R-2 and R-3).**

**4.6.1 Intent: R-2, Low Density Multiple Family Residential District.**

This District is composed of those areas of the Village where the principal use is intended to be multiple family dwellings. The regulations of this District are designed to permit a lower density of population and land use intensity than is allowed in the R-3 District. Areas zoned R-2 shall be served by public water supply system and a public sanitary sewerage system, and abut or are adjacent to such other uses, buildings, structures, or amenities which support, complement or serve a multiple-family density. In addition to the dwellings permitted in this Zoning District, there are certain non-residential and public uses which may be permitted by the Village.

**4.6.2 Intent: R-3, Medium Density Multiple Family Residential District.**

This District is composed of those areas of the Village where the principal use is intended to be multiple family dwellings at a moderate density. The regulations of this District are designed to permit a medium density of population and land use intensity. Areas zoned R-3 shall be served by a public water supply system and a public sanitary sewerage system, and which abut or are adjacent to such other uses, buildings, structures, or amenities which support, complement or serve such a multiple family density. In addition to the dwellings permitted in this Zoning District, there are certain non-residential and public uses which may be permitted by the Village.

**4.6.3 R-2 and R-3 District Use Table**

In the R-2 and R-3 Districts, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right and uses denoted by a "SLU" are considered special land uses and may be approved by the Planning Commission subject to the procedures and standards of Section 3.3, Special Land Uses. Additional applicable use standards are listed in the column at right.

Category/Uses Allowed	R-2 District	R-3 District	Add'l Req'ts
<b>RESIDENTIAL USES</b>			
Cluster housing	SLU	SLU	Sec. 5.2
Home occupations	P	P	Sec. 5.10
Multiple-family dwellings	P	P	
Single-family detached dwellings	P	P	
Stacked dwellings	P	P	
Townhouse dwellings	P	P	
Two family dwellings	P	P	
<b>RESIDENTIAL CARE FACILITIES</b>			
Adult foster care family homes	P	P	Sec. 5.9
Adult foster care small group homes serving 6 persons or less	P	P	Sec. 5.9
Adult foster care small group homes serving more than 6 persons	SLU	SLU	Sec. 5.9
Adult foster care large group homes	SLU	SLU	Sec. 5.9
Adult foster care congregate facilities	SLU	SLU	

Convalescent homes or nursing homes	SLU	SLU	
Family day care homes	P	P	Sec. 5.8
Group day care homes	SLU	SLU	Sec. 5.8
Housing for the elderly/senior living facilities	SLU	SLU	
Senior assisted living or independent living facilities	SLU	SLU	
<b>INSTITUTIONAL, EDUCATIONAL AND ASSEMBLY USES</b>			
Churches and other institutions for religious worship	SLU	SLU	
Day care centers	SLU	SLU	Sec. 5.8
Public buildings and uses, but not including outdoor storage yards	SLU	SLU	
Public and private elementary, middle and high schools	P	P	
Public and private nursery schools and kindergartens	P	P	
<b>RECREATION USES</b>			
Country clubs, public swimming pools and recreation clubs	SLU	SLU	
Golf courses, but not including golf driving ranges	SLU	SLU	
Public parks and playgrounds	P	P	
<b>OFFICE AND SERVICE RELATED USES</b>			
Funeral establishments		SLU	
<b>MEDICAL RELATED USES</b>			
Hospitals		SLU	
Medical and dental offices, when accessory to a convalescent home, nursing home, assisted living or similar residential care facility		SLU	
<b>LODGING USES</b>			
Bed and breakfast establishments	SLU	SLU	Sec. 5.20

Accessory uses, buildings or structures incidental to the permitted or special land uses are also allowed and regulated by Section 5.4.



## Section 4.7 Mobile Home Park District (MHP)

### 4.7.1 Intent.

The intent of this District is to provide for mobile home residential development in areas where the natural conditions and features, public services, and infrastructure are capable of supporting such development. Areas zoned MHP shall be located in areas which are compatible with the character and density of adjacent uses.

### 4.7.2 MHP District Use Table

In the MHP District, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right and uses denoted by a "SLU" are considered special land uses and may be approved by the Planning Commission subject to the procedures and standards of Section 3.3, Special Land Uses. Additional applicable use standards are listed in the column at right.

Category/Uses Allowed	MHP District	Add'l Req'ts
<b>RESIDENTIAL USES</b>		
Cluster housing	SLU	Sec. 5.2
Mobile home parks	P	Sec. 5.7
Two family dwellings	SLU	
<b>RESIDENTIAL CARE FACILITIES</b>		
Adult foster care family homes	P	Sec. 5.9
Adult foster care small group homes serving 6 persons or less	P	Sec. 5.9
Adult foster care small group homes serving more than 6 persons	SLU	Sec. 5.9
Adult foster care large group homes	SLU	Sec. 5.9
Adult foster care congregate facilities	SLU	
Family day care homes	P	Sec. 5.8
Group day care homes	SLU	Sec. 5.8
<b>INSTITUTIONAL, EDUCATIONAL AND ASSEMBLY USES</b>		
Churches and other institutions for religious worship	SLU	
Day care centers	SLU	Sec. 5.8
Public buildings and uses, but not including outdoor storage yards	SLU	
Public and private elementary, middle and high schools	P	
Public and private nursery schools and kindergartens	P	
<b>RECREATION USES</b>		
Country clubs, public swimming pools and recreation clubs	SLU	
Golf courses, but not including golf driving ranges	SLU	
Public parks and playgrounds	P	
<b>LODGING USES</b>		
Bed and breakfast establishments	SLU	Sec. 5.20

Accessory uses, buildings or structures incidental to the permitted or special land uses are also allowed and regulated by Section 5.4.

## Section 4.8 Mixed Use and Central Business Districts (C-MU, G-MU and CBD)

### 4.8.1 Intent: C-MU, Corridor Mixed Use District.

The intent of the C-MU, Corridor Mixed Use district is to accommodate a flexible variety of uses and scales; preserve historic detached houses; integrate context-sensitive mixed residential, retail, office, and service uses; and serve as a transition from the denser downtown to nearby established residential neighborhoods. Uses intended within this District may include small-scale pedestrian oriented retail, specialty grocery, personal services, business services, financial institutions, sit-down family restaurants, and medical clinics.



### 4.8.2 Intent: G-MU, Gateway Mixed Use District.

The intent of the Gateway Mixed Use district is to accommodate a flexible variety of uses and scales; preserve historic detached houses; integrate context-sensitive mixed residential, office, and service uses; and serve as a transition from the denser downtown to nearby established residential neighborhoods. More restrictive than the C-MU District, the Gateway Mixed Use would support a mixture of residential use along with limited non-residential use designed to conform to the historic residential scale and character.



#### 4.8.3 Intent: CBD, Central Business District

The intent of the Central Business District is to create a pedestrian-friendly, compact downtown district with a mixture of uses. Typically, the mixture of uses are ground floor storefronts for retail and entertainment uses with offices and residential on upper stories. This District features uses that satisfy the retail, convenience, and service needs of the market area which includes the Village and surrounding Townships. This District prohibits auto-related and auto-oriented uses which do not support a compact pedestrian-friendly environment.



#### 4.8.4 C-MU, G-MU and CBD Districts Use Table

In the C-MU, G-MU and CBD Districts, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right and uses denoted by a "SLU" are considered special land uses and may be approved by the Planning Commission subject to the procedures and standards of Section 3.3, Special Land Uses. Additional applicable use standards are listed in the column at right.

Category/Uses Allowed	C-MU District	G-MU District	CBD	Add'l Req'ts
<b>RESIDENTIAL USES</b>				
Cluster housing	SLU	SLU		Sec. 5.2
Home occupations	P	P		Sec. 5.10
Multiple-family dwellings	P	SLU		
Multiple-family housing and/or apartment dwelling second floor and above	P		P	
Short term rentals	P	P	P	Sec. 5.25 (Applicable for C-MU and G-MU)
Single-family detached dwellings		P		
Single-family dwelling established and existing at the time of adoption of this Ordinance	P		P	
Stacked dwellings	SLU	SLU		
Townhouse dwellings	SLU	SLU		
Two family dwellings	SLU	SLU		
<b>RESIDENTIAL CARE FACILITIES</b>				
Adult foster care family homes	P	P		Sec. 5.9
Adult foster care small group homes serving 6 persons or less	P	P		Sec. 5.9
Adult foster care small group homes serving more than 6 persons	SLU	SLU		Sec. 5.9
Adult foster care large group homes	SLU	SLU		Sec. 5.9
Adult foster care congregate facilities	SLU	SLU		
Convalescent homes or nursing homes	SLU	SLU		
Family day care homes	P	P		Sec. 5.8
Group day care homes	SLU	SLU		Sec. 5.8
Housing for the elderly/senior living facilities	SLU	SLU		
Senior assisted living or independent living facilities	SLU	SLU		
<b>AGRICULTURAL USES</b>				
Farm supply and feed stores	P			
Nurseries, greenhouses and garden centers	P			Sec. 5.15
Open air farmers markets	P		P	
<b>INSTITUTIONAL, EDUCATIONAL AND ASSEMBLY USES</b>				
Business schools, colleges and universities				
Cemeteries				

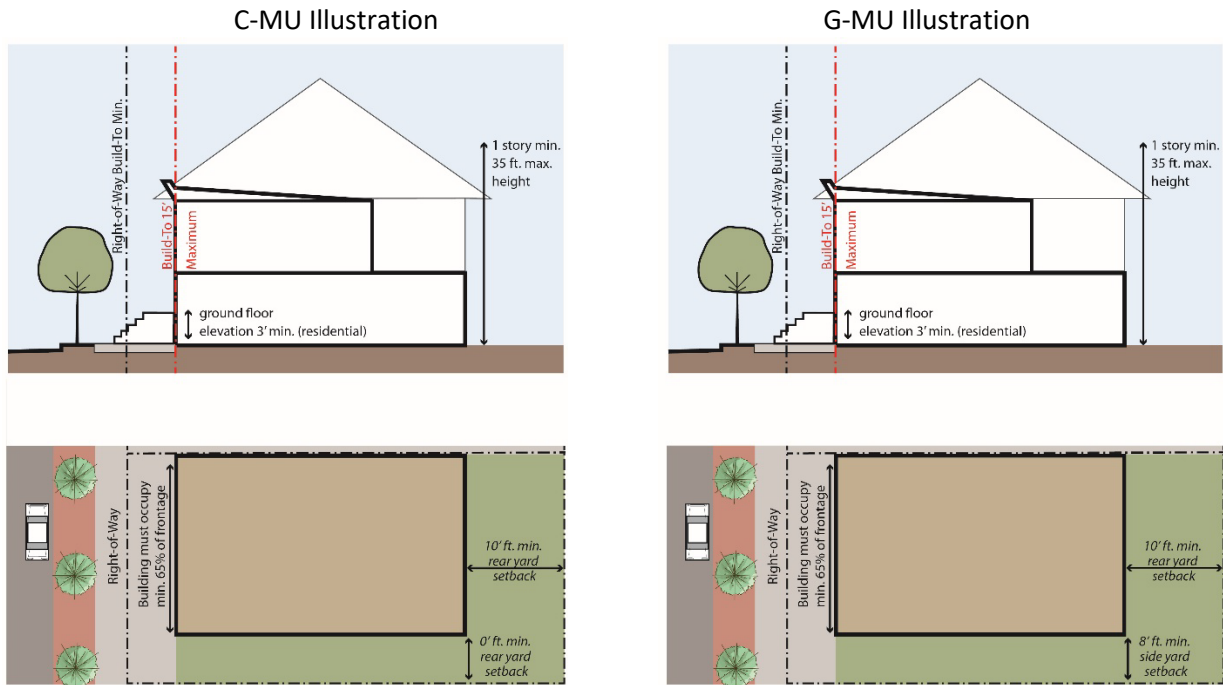


Churches and other institutions for religious worship	SLU	SLU	P	
Day care centers	SLU	SLU		Sec. 5.8
Private service clubs, social organizations and lodge halls	SLU	SLU	P	
Public buildings and uses, but not including outdoor storage yards	SLU	SLU	P	
Theaters, when completely enclosed			P	
<b>RECREATION USES</b>				
Public parks and playgrounds	P	P	P	
Recreation and amusement services, including theaters, bowling alleys, roller and ice skating rinks, billiard halls and miniature golf			SLU	
<b>OFFICE AND SERVICE RELATED USES</b>				
Banks, credit unions, savings and loan associations, excluding drive-through establishments	P	P	P	
Banks, credit unions, savings and loan associations, including drive-through establishments	SLU			
Business service establishments such as printing and photocopying services, mail and packaging services, and typing and secretarial services	P	P	P	
Funeral establishments	SLU	SLU	P	
Laundromats and dry cleaning establishments			P	
Office buildings for the use of any of the following occupations: executive; administrative; professional; accounting; writing; clerical; stenographic; drafting; and sales	P	P	P	
Personal service establishments, such as barber and beauty shops; watch, clothing and shoe repair; locksmith; and, similar establishments	P	P	P	
Radio, television, and electrical appliance repair, and shops of plumbers, electricians and other similar services and trades			P	
Studios for the participation or teaching of art, dance, fitness, music, photography and similar uses, including ancillary sale of products related to such uses	P	P	P	
Veterinary offices and hospitals, including accessory boarding, provided no outdoor exercise runs or pens are permitted	SLU	SLU	P	
<b>MEDICAL RELATED USES</b>				
Medical and dental offices, including clinics and medical laboratories	P	P	P	
<b>RETAIL USES</b>				
Florist shops	P		P	
Office, showroom or workshop of an artist, craftsman, carpenter and similar creative services requiring a retail adjunct	P		P	
Outdoor display of products or materials for retail sale or rental when accessory to a principal permitted use	P		P	Sec. 5.18
Retail sales	P		P	
<b>FOOD &amp; DRINK ESTABLISHMENTS</b>				

Bar/lounge, including brewpubs, serving beverages and/or providing entertainment	SLU		SLU	
Fast food restaurants, excluding drive-in and drive-through restaurants	SLU		SLU	
Food services including grocery, meat market, bakery, restaurant, delicatessen and fruit market, and similar self-service units but not including any business of a drive-in type	P		P	
Micro-breweries, small wineries and small distilleries, provided the brewing, wine-making and distilling area is less than 2,500 square feet	SLU		SLU	Sec. 5.26
Sidewalk cafes	P		P	Sec. 5.19
Sit down or carry out restaurants, excluding drive-in or drive-through restaurants	P		P	
<b>LODGING USES</b>				
Bed and breakfast establishments	SLU	SLU	P	Sec. 5.20
Lodging facilities	SLU		SLU	
<b>INDUSTRIAL USES</b>				
Contractor's establishments, provided all products, material, and equipment are stored within an enclosed building	SLU			Sec. 5.16
Entrepreneurial and business incubator spaces	P		P	

Accessory uses, buildings or structures incidental to the permitted or special land uses are also allowed and regulated by Section 5.4.

**4.8.5 C-MU and G-MU Siting and Building Requirements.**

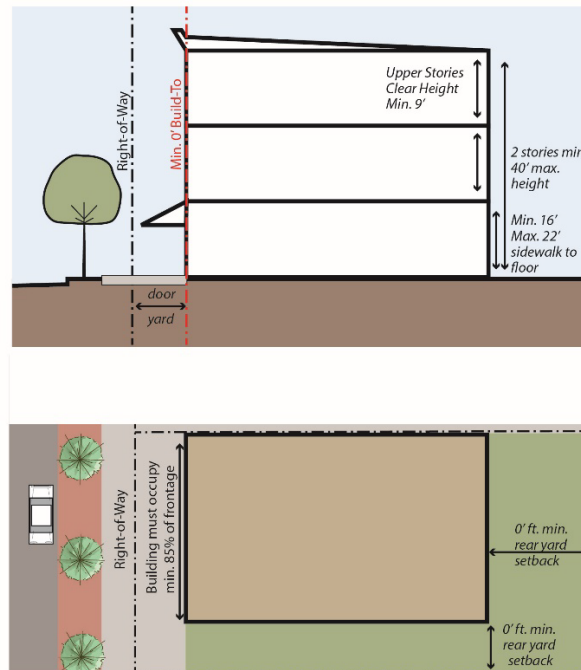


Height	
Minimum	1 story / 24 feet
Maximum	2 stories / 35 feet
Ground Floor Elevation – Residential Units (min.)	3 feet

Siting		
Element	C-MU District	G-MU District
Build-To/Dooryard	15 feet	15 feet
Frontage Build-To (min.)	65%	65%
Side Setbacks (min.)	0 feet	8 feet
Rear Setback (min.)	10 feet	10 feet
Parking Setback (min.)	15 feet	15 feet
Adjacent single-family residential setback (side and rear)	25 feet	25 feet

Architectural Elements	
Ground Floor Fenestration	25 to 90%
Upper Story Fenestration	25 to 70%

#### 4.8.6 CBD Siting and Building Requirements.





<b>Height</b>	
Minimum	2 stories / 24 feet
Maximum	3 stories / 40 feet
Second Floor Finished Elevation	16 to 22 feet
Upper Stories Clear Height (min.)	9 feet

<b>Siting</b>	
Build-To/Dooryard	0 feet
Frontage Build-To (min.)	85%
Side Setbacks (min.)	0 feet
Rear Setback (min.)	0 feet
Parking Setback (min.)	15 feet
Adjacent single-family residential setback (side and rear)	10 feet

<b>Architectural Elements</b>	
Ground Floor Fenestration	70 to 90%
Upper Story Fenestration	25 to 90%

#### 4.8.7 CBD Building Standards.

The following standards supplement those in Section 5.6, Building Design Standards.

##### 1. Fenestration

- a. Ground floor windows may not be made opaque by window treatments (except operable sunscreen devices). A minimum of 80% of the window surface shall allow a view into the building interior for a depth of at least 12 feet.
- b. The bottom of the window must be no more than 3 feet above the adjacent exterior grade.

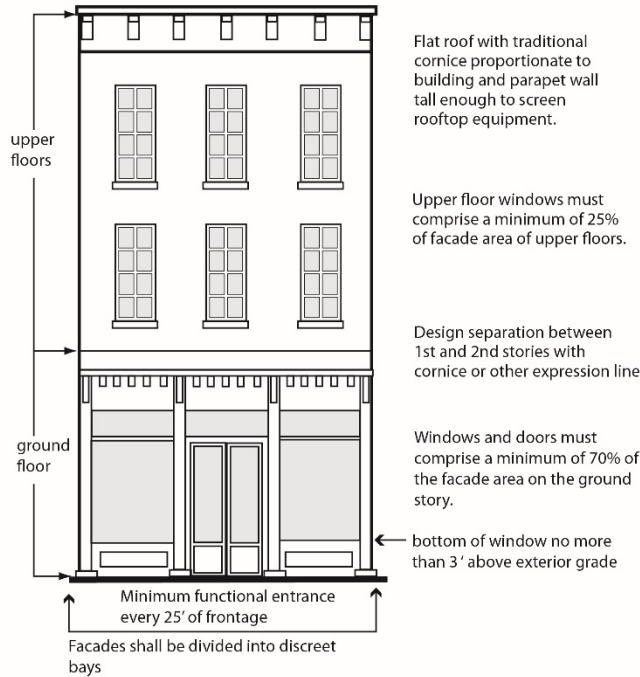
##### 2. Horizontal Articulation

- a. Buildings shall be designed to reduce apparent mass by dividing facades into a series of smaller vertical components or bays. Bays shall extend continuously from base to top. Components shall be distinguished from one another through a combination of the following:
  - i. Variations in overall massing. Changes in parapet projection height shall only occur with a corresponding change in plan.
  - ii. Vertical bays defined by pronounced changes in plan to create recesses and projections, a minimum of three feet from build to line of the façade.

- iii. Distinct changes in exterior finish material corresponding to a change in the building plan. A minimum of three feet from build to line of the façade, or a distinct organizing architectural feature with a projection a minimum of 8 inches.

3. Ground floor Articulation

- a. Storefront buildings shall be designed to create a distinct and separated ground floor area through the use of a horizontal expression line, such as a string course, change in material or textures, awnings or canopies, or sign band between the first and second stories.



*The above drawing is intended to illustrate the application of the design standards in this ordinance, but not require a specific architectural style.*

**4.8.8 Definitions and Rules of Measurement.**

The following definitions and rules of measurement apply within this Section 4.8.

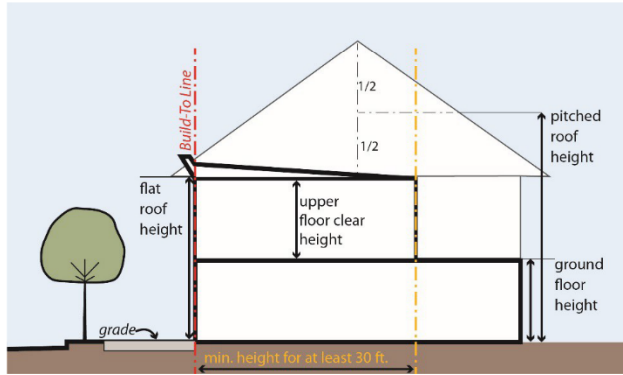
1. Measuring height.

- a. The minimum and maximum building heights are measured from the average fronting sidewalk to the halfway point of a pitched roof or to the top of a wall plate for flat roofs.
- b. The minimum height shall be satisfied from the build-to line back to a depth of at least 30 feet for the specified build-to percentage of frontage.

2. Building element heights.

- a. Ground floor elevation shall be measured from the average fronting sidewalk grade to the first story finished floor elevation.
- b. Ground floor height shall be measured from the average fronting sidewalk grade to the second story finished floor elevation.

- c. Upper floor clear height shall be measured from finished floor elevation to finished ceiling elevation.
- d. Sill height shall be measured from the average fronting sidewalk grade to the top of the ground floor sill.

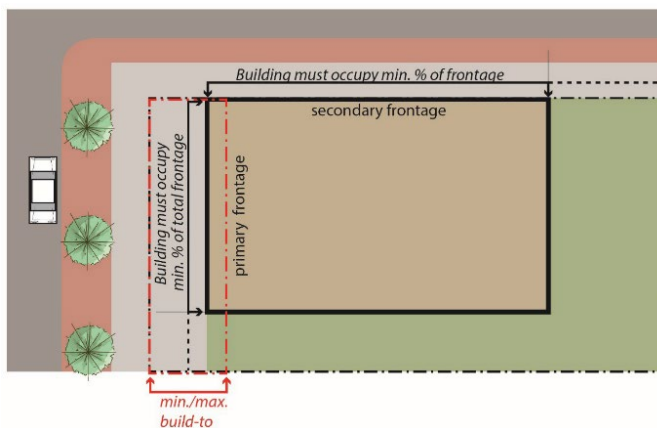


3. Frontage designation.

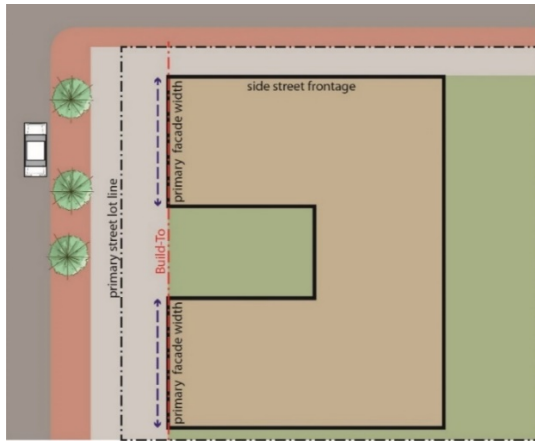
- a. See Section 2.2 for lot line and yard definitions.
- b. Primary frontage is located along the front lot line.
- c. Corner lots, through lots, or any lot with more than one street frontage, shall have a secondary frontage for all sides adjacent to a street not identified as the primary frontage. Alleys shall not be considered street frontage.

4. Build-to.

- a. Definition. Build-to is a line parallel to the public street right-of-way to which buildings must be constructed to.
- b. Build-to measurement. Build-to is measured from and perpendicular to the lot line abutting a street. Where a public access easement abuts the public street right-of-way on a lot, the build-to shall be measured from the easement rather than the lot line.
- c. Percentage of frontage. Required build-to is calculated as a percentage using the length of the primary building wall divided by the total lot width, as measured at the lot line abutting the subject street right-of-way. Buildings shall be built at or within the build-to requirement for at least the minimum percentage (%) required along the primary and/or secondary frontage.



- d. Building depth. The horizontal distance at the ground floor measured perpendicular from the exterior of the street facing building wall at the build-to line to the opposite exterior wall enclosing the permitted street level active uses.
- e. Architectural features utilized for building wall articulation that are within two feet of the primary building wall may be utilized in the length of applicable building wall meeting the build-to.
- f. The primary façade width is measured at the build-to line. No segment of the primary building wall at the build-to-line may exceed the primary façade width standard.

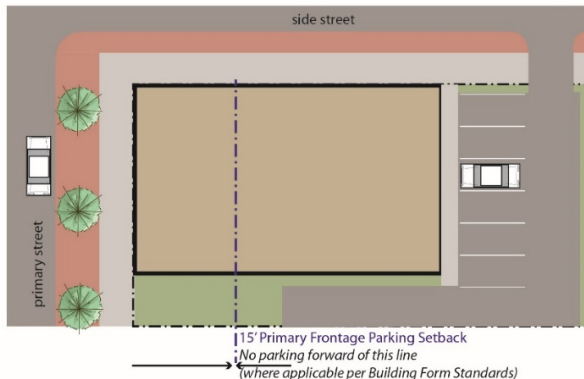


5. Dooryard

- a. The dooryard is defined as the area between the property line and the front facade/build-to. It is intended as a transitional area between the public realm and private property for pedestrian-oriented amenities.
- b. The dooryard shall accommodate entrances, outdoor seating, projections such as awnings, balconies, stoops and porches.

6. Parking Setback

- a. Setback. Surface and structured parking and loading spaces are not permitted within a primary frontage parking setback on the ground level.
- b. Vehicle access. Vehicle maneuvering lanes are prohibited within primary frontage parking setbacks and are only permitted when alternative locations are not available, and it is determined necessary during site plan review.



7. Fenestration.

- a. Definition. Fenestration is defined as openings in the building wall, including windows, doors and open areas.
- b. Measurement.
  - i. When measuring fenestration, framing elements (such as mullions or muntins) with a dimension of two inches or less are considered part of the opening.
  - ii. Ground floor fenestration shall be measured as a percentage of glass per total wall area up to 14 feet above the ground floor elevation.

8. Pedestrian access.

- a. Entrance.
  - i. The entrance shall be a door parallel to a street frontage within 15 feet of the building face; or a door at approximately a 45-degree angle to the intersecting streets of a corner lot.
  - ii. The distance between entrances shall be measured from the center of the door or set of doors.
- b. Stoops, Porches, and Porticos
  - i. Definitions.
    - 1. A stoop is a small staircase ending in a platform and leading to the entrance of the building.
    - 2. An enclosed porch is a covered stoop that has walls enclosing the platform on all sides.
    - 3. A portico is a defined entry landing or platform that serves a similar architectural purpose as a porch or stoop as defining a clear entryway, but with a ramp or at-grade entrance instead of steps.
  - ii. Depth shall be measured perpendicular from the building facade to the opposite edge of the platform. Steps shall not be included in the measurement.
  - iii. In C-MU, G-MU and CBD Districts, the platform of the stoop may not encroach past the build-to. Stairs leading to the stoop may encroach past the build-to.

**Section 4.9 GC, General Commercial District.**

**4.9.1 Intent.**

This District is intended to accommodate previously established office, business service, and retail uses that serve a larger market including the Village and portions of the surrounding townships. It is the purpose of these regulations to permit development of the enumerated functions in a manner which is compatible with uses in the surrounding area. To these ends, certain uses are excluded which would function more effectively in other Districts.

**4.9.2 GC District Use Table**

In the GC District, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right and uses denoted by a "SLU" are considered special land uses and may be approved by the Planning Commission subject to the procedures and standards of Section 3.3, Special Land Uses. Additional applicable use standards are listed in the column at right.

Category/Uses Allowed	GC District	Add'l Req'ts
<b>RESIDENTIAL USES</b>		
Multiple-family housing and/or apartment dwelling second floor and above	P	
Short term rentals	P	
Single-family dwelling established and existing at the time of adoption of this Ordinance	P	
<b>AGRICULTURAL USES</b>		
Farm supply and feed stores	P	
Open air farmers markets	P	
<b>INSTITUTIONAL, EDUCATIONAL AND ASSEMBLY USES</b>		
Churches and other institutions for religious worship	P	
Day care centers	SLU	Sec. 5.8
Private service clubs, social organizations and lodge halls	P	
Public buildings and uses, but not including outdoor storage yards	P	
Public buildings and uses, including outdoor storage yards	SLU	
Training and/or educational centers where such centers are designed and intended to provide training at the business, technical and/or professional level	P	
<b>RECREATION USES</b>		
Public parks and playgrounds	P	
Recreation and amusement services, including theaters, bowling alleys, roller and ice skating rinks, billiard halls and miniature golf	SLU	
<b>OFFICE AND SERVICE RELATED USES</b>		
Banks, credit unions, savings and loan associations, excluding drive-through establishments	P	
Banks, credit unions, savings and loan associations, including drive-through establishments	SLU	

Business service establishments such as printing and photocopying services, mail and packaging services, and typing and secretarial services	P	
Funeral establishments	P	
Laundromats and dry cleaning establishments	P	
Office buildings for the use of any of the following occupations: executive; administrative; professional; accounting; writing; clerical; stenographic; drafting; and sales	P	
Personal service establishments, such as barber and beauty shops; watch, clothing and shoe repair; locksmith; and, similar establishments	P	
Radio, television, and electrical appliance repair, and shops of plumbers, electricians and other similar services and trades	P	
Studios for the participation or teaching of art, dance, fitness, music, photography and similar uses, including ancillary sale of products related to such uses	P	
Veterinary offices and hospitals, including accessory boarding, provided no outdoor exercise runs or pens are permitted	P	
<b>MEDICAL RELATED USES</b>		
Medical and dental offices, including clinics and medical laboratories	P	
<b>RETAIL USES</b>		
Flea markets	SLU	
Florist shops	P	
Office, showroom or workshop of an artist, craftsman, carpenter and similar creative services requiring a retail adjunct	P	
Outdoor display of products or materials for retail sale or rental when accessory to a principal permitted use	P	Sec. 5.18
Outdoor sales of manufactured products	SLU	Sec. 5.15
Planned shopping centers	P	
Retail sales	P	
<b>FOOD &amp; DRINK ESTABLISHMENTS</b>		
Bar/lounge, including brewpubs, serving beverages and/or providing entertainment	SLU	
Drive-in restaurants, but excluding drive-through restaurants	SLU	
Fast food restaurants, including drive-in restaurants but excluding drive-through restaurants	SLU	
Food services including grocery, meat market, bakery, restaurant, delicatessen and fruit market, and similar self-service units but not including any business of a drive-in type	P	
Micro-breweries, small wineries and small distilleries, provided the brewing, wine-making and distilling area is less than 2,500 square feet	SLU	Sec. 5.26
Sidewalk cafes	P	Sec. 5.19
Sit down or carry out restaurants, excluding drive-in or drive-through restaurants	P	
<b>VEHICULAR RELATED USES</b>		
Automobile service stations and washes, including drive-through auto washes	SLU	Sec. 17
Sale of new and used automobiles, boats, mobile homes, farm machinery, and other vehicles	SLU	Sec. 5.15
<b>LODGING USES</b>		
Bed and breakfast establishments	P	Sec. 5.20

Lodging facilities	SLU	
<b>INDUSTRIAL USES</b>		
Contractor's establishments, provided all products, material, and equipment are stored within an enclosed building	SLU	Sec. 5.16

Accessory uses, buildings or structures incidental to the permitted or special land uses are also allowed and regulated by Section 5.4.



**Section 4.10 I-MU, Industrial Mixed Use District.**

**4.10.1 Intent.**

This District is designed to accommodate a compatible mixture of light industrial uses along with tourism-related uses and other uses that support job creation and the economic growth of the Village. Such uses would generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation or any other nuisance characteristics. This District is well suited to accommodate new and expanded small-scale production, processing and warehousing facilities with flexible spaces to capitalize on local market opportunities. Tourism-related uses, including campgrounds and lodging, in addition to limited commercial use along the major road frontage, may also be compatible within the District.

**4.10.2 I-MU District Use Table**

In the I-MU District, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right and uses denoted by a "SLU" are considered special land uses and may be approved by the Planning Commission subject to the procedures and standards of Section 3.3, Special Land Uses. Additional applicable use standards are listed in the column at right.

Category/Uses Allowed	I-MU District	Add'l Req'ts
<b>AGRICULTURAL USES</b>		
Agribusiness establishments	SLU	
Farm supply and feed stores	P	
Nurseries, greenhouses and garden centers	SLU	Sec. 5.15
Open air farmers markets	P	
<b>INSTITUTIONAL, EDUCATIONAL AND ASSEMBLY USES</b>		
Business schools, colleges and universities	SLU	
Cemeteries	SLU	
Churches and other institutions for religious worship	SLU	
Public buildings and uses, but not including outdoor storage yards	P	
Public buildings and uses, including outdoor storage yards	SLU	
Training and/or educational centers where such centers are designed and intended to provide training at the business, technical and/or professional level	P	
<b>RECREATION USES</b>		
Campgrounds and RV parks	SLU	
Country clubs, public swimming pools and recreation clubs	SLU	
Public parks and playgrounds	P	
Recreation and amusement services, including theaters, bowling alleys, roller and ice skating rinks, billiard halls and miniature golf	SLU	
<b>OFFICE AND SERVICE RELATED USES</b>		
Business service establishments such as printing and photocopying services, mail and packaging services, and typing and secretarial services	P	
Laundromats and dry cleaning establishments	P	

Veterinary offices and hospitals, including accessory boarding, provided no outdoor exercise runs or pens are permitted	P	
Veterinary offices and hospitals, including accessory boarding, with outdoor exercise runs or pens	SLU	
<b>MEDICAL RELATED USES</b>		
Medical research facilities	P	
<b>RETAIL USES</b>		
Flea markets	SLU	
Office, showroom or workshop of an artist, craftsman, carpenter and similar creative services requiring a retail adjunct	P	
Outdoor display of products or materials for retail sale or rental when accessory to a principal permitted use	P	Sec. 5.18
Outdoor sales of manufactured products	SLU	Sec. 5.15
Planned shopping centers	S	
Retail sales	P	
<b>FOOD &amp; DRINK ESTABLISHMENTS</b>		
Micro-breweries, breweries, small wineries, wineries, small distilleries, and distilleries	P	Sec. 5.26
Restaurants and cafeteria facilities for employees	P	
<b>VEHICULAR RELATED USES</b>		
Automobile repair facilities, paint shops and collision shops for autos and other vehicles, construction and farm equipment	SLU	
<b>LODGING USES</b>		
Lodging facilities	SLU	
<b>STORAGE AND LOGISTICS USES</b>		
Self-storage facilities	P	Sec. 5.13
Trucking and transit terminals	SLU	
Truck and industrial equipment storage yards, including repairing and washing of trucks and equipment	SLU	
Warehousing and wholesale establishments	P	
<b>INDUSTRIAL USES</b>		
Data processing and computer centers including the servicing and maintenance of electronic data processing equipment	P	
Contractor's establishments, provided all products, material, and equipment are stored within an enclosed building	P	Sec. 5.16
Contractor's establishments, including outdoor storage	SLU	Sec. 5.16
Entrepreneurial and business incubator spaces	P	
Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like	P	
Manufacturing of musical instruments, toys, novelties and metal or rubber stamps or other molded rubber products	P	
Manufacturing of pottery and figurines or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas	P	
Manufacturing or assembly of electrical appliances, electronic instruments and devices, radios and phonographs	P	

Manufacturing, compounding, assembling, reassembly, packaging or treatment of articles or merchandise from previously prepared materials: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semi-precious metals or stones, sheet metal, shell, textiles, tobacco, wax, wire, wool and yarns	P	
Manufacturing, compounding, processing, packaging or treatment of such products as, but not limited to: bakery goods, candy, cosmetics, pharmaceutical, toiletries, food products, hardware and cutlery, tool, die, gauge and machine shops	P	
Metal fabrication, and tool and die shops	SLU	
Office, showroom or workshop of an artist, craftsman, carpenter and similar creative services	P	
Printing, publishing, or related activities	P	
Recycling operations	SLU	
Research and development facilities, technical centers and laboratories, and any use charged with the principal function of basic research, design and pilot or experimental product development	P	
<b>OTHER USES</b>		
Adult entertainment establishments	SLU	Sec. 5.23
Mineral mining and extractive operations	SLU	Sec. 5.21

Accessory uses, buildings or structures incidental to the permitted or special land uses are also allowed and regulated by Section 5.4.

**Section 4.11 Schedule of Regulations.**

Zoning District	Minimum Lot Size		Maximum Building Height Space		Minimum Yard Setbacks (ft.)				Max. Lot Coverage (%)	Footnotes (Sect. 4.11.1)
	Area (sq. ft.)	Lot Width (ft.)	Stories	Feet	Front	Each Side	Side Total	Rear		
AG, Agriculture District	43,560	150	2 ½	35	50	20	40	50	15	1, 5, 6 and 7
R-1, Single-Family Residential	8,500	66	2 ½	35	Footnote 10	8	20	35	45	1, 5, 6, 7, 8, 9 and 10
Cottage Lot	2,100	35	2 ½	35	Footnote 10	5	15	20	45	1, 5, 6, 7, 8, 9, 10, 11 and 12
R-2, Multiple Family Residential, Low Density	SF: 10,000	90	2 ½	35	25	8	20	35	35	1, 2, 4, 5, 7 and 9
	2F: 20,000	120	2 ½	35	25	8	20	35		
	MF: 20,000	120	2 ½	35	35	20	25	35		
R-3, Multiple Family Residential, Medium Density	SF: 10,000	90	2 ½	35	25	8	20	35	35	1, 3, 4, 5, 6, 7 and 9
	2F: 20,000	120	2 ½	35	25	8	20	35		
	MF: 20,000	300	2 ½	35	50	20	50	50		
MHP, Mobile Home Park	435,600	See Sect. 5.7	2 ½	35	See Sect. 5.7					1 and 5
C-MU, Corridor Mixed Use	See Sect. 4.8.5									1 and 5
G-MU, Gateway Mixed Use	See Sect. 4.8.5									1 and 5
GC, General Commercial	20,000	100	2 ½	35	50	10	20	20	50	1, 5 and 9
CBD, Central Business District	See Sect. 4.8.6									1 and 5
I-MU, Industrial Mixed Use	43,560	100	2	40	50	15	30	20	75	1 and 5

SF = Single-Family Dwellings; 2F = Two-Family Dwellings; MF = Multiple-Family Dwellings

- For property adjacent to Lake Huron, the front yard is defined as the lakeside of the property and the rear is defined as the street side of the property other than for the front and rear setback requirements.

**4.11.1 Footnotes to Schedule of Regulations.**

1. All dwelling units and occupied buildings shall be served with a public water supply system and a public sanitary sewer system.
2. Lot Area and Density. Every lot or parcel of land occupied by a low density multiple-family structure shall contain a minimum of twenty thousand (20,000) square feet and a total area of not less than the following:

Unit Type	Lot Area Dwelling Unit
Efficiency	4,800 square feet
One Bedroom	6,000 square feet
Two Bedroom	6,700 square feet
Every Additional Bedroom	1,300 square feet

3. Lot Area and Density. Every lot or parcel of land occupied by a medium density multiple-family dwelling structure shall contain a minimum area of three (3) acres and a total area of not less than the following:

Unit Type	Lot Area Dwelling Unit
Efficiency	1,900 square feet
One Bedroom	2,300 square feet
Two Bedroom	3,000 square feet
Every Additional Bedroom	700 square feet

4. Distance between Buildings. In addition to the required setbacks from property boundaries, the following minimum distances shall be required between each multiple family structure:
  - a. Where buildings are front to front or front to rear, three (3) times the height of the taller building, and not less than seventy (70) feet.
  - b. Where buildings are side to side, one and one-half (1.5) times the height of the taller building, but not less than twenty (20) feet.
  - c. Where buildings are front to side, rear to side, or rear to rear, two (2) times the height of the taller building but not less than thirty-five (35) feet.

In applying the above standards, the front of the building shall mean that the face of the building having greatest length and contains the primary entrance to the building; the rear is that face opposite the front. The side is the face having the smallest dimension.

5. The minimum distance of any principal building from the ordinary high water mark shall be fifty (50) feet.
6. Driveways to single family dwellings shall be located in the greater side yard setback.
7. The minimum floor area of dwelling units shall be as follows:

Type of Dwelling	Total Usable Floor Area (sq. ft.)
One Family	1,000
One Family (Cottage Lot)	800
Two-Family, per dwelling unit	800
Multiple Family:	
Efficiency Unit	600
1 bedroom unit	800
2 bedroom unit	1,000
3 bedroom unit	1,200
4 bedroom unit	1,400
Each additional bedroom	100

8. Decks and porches are conditionally allowed within the front setback area if they are not supported by a permanent foundation. A land use permit is required and approval is made on a case by case basis by the Planning Commission. Existing non-conforming decks and porches may be replaced without a land use permit provided the replacement is of the same size and in the same location.
9. No residential or commercial building shall be built of steel exterior wall construction.
10. The minimum front yard setback for construction in the R-1 District shall be anywhere between the least front setback and the greatest front setback of the existing residences found on the block-frontage, unless the difference between the least and greatest is more than ten (10) feet. In such case, the minimum front yard setback shall be within three (3) feet of the median of the front setbacks for all residences found on the block-frontage. Where there are no existing residences along the block-frontage, the minimum front yard setback shall be twenty-five (25) feet.
11. For a cottage lot, as defined in this Ordinance, Design Review is required prior to issuance of land use permits and includes submission of residential development plan as described in Section 3.4.1,(4).
12. Floor Area Ration (FAR) for residential, single family dwelling is .5.

**4.11.2 Land Division Act – Refer to General Code of Ordinances, Chapter 63, Section 1-8**

## ARTICLE 5 GENERAL AND SPECIAL PROVISIONS

### **Section 5.1 Intent.**

The intent of this Article is to provide for those regulations which generally apply regardless of the particular zoning district and to those special land uses which may be permitted in certain zoning districts.

### **Section 5.2 Cluster Housing Option.**

The cluster housing option may be applied for as a special land use in R-1, R-2 and R-3 Districts subject to the standards set forth in Section 3.3, Special Land Uses, and this Section.

#### **5.2.1. Intent.**

The intent of the cluster housing option is to permit the development of single-family residential patterns which, through design innovation, will:

- allow greater flexibility;
- encourage a more creative approach to the development of single-family residential areas;
- encourage a more efficient, aesthetic, and desirable use of the land;
- provide a more desirable living environment through the preservation and conservation of natural features such as topography, wetlands, woodlands, bodies of water, and other natural assets; and
- encourage the provision of open space so that benefits may accrue directly to the residents of the development or the community as a whole.

#### **5.2.2. Qualification of Parcels.**

The parcel must be located in a district zoned for residential use and must meet one (1) or more of the following characteristics listed below. Requests for qualification under these conditions must be supported by documented evidence supplied by the applicant in either narrative or graphic form.

Parcel Characteristics Qualifications:

1. The parcel contains natural assets which would be preserved through the use of cluster development. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, wetlands, bodies of water, unusual topographic features, or other natural assets which should be preserved. Requests for qualification under these conditions must be supported by documented evidence.
2. The parcel contains major topographic conditions which would require mass grading resulting in loss of significant natural features.
3. The parcel contains substantial portions of flood plain and wetlands. A flood plain and wetlands map indicating the extent of the wetlands and flood plain area shall be submitted to the Planning Commission in order to support the proposal for the parcel's qualification for cluster development.

- The parcel, due to its size or shape, cannot be reasonably developed as a conventional subdivision or site condominium development.

**5.2.3. Site Design Requirements.**

All cluster developments submitted under this option shall conform to the following site design requirements:

- Development is permitted as either attached or detached dwelling units, provided the number of attached units shall not exceed twenty (20%) percent of the total number of units allowed within the R-1 District.
- Open space. When completed, the development shall have twenty (20%) percent of the gross acreage in the development devoted to open space, which shall remain in its natural state and/or be restricted to active and/or passive outdoor recreational purposes. Dedication of open space shall comply with the standards set forth in Section 5.3. Designated open space shall include area within any greenbelts required by Sections 5.2.3.3 and 5.2.3.4, subject to the restrictions contained herein.

The computation of designated open space shall not include: rights-of-way or easements designated for road purposes; areas within the minimum setbacks of a dwelling unit; land which is under water (lakes, streams, water courses, and other similar bodies of water); any area to be improved into a lake or pond; and/or more than twenty-five (25) percent of the area of regulated wetlands.

- Greenbelt Adjacent and Parallel to Public Streets. In addition to any required minimum setback specified in Section 5.2.3.6, a greenbelt, the minimum width as set forth below, shall be required along any adjacent public street. The greenbelt shall be measured from the street right-of-way. The Village, at its discretion, may permit either reductions or variations in width of the greenbelt taking into consideration topographic and/or other natural resource conditions, density of existing vegetation to be preserved, and size and shape of the development site.
- Transition from Adjacent Parcels: In order to provide an orderly transition for access and density between the proposed development and adjacent areas when a cluster development abuts a single-family residential district, the Planning Commission, at its discretion, may require one or more of the following measures: location of streets to meet up with adjacent streets, an area or row of lots of comparable size as the neighboring residential lots, designation of open space along the common boundaries, and/or screening in accordance with the requirements of Section 6.2.4 of this Ordinance.

The following minimum greenbelt from adjacent public streets shall be applied:

Minimum Width of Greenbelt from Adjacent Public Streets	
District	In Feet
R-1	50
R-2	50
R-3	75



5. Transition from Adjacent Parcels. In order to provide an orderly transition of density when a cluster development abuts a single-family residential district of equal or lower density, the Planning Commission, at its discretion, may require one (1) or more of the following measures: designation of open space along the common boundaries; screening in accordance with the requirements of Section 6.2.4; and/or an area or row of lots of commensurate size as neighboring residential lots.
6. Density. The number of dwelling units within any development permitted hereunder shall not exceed the number of dwelling units permitted in the Zoning District in which the proposed development is located without application of the cluster housing option. The applicant must submit a concept plan that illustrates a site layout without the cluster option and all applicable ordinances and laws observed.
7. Setbacks. Minimum setback requirements are established in a manner which permits variation in the siting of individual dwelling units in order to encourage creativity in design and compatibility with natural resource features. The minimum setback requirements for each dwelling unit shall be shown on the site plan as follows:
  - a. In the case of single-family detached dwellings, the following minimum setbacks shall be applied:

Minimum Yard Setbacks Per Unit (in Feet)					
District	Front and Rear			Side	
	Front	Rear	Total	Least	Total
R-1	20	30	55	5	15
R-2	20	30	55	5	15
R-3	20	30	55	5	15

- b. In the case of single-family attached dwellings, the following minimum setbacks shall be required:

Minimum Setback (in Feet)		
District	From Internal Drives & Streets	From Perimeter Property Boundaries
R-1	20	50
R-2	20	50
R-3	20	50

- c. In the case of single-family attached dwellings, the minimum distance between buildings shall comply with Section 4.11.1.4.
8. Required Street Frontage. Any cluster lot contained within a cluster lot development shall have frontage on and direct access to a public street which has been accepted for maintenance by the Village. The extent of street frontage shall be determined by the Village, in its discretion, taking into consideration topographic and/or other natural resource considerations, size and shape of the development site, and public safety factors.

### **Section 5.3 Open Space Preservation.**

**5.3.1** Whenever the preservation of open space is required by this Ordinance, the applicant shall provide a demonstrated means that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Village and the land uses continue as approved in the open space community plan.

The dedicated open space shall be set aside by the applicant through an irrevocable conveyance that is found acceptable to the Village Attorney, such as:

1. Recorded deed restrictions.
2. Covenants that run perpetually with the land,
3. Conservation easements

**5.3.2.** Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:

1. Indicate the proposed allowable use(s) of the dedicated open space.
2. Demonstrate to the satisfaction of the Village that dedicated open space shall be maintained.
3. Provide standards for scheduled maintenance of the open space.
4. Provide for maintenance to be undertaken by the Village in the event that the dedicated open space is inadequately maintained, or is determined by the Village to be a public nuisance, with the assessment of costs upon property owners within the proposed development.

### **Section 5.4 Accessory Buildings.**

#### **5.4.1. Requirements Applicable to Accessory Buildings.**

1. No accessory building or structure shall be built upon a lot or parcel unless and until a principal structure is erected.
2. Where the accessory building is structurally attached to a main building, it shall conform to all setback and height regulations of this Ordinance and building codes applicable to main buildings.
3. The sum total floor area of all accessory buildings and structures shall not exceed fifty (50%) per cent of the total floor area of all stories of the principal building.
4. Accessory buildings and structures shall be included in lot coverage limitations.
5. The sum total floor area of all detached accessory buildings and structures shall not exceed twenty-five (25%) per cent of the total required and non-required rear yard area.
6. Within the R-1, R-2, R-3 and MHP Districts, the maximum height of detached accessory buildings and structures shall be limited to the height of the principal structure or twenty-four (24) feet, whichever is less.
7. No living quarters may be placed in a detached accessory building or structure.
8. In no instance shall an accessory building or structure be located within a dedicated easement or right-of-way.

9. A building or structure not attached to a principal building shall be considered a detached accessory building or structure.
10. Detached accessory structures shall be erected only in a rear yard. If the lot is a corner lot, accessory structures shall remain behind all building lines adjacent to streets. In MHP districts, structures must be placed in the rear half of the lot.
11. No detached accessory building or structure shall be constructed within ten (10) feet of any other building located on the same lot or parcel.
12. Accessory buildings and structures located in rear yards shall not be closer than ten (10) feet to any rear or side lot line except as stated otherwise in this section. In R-1 districts, they shall not be closer than five (5) feet to any rear or side lot line. In C-MU, G-MU, CBD, AND MHP districts, they shall not be closer than three (3) feet to any rear or side lot line. All accessory buildings and structures shall not be located closer than three (3) feet to a public easement.
13. Accessory structures shall be subject to all applicable building code regulations of the Village of Lexington. No building shall be built of steel exterior wall construction except for prefabricated sheds less than 100 SF in all districts except I-MU, AG, and MHP.
14. Shoreline/Water Protection Areas, Section 6.14.
  - a. Any accessory storage building lakeward of the crest of the bluff or slope shall not exceed 200 square feet, a maximum height of 12 feet, a minimum side setback of 10 feet and must be landward of 582 DAVD 88 (USACE, OHWM, 581.5 IGLD 85). Only one accessory storage building is permitted.
  - b. Any accessory structures such as ground level observation deck, an open or screened seating pavilion/gazebo building lakeward of the crest of the bluff or slope shall not exceed 200 square feet, a maximum height of 12 feet, a minimum side setback of 15 feet and must be landward of 582 NAVD 88 (USACE, OHMW, 581.5 IGLD 85). Only one structure such as a ground level observation deck, an open or screened seating pavilion/ gazebo building is permitted.

**5.4.2. Private swimming pools shall be subject to the following:**

1. No portion of the swimming pool or associated structures shall be permitted to encroach upon any easement or right-of-way which has been granted for public utility use.
2. In the case of waterfront lots, swimming pools may be located within the front yard, but shall comply with the required front yard setback. On all other lots, swimming pools shall not be allowed within the front yard. Placement of swimming pools in a side yard shall comply with required side yard setbacks specified for the zoning district wherein the pool is located. Rear yard setbacks shall be a minimum of fifteen (15) feet.
3. All swimming pools shall be enclosed in accordance with applicable Building Codes.

**5.4.3. Requirements Applicable to Accessory Buildings Within All Other Districts:** Accessory buildings shall be subject to the same placement and height requirements to principal structures in the District in which located if not regulated by Section 5.4.1.

**Section 5.5 Emergency Temporary Dwellings.**

**5.5.1. When permitted.**

Emergency temporary dwellings may be permitted upon a finding by the Village that the principal residential structure has been destroyed in whole or in part by fire, explosion or natural disaster and therefore is uninhabitable and the standards set forth herein have been met.

**5.5.2. Permit application and review.**

1. An application for a permit for the emergency temporary use and installation of a mobile home, modular, or prefabricated dwelling unit shall be made to the Zoning Administrator. The application shall be accompanied by a plot plan showing the location of the proposed structure.
2. The application shall be reviewed by a committee composed of the Zoning Administrator and two elected Village Council members, other than the Zoning Administrator. Approval of the application may be granted by a majority vote of the committee upon a finding that all of the following conditions are met:
  - a. The principal residential structure has been destroyed in whole or in part by fire, explosion, or natural disaster and therefore is uninhabitable.
  - b. The temporary dwelling unit will be connected to public sewer and water.
  - c. The temporary dwelling unit complies with all applicable Zoning District requirements including setback, area, bulk, and other requirements, except minimum house size requirements.
3. The granting of a permit for an emergency temporary dwelling unit shall be for a period of up to one (1) year from the date of approval by the committee. Any conditions of approval shall be specified in writing on the permit.
4. To guarantee compliance with the provisions of the ordinance and removal of the emergency temporary dwelling upon expiration of the permit, the Village Council may require a cash bond to be posted prior to the issuance of a permit.

**Section 5.6 Building Design Standards.**

**5.6.1. Purpose.**

Purpose. The purpose of this section is to advance the interest of public health, safety and general welfare as related to the exterior of buildings by:

1. Stabilizing and reinforcing property values to protect private and public investment, reverse area decline and upgrade building quality.
2. Promoting the renovation of existing buildings and neighborhoods in order to preserve and reinforce their natural, historic, cultural, social and architectural qualities.
3. Encouraging the enhancement and maintenance of the economic vitality and character of the city.
4. Ensuring that new projects are compatible with the character of the surrounding area.

**5.6.2. Standards.**

The zoning administrator shall determine whether the standards of this section are met and shall have discretion to forward the matter to the planning commission for final determination.

**5.6.3. Existing Sites.**

Existing buildings and structures undergoing alteration, change in use or expansion shall be brought into reasonable compliance with the minimum standards of this section.

**5.6.4. Non-Residential, Mixed Use and Multiple-Family Residential Buildings.**

The following design standards apply to all non-single-family residential buildings and structures, including upper level residential in any district:

1. Materials and colors.
  - a. The following exterior finish materials shall be required for walls visible from streets or an adjacent residential district:
    - i. Primary Materials must be used to compose a minimum of 75% of wall area of the building base and 50% of wall area for the upper floors.
    - ii. Secondary Materials are allowed to compose a maximum of 25% of wall area in the building base and 50% of wall area for the upper floors.
    - iii. The exterior finish materials shall consist of no more than four (4) unique materials, excluding architectural detail, accent, or trim; and balconies and railings. A change in color, pattern, or profile shall constitute a unique material.

Material	Building Type					
	Commercial, Mixed Use, Institutional		Multiple Family Residential		Industrial	
	Primary	Secondary	Primary	Secondary	Primary	Secondary
<b>Masonry</b> <ul style="list-style-type: none"> <li>• Brick (natural, glazed)</li> <li>• Stone (natural, synthetic)</li> <li>• Terra Cotta</li> </ul>	X	X	X	X	X	X
<b>Concrete</b> <ul style="list-style-type: none"> <li>• Cast-in-Place</li> <li>• Precast</li> </ul>	X	X			X	X
<b>Siding</b> <ul style="list-style-type: none"> <li>• Wood (natural, composite)</li> <li>• Fiber Cement Board (e.g., Hardie Panel)</li> </ul>		X	X	X		
<b>Stucco (upper floors only)</b> <ul style="list-style-type: none"> <li>• Traditional cementitious</li> <li>• Synthetic EIFS</li> </ul>				X		
<b>Architectural Metal Panel</b> <ul style="list-style-type: none"> <li>• Insulated metal panel</li> <li>• Composite metal panel</li> </ul>		X		X	X	X

- b. In addition to the permitted primary and secondary materials, materials that may be used for architectural details, accent, or trim (not to exceed 10% of the wall area) include:
  - i. Glass reinforced fiber cement
  - ii. Molded polyurethane
  - iii. Glass block
  - iv. Metal
  - v. Wood
- c. Concrete masonry units (ground face, split face, burnished face) are permitted for basement or foundation walls only and should not be visible above the floor line of the ground floor.
- d. The following exterior finish materials shall be prohibited: vinyl siding; T1-11 and other plywood siding materials; porcelain or ceramic tile; sheet metal or corrugated metal.
- e. Building materials shall be durable, weather-resistant, rustproof, and kept in good condition to meet the building code by the property owner or tenant at all times.
- f. The color of each façade material shall be harmonious with the color of all other façade materials used on the same building and on adjacent buildings and shall be in character with or improve the character of the surrounding area. For the purposes of this chapter, colors are harmonious if they are complementary in hue, tone and intensity.
- g. Balconies, railings and porch structures shall be metal, wood, glass, cast concrete or stone.
- h. Storefront systems shall be primed and painted, or factory-finished (anodized, powder-coated, clear coated, plated, or polished).
- i. Structural elements that support signage shall be primed and painted, or factory-finished (anodized, powder-coated, clear coated, plated, or polished) and be complimentary to the selected storefront finish.

## 2. Building Features.

- a. Pedestrian access. Buildings shall be designed to encourage pedestrian access on primary frontages. There shall be a maximum distance of 50 feet between entrances on a primary frontage.
- b. Balconies.
  - i. Balconies shall not be located within five feet of any common lot line and shall not encroach into the public right-of-way.
  - ii. Balconies may be a single level or multiple balconies stacked vertically for multiple stories.
  - iii. The balcony shall be enclosed by balustrades, railings, or other means that block at least half of the view through them.
  - iv. The balcony support structure shall be integrated with the building facade; separate columns or posts supporting any balcony from the ground are prohibited.
- c. Overhead loading doors. Overhead loading doors shall not face a public street or residential district. The planning commission can waive this requirement upon a determination that there is no reasonable alternative, it is essential to the operation of the business, and the visual impact

will be moderated through use of building materials, architectural features or landscaping. This provision is not intended to regulate retail customer access; however, overhead vehicular access doors facing a public street are discouraged.

- d. Awnings.
  - i. Façades may be supplemented by straight-shed or domed awnings.
  - ii. Glass, steel, canvas and other natural fabric awnings shall be permitted, while slatted metal, vinyl, plastic and other synthetic awnings are prohibited.
  - iii. The front extended edge of awnings shall be compatible in height to others in the same block, but in no case shall be lower than eight feet six inches above grade.
  - iv. Awnings shall be compatible in color to others in the same block.
  - v. Back-lit and internally illuminated awnings shall be prohibited, however directional down lighting is permitted for illumination of grade.
  - vi. Awnings shall be constructed so as to discourage harborage of birds and their structural elements shall be primed and painted, anodized or powder-coated.
3. Waiver. The planning commission may waive the requirements of this subsection if it finds that a proposed building design is in keeping with the intent of this section and the recommendations of the master plan and meets all of the following conditions:
  - a. It is determined to not be grossly dissimilar in exterior design and appearance to nearby buildings and it does not adversely affect property values in the surrounding area.
  - b. It does not adversely affect the desirability of immediate and neighboring areas.
  - c. It does not impair the stability of the area or prevent the most appropriate use and development of real estate.
  - d. It does not adversely affect the public health, safety, comfort and welfare of the citizens of the city.
  - e. A structure may be determined to be compatible in design and appearance to other structures in the context in which it is to be located, even if it does not comply with the above criteria, if it has other design features that make it harmonious with other structures or improve the character of the area in which it is located.

#### **5.6.5. Single-Family Dwellings, Mobile Homes, Prefabricated Housing.**

No single-family dwelling (site built), mobile home, modular housing, or prefabricated housing located outside a mobile home park or mobile home subdivision shall be permitted unless said dwelling unit conforms to the following standards:

1. Square Footage. Each such dwelling unit shall comply with the minimum square footage requirements of this Ordinance for the zone district in which it is located.
2. Dimensions. Each such dwelling unit shall have a minimum width across any front, side, or rear elevation of twenty (20) feet and shall comply in all respects with the Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are

different than those imposed by the Michigan State Construction Code Commission, then and in that event such federal or state standard or regulation shall apply.

3. Foundation. Each such dwelling unit shall be firmly attached to a permanent foundation constructed on the site in accordance with the Building Code and shall have a wall of such dimensions to adequately support the dwelling. All dwellings shall be securely anchored to the foundation in order to prevent displacement during windstorms.
4. Undercarriage. Dwelling units shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.
5. Sewage Disposal or Water Supply. Each such dwelling unit shall be connected to public sewer and water.
6. Storage Area. Each such dwelling unit shall contain a storage capability area either in a basement located under the dwelling, in an attic area, or in a separate or attached structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10%) percent of the square footage of the dwelling or one hundred (100) square feet, which ever shall be less.
7. Articulation.
  - a. The rhythm established in the neighborhood through the existing architectural elements shall be maintained. Building setback and roof lines shall generally match the established pattern of buildings on adjacent properties to maintain the existing street wall patterns and design. The elements considered for the purposes of this standard shall include, but not be limited to, frequency and spacing of windows and doorways.
  - b. The front elevation of single-family detached dwelling units shall not recur in the same or a substantially similar structural form on another dwelling within the same block-frontage, without there being at least three other dwellings with a different building elevation between the dwellings that repeat the front elevation. Different colors alone will not constitute different front elevations.
8. Materials.
  - a. The façade materials used are not grossly dissimilar to the materials typically found in the surrounding neighborhood, including, but not limited to, roof pitch, materials, architectural style and details and fenestration. Brick may be used as an acceptable building material in neighborhoods where it is not typically found.
  - b. The exterior colors of the dwelling are compatible with the colors of dwellings typically found in the surrounding neighborhood. Bright or contrasting colors may be used on trim only.
9. Roof. The roof pitch of the dwelling shall be comparable to or greater than the roof pitch of dwellings typically found in the surrounding neighborhood.
10. Porch. Each residential unit with a separate entrance shall include a porch:
  - a. A porch shall be between 7 feet and 9 feet deep that projects no more than 7 feet into the dooryard and with a width of not less than 65% of each unit with a separate entrance.
  - b. Where the first floor is occupied by a lobby, office, or common space and no dwelling are located on the first floor along the front of the building, then a stoop or porch is not required.
11. Garage.



- a. A garage shall be located no closer to the front property line than the garages of dwellings typically found in the surrounding neighborhood.
  - b. A garage, either attached or detached, may not exceed 50% of the front façade width.
12. Entrance.
- a. At least one entry must face onto and connect to the primary street.
  - b. Secondary entries are permitted from the side or rear.
  - c. A recessed entry shall not exceed 5 feet.
13. Additions. Each such dwelling unit shall contain no addition or room or other area which is not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
14. Code Compliance. Each such dwelling unit shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus, and insulation within and connected to said mobile home shall be of a type and quality conforming to the “Mobile Home Construction and Safety Standards” as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended or superseded. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
15. Building Permit. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Building Code provisions and requirements.
16. Waivers. The Planning Commission or Zoning Administrator may waive the requirements of this subsection if it finds that a proposed building design and the materials are in keeping with the intent of this section and the recommendations of the master plan.
17. Exceptions. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance and pertaining to such parks. Mobile homes which do not conform to the standards of this section shall not be used for dwelling purposes within the Village unless located within a mobile home park or a mobile home subdivision district for such uses, or unless used as a temporary residence as otherwise provided in this Ordinance.

## **Section 5.7 Mobile Home Park Requirements.**

The Mobile Home Code, as established by the Mobile Home Commission and the Michigan Department of Public Health Rules under the authority of the Mobile Home Commission Act, Public Act 96, as amended, regulates development of mobile home parks. All mobile home parks must be constructed according to the standards of the Code.

In addition to the rules and standards of the State of Michigan, The Village of Lexington imposes the following conditions:

**5.7.1.** Mobile Home Parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Mobile Home Commission Act, Act 96 of 1987, as amended, and subsequently adopted rules and regulations governing mobile home parks.

**5.7.2.** Mobile Home Parks shall not be permitted on parcels less than ten (10) acres in size.

**5.7.3.** Individual mobile home sites within a mobile home park shall have a minimum lot size of 4,500 square feet per mobile home being served. This 4,500 square foot minimum may be reduced by twenty (20%) percent, provided that the individual site shall be equal to at least 3,600 square feet. For each square foot of land gained through this reduction of the site below 4,500 square feet, an equal amount of land shall be dedicated as open space. In no case shall the open space requirements be less than that required under R125.1946, Rule 946 of the Michigan Administrative Code.

**5.7.4.** The on-site storage of boat trailers, boats, camping units, horse trailers and similar recreational equipment shall be prohibited on mobile home sites and in designated open space areas. The mobile home park may provide, within the confines of the park, a common outdoor storage area for the storage of the above-mentioned equipment.

**5.7.5.** Mobile home parks shall be landscaped as follows:

1. If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development.
2. If the park abuts a non-residential development, the park need not provide screening.
3. In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.

The landscaping shall consist of evergreen trees or shrubs a minimum three (3') feet in height which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the mobile home park as effectively as the required landscaping described above.

**5.7.6.** Mobile Home Lots (individual) shall be landscaped as follows:

1. Small shrubbery and flowers and/or flower pots are allowed. Any/all shrubbery, flowers, the lawn etc. must be maintained by the tenant.
2. The planting of a tree requires an approval from the environmental committee of the Village of Lexington for location as well as species. Miss Dig must be called prior to the placement of a tree. If the tenant fails to phone, and/all damage to underground utilities shall be the sole responsibility of the tenant.
3. Hardscape landscaping in the park i.e. Driveways, sidewalks, paver paths and paver or concrete patios are permitted only with a Land Use Permit and an approved site plan. Prior any digging or prep work for landscaping Miss Dig must be called to identify all underground utilities. If the tenant fails to phone, and damage to underground utilities occurs it shall be the sole responsibility of the tenant.
4. Dumping of any refuse over the bluff is prohibited.
5. The unoccupied portion of the lot after setting the home shall not exceed fifteen percent (15%) hardscape materials, such as concrete, pavers or gravel.

**5.7.7.** Mobile Home Parks shall be subject to a preliminary site plan review per the requirements and in accordance with PA 96 of 1987, as amended.

**5.7.8.** A permit shall not be required for the construction or erection of canopies or awnings which are open on three (3) sides. A Land Use Permit and a building permit shall be required before the construction or erection

of any screened, glassed-in, or otherwise enclosed awning or canopy attached to the mobile. The setback requirement for enclosed and attached structures from an adjacent hardwall is ten (10) feet.

**5.7.9. Set back requirements:**

District	Front	Side	Rear	Other
Mobile Home	10 feet to the street	10 feet to the next mobile	4 feet to the rear P/L	
Sheds	10 feet to the street	4 feet to the next mobile	4 feet to the rear P/L	Not to exceed 80 sq. ft.
Deck	10 feet to the street	4 feet to the next mobile	4 feet to the rear P/L	On double frontage lots: front 10 ft. from the street; 4 ft. from the street.
Club House	25 feet	10 feet	15 feet	Height: not to exceed 35 ft.

**5.7.10. General Provisions:**

1. Obstructions – there shall be no obstructions of any form within ten (10) feet of the adjacent mobile home, including an attached structure that may be used for living space.
2. Mobile homes must be kept in a well-maintained condition. The lot shall be kept neat, mowed and clear of all debris.
3. The storage of flammable, combustible or hazardous material is expressly forbidden. The use of ancillary propane fuel, fuel oil or kerosene heaters in the mobile is prohibited. Propane cylinders for outdoor grills are allowed.
4. Air conditioners must be in working order and free of rust, loose covers and faulty connections. All window units must be self-supported.
5. No outdoor aerials or towers are permitted. Satellite dishes and digital antennas up to twenty-four inches (24”) in diameter and attached to the mobile are permissible.
6. No windows or doors should be covered with foil, paper, cardboard or metal.
7. Free-standing steps must be constructed of pre-cast concrete, vented fiberglass, metal or treated lumber and must include handrails. A permit is required for new/or replacement steps. Steps installed in conjunction with a new set up are included in the original permit.
8. Ice and snow removal from sidewalks and driveways is the sole responsibility of the tenant.
9. Decks and porches must be of a design approved by the Village and shall include a handrail. A permit is required.
10. Screened-in porches must be factory installed and readily removable. A permit is required.
11. A temporary canopy may be erected for recreational use only. It may not be used for a sleeping area. The canopy must be removed when the tenants are not in residence.
12. Children’s swing sets are not permitted.

13. Skirting is required on all mobiles. The skirting may be of aluminum or vinyl and must be installed within 30 days of the installation of the mobile.
14. All mobiles are required to have life, safety and habitability inspection every five (5) years. The cost of the inspection Fifty Dollars (\$50) will be the obligation of the tenant and shall be paid within ten days (10) of billing. Any safety deficiencies shall be corrected within ninety days (90) of the inspection. Verification of corrections will be copied to the Village. Written notice will be sent by the Village prior to the inspection to establish an appointment time.
15. Spray painting of any kind is expressly prohibited.
16. All renovations or repairs of a mobile must be completed by a licensed contractor.
17. Campfires shall be in an enclosed fire pit which must have a lid and be a minimum of four feet (4') from any mobile. There shall be no open fires. Fireworks are not allowed anywhere in the Park.

## **Section 5.8 Day Care Facilities.**

### **5.8.1. Intent.**

It is the intent of this section to establish standards for day care facilities which will ensure compatibility with adjacent land uses and maintain the character of the neighborhood.

### **5.8.2. Application of Regulations.**

1. A State licensed Family Day Care Home shall be considered a residential use of property and a permitted use in all residential districts. Family Day Care Homes shall be prohibited in all other districts.
2. The Village Council may, by issuance of a special land use permit, authorize the establishment of Group Day Care Homes and Day Care Centers as specified in District regulations and subject to the standards herein.

### **5.8.3. Standards for Group Day Care Homes.**

Group Day Care Homes shall be considered as special land use subject to the requirements and standards of Section 3.3 and the following additional standards:

1. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located.
2. The property is maintained in a manner that is consistent with the character of the neighborhood.
3. There shall be an outdoor play area of at least five hundred (500) square feet provided on the premises. Said play area shall not be located within the front yard setback. This requirement may be waived by the Planning Commission if a public play area is within five hundred (500) feet of the subject parcel.
4. All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing, and is at least four (4) feet in height, but no higher than six (6) feet.
5. The hours of operation do not exceed sixteen (16) hours within a twenty-four (24) hour period. Activity between the hours of 10:00 p.m. and 6:00 a.m. shall be limited so that the drop-off and pick-up of children is not disruptive to neighboring residents.

6. One (1) off-street parking space per employee not a member of the Group Day Care Home family shall be provided.
7. Appropriate licenses with the State of Michigan shall be maintained.

#### **5.8.4. Standards for Day Care Centers.**

Day Care Centers shall be considered as a special land use subject to the requirements and standards of Section 3.3 and the following standards:

1. The Day Care Center shall be served by public sewer and water.
2. A separate drop-off and pick-up area shall be provided adjacent to the main building entrance, located off of a public street and the parking access lane, and shall be of sufficient size so as to not create congestion on the site or within a public roadway.
3. Off-street parking shall be provided at a rate of one (1) space per employee plus one space for every five (5) children enrolled at the facility
4. There shall be an outdoor play area of at least 1,000 square feet provided on the premises. Said play area shall not be located within the front setback. This requirement may be waived by the Planning Commission if public play area is available five hundred (500) feet from the subject parcel.
5. Appropriate licenses with the State of Michigan shall be maintained.

### **Section 5.9 Adult Foster Care Facilities**

#### **5.9.1. Intent.**

It is the intent of this section to establish standards for adult foster care facilities which will insure compatibility with adjacent land uses and maintain the character of the neighborhood.

#### **5.9.2. Application of Regulations.**

1. A State licensed Adult Foster Care Small Group Home serving six (6) persons or less and Adult Foster Care Family Home shall be considered a residential use of property and a permitted use in all residential districts.
2. The Village may, by issuance of a special land use permit, authorize the establishment of Adult Foster Care Small Group Homes serving more than six (6) persons and Adult Foster Care Large Group Homes in the following zoning districts: R-1, R-2, R-3, and MHP. Such facilities shall be prohibited in all other districts.
3. The Village may, by issuance of a special land use permit, authorize the establishment of an Adult Foster Care Congregate Facility in the following zoning districts: R-2, R-3, and MHP. Such facilities shall be prohibited in all other districts.

**5.9.3. Standards for Adult Foster Care Small Group Homes serving more than six (6) persons and Adult Foster Care Large Group Homes.** Such homes shall be considered as special land use subject to the requirements and standards of Section 3.3 and the following additional standards:

1. A site plan, prepared in accordance with Section 3.4, shall be required to be submitted.

2. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of 1,500 square feet per adult, excluding employees and/or care givers.
3. The property is maintained in a manner that is consistent with the character of the neighborhood.
4. One (1) off-street parking space per employee and/or caregiver shall be provided.
5. In its sole discretion, the Village may determine that landscape screening in accordance with Section 6.2.4 is required.
6. Appropriate licenses with the State of Michigan shall be maintained.

**5.9.4. Standards for Adult Foster Care Congregate Facilities.**

Such facilities shall be considered as a special land use subject to the requirements and standards of Section 3.3 and the following standards:

1. A site plan, prepared in accordance with Section 3.4, shall be required to be submitted.
2. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of 1,500 square feet per adult, excluding employees and/or caregivers.
3. Parking requirements as required for convalescent homes and similar facilities, set forth in Article 10 shall be met.
4. All landscape requirements set forth in Section 6.2 shall be met.
5. Appropriate licenses with the State of Michigan shall be maintained.

**Section 5.10 Home Occupations.**

**5.10.1. Definitions:**

**Home Occupation.** An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**Home Occupation Major:** A Home Occupation as defined herein that may be apparent to the neighbors by virtue of activities on site, signage, outdoor storage or modification to the structure or grounds.

**Home Occupation Minor:** A Home Occupation as defined herein that under normal circumstances, other than a sign as described in this ordinance is not apparent to the neighbors.

**5.10.2. General Provisions:**

It is the policy of the Village to encourage entrepreneurship and a reasonable degree of activity within residential areas during normal business hours. Such activity contributes to the vitality of the community. However, excessive commercial activity, such as traffic, odors, deliveries and signage, within a neighborhood may undermine its residential character. The intent of this section is to establish reasonable standards to regulate home occupation activities that are compatible with the residential character of a neighborhood.

### **5.10.3. Minor Home Occupations:**

1. Must be conducted entirely within a residential building and must not be evident in any way from the street or from any neighboring property.
2. Must not change the character of the building in which it is conducted and must not constitute, create or increase a nuisance.
3. Must be carried on only by the inhabitants of the dwelling.
4. Must only employ mechanical equipment which is similar in power, type and use for ordinary household purposes or hobbies.
5. Must not generate noise, vibrations, smoke, dust, heat, or glare which are detectable beyond the property lines. Furthermore, the home business shall not create any electrical interference with the transmission of television, cellular, wireless service or radio in the area which exceeds that which is normally produced by a residential dwelling unit in the district.
6. Must provide sufficient solid waste receptacles of a residential nature sufficiently screened and maintained so the property is free from debris.
7. Must not devote more than twenty percent (20%) of the principal residence for use of the home business.
8. Must not require parking spaces in excess of two (2) spaces, located in the driveway or on the street, directly adjacent to the property.
9. Must not generate vehicle trips in excess of ten (10) trips per day.
10. May have one (1) sign attached to the front wall of the principal building not to exceed two (2) square feet in area, and not be lighted.
11. On site merchandise or business shall be limited to:
  - a. Items commonly traded, collected or occasionally bought and sold by hobbyists (i.e. antiques, stamps, coins, comics, etc.) but not including automobiles or firearms.
  - b. Crafts and artistic products.
  - c. Low volume businesses such as; CPA, Law Office, Financial Planning, etc.

### **5.10.4. Major Home Occupation:**

A home occupation shall be conducted entirely within the dwelling or approved accessory structure, as defined herein, and shall not involve any alteration of the structure or change in the character thereof. Home occupation shall satisfy the following conditions:

1. The operator of a proposed home occupation shall attach an operational plan for the home occupation to the application for a Special Land Use Permit. The operational plan shall provide the following information:
  - a. Hours of operation
  - b. Number of employees and description of employee parking.
  - c. Site plan in accordance with the CLU requirements.

- d. A description of any/all material used in the home occupation which will be stored on the premises.
  - e. A description of the shipping and delivery requirements of the home occupation.
  - f. Proposed signage – no illumination and attached to the front of the principal residence, not to exceed two (2) square feet.
  - g. Provisions made for any additional refuse.
2. The on-site activities associated with the home occupation shall be fully conducted within the personal residence or in an accessory structure of the person engaging in the home occupation on the premises.
  3. The activities of the home occupation shall be operated in such a manner that other residents of the area, under normal circumstances, would not be bothered by the existence of the home occupation.
  4. In addition to the occupants of the residence, not more than two (2) non-resident employees shall be employed at the home occupation.
  5. The Planning Commission may establish limits on the outdoor storage, size and parking of equipment or vehicles to preserve the residential character of the neighborhood. No out-door storage of materials or scrap is permitted.
  6. No more than one (1) automobile associated with the home occupation may be parked on the street at any time. Any other parking shall be on the parcel where the home occupation is taking place. Parking for no more than two (2) vehicles may be constructed in addition to the area of the driveway in existence prior to the establishment of the home occupation.
  7. With the exception if material purchased over the counter for household cleaning, lawn care, operation of a photocopy machine, paint, arts, and craft generation of any hazardous waste as defined in P.A. 64 of 1979, as amended, being the Hazardous Waste Management Act (MCL 229.433seq.) or use of materials which are used in such quantity, or are otherwise required to be registered pursuant to the Code of Federal Regulations, Title 29, Chapter XVII, part 1910.2 (Department of Labor Regulations).
  8. Any change in the nature or activities of a home-based business shall be regarded as a new home occupation and shall require a new application.
  9. Failure to fulfill the terms of the approved home occupation, the site plan, and its attachments, shall be grounds for the revocation of the Planning Commission approval of a home occupation.

**5.10.6.** All activities shall be carried on within an enclosed structure. There shall be no outside display of any kind, or other external or visible evidence of the conduct of a Home Occupation. An unanimated, non-illuminated wall sign less than four (4) square feet is allowed provided a permit is granted.

**5.10.7.** There shall be no vehicular traffic permitted for the Home Occupation, other than that which is normally generated for a single dwelling unit in a residential area, both as to volume and type of vehicles. Off street parking is required for any employees. Parking layout will be subject to lot size and characteristics of the neighborhood.

**5.10.8.** Hours of operation will be stated in the special land use permit.

### **Section 5.11 Seasonal Sales.**

The sale of Christmas trees, pumpkins, firewood, and other seasonal items shall be considered temporary uses within any zoning district subject to the conditions contained herein. All such sales shall be



conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties. Adequate parking and ingress and egress to the premises shall be provided. Upon discontinuance of the seasonal use, any temporary structures shall be removed. Signs shall conform to the provisions of the district in which the seasonal use is located. A land use permit is required prior to operating a seasonal sales business.

### **Section 5.12 Garage Sales, Rummage Sales, and Similar Activities.**

Garage sales, rummage sales, yard sales, moving sales, and similar activities shall be considered temporary accessory uses within any residential zoning district subject to the conditions contained herein. Any garage sale, rummage sale, or similar activity shall be allowed with a permit for a period not to exceed three (3) days twice within a calendar year. All such sales shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties.

No signs advertising a garage sale or similar activity shall be placed upon public property or right of way. Signs shall not be placed more than twenty-four (24) hours prior to the sale and must be removed upon completion of the sale. The sign shall not exceed four (4) square feet.

### **Section 5.13 Essential Services.**

Essential services shall be permitted as authorized and regulated by law and other ordinances of the Village. The construction of buildings, but not storage yards, associated with essential services shall be subject to the provisions of Section 3.4, Site Plan Review. Otherwise, the construction, maintenance, and alteration of essential services shall be exempt from the provisions of this Ordinance.

### **Section 5.13 Self-storage Facilities.**

Self-Storage facilities shall be located only in I-MU districts and are subject to the following requirements and conditions:

**5.14.1.** No activity other than rental of storage units and the rental of outside storage space for recreational vehicles shall be allowed. No commercial, wholesale, retail, industrial or other business use on, or operated from, the facility shall be allowed.

**5.14.2.** The storage of any toxic, explosive, corrosive, flammable or hazardous materials is prohibited. Fuel tanks on any motor vehicle, boat, lawn mower or similar property will be drained or removed prior to storage. Batteries shall be removed from vehicles before storage.

**5.14.3.** Other than the storage of recreational vehicles, all storage shall be contained within a building. All recreational vehicle storage shall be screened from the view of neighboring properties and public roads in accordance with Section 6.2.

**5.14.4.** Exterior walls of the ends of all storage units shall be of masonry or face-brick construction.

**5.14.5.** All storage units must be accessible by paved circular drives clearly marked to distinguish traffic flow. A minimum thirty-six (36) foot space shall be provided between buildings facing other buildings and a minimum of twenty (20) feet space between the ends of buildings. Site circulation shall be designed to accommodate fire trucks, as well as trucks that will customarily access the site.

## **Section 5.15 Outdoor Sales and Open-Air Businesses.**

Outdoor sales for new and used automobiles, boats, mobile homes, farm machinery and other vehicles and manufactured products and similar uses shall be subject to the following provisions:

1. There shall be no strings of flags, pennants or bare light bulbs permitted.
2. No vehicles or merchandise for sale shall be displayed within any required front setback and shall adhere to the conditions imposed for the district in which it is located.
3. There shall be no broadcast of continuous music or announcements over any loudspeaker or public address system.
4. Open air businesses shall secure a land use permit and be controlled by all the conditions imposed for the District in which it is located. Retail sales, is limited to plants and garden products not grown on site, lawn furniture, playground equipment, and garden supplies. All seasonal sales of this nature not secured in duration with a long term lease requires a Peddlers license issued by the Village of Lexington unless it is incidental to the primary business and operated by the principal of the property.

## **Section 5.16 General, Building and Landscape Contractor's Offices and Yards.**

**5.16.1.** A contractor's office building shall be of permanent construction. Temporary construction trailers shall not be permitted to be occupied as the office of the contractor. Outdoor storage shall be strictly and clearly accessory to the contractor's principal office use of the property. Only products, materials and equipment owned and operated by the principal use shall be permitted for storage.

**5.16.2.** Where allowed, outdoor storage shall not be located within the required front yard. Such storage shall not be located in any required parking or loading space.

**5.16.3.** Storage shall be screened from the view of public street, and adjacent properties zoned either residential, commercial, or office. Screening measures shall meet the Section 6.2.4 requirements.

**5.16.4.** The location and size of areas for storage, nature of items to be stored therein, and details of the enclosure, including description of materials, height, and typical elevation of the enclosure shall be provided as part of the information submitted under Section 3.4, Site Plan Review.

## **Section 5.17 Automobile Service Stations.**

Automobile service stations and washed shall be subject to the following standards:

**5.17.1.** Separation shall be made between the pedestrian sidewalk and vehicular parking and maneuvering areas with the use of curbs, wheel stops, greenbelts or traffic islands.

**5.17.2.** All activities related to vehicle washing, service and repair equipment shall be entirely enclosed within a building.

**5.17.3.** Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which is compatible with uses located adjacent to and across from the site.

**5.17.4.** Inoperative or unlicensed vehicles shall not be stored outside for more than seven days. Such storage shall not occur in front of the building front line.

**5.17.5.** Vehicle sales shall not be permitted on the premises of any automobile service station or wash.

**5.17.6.** Gas Stations/Convenience Stores shall be subject to the following standards: All standards described in Section 5.17.1 through 5.17.5.

**5.17.7.** Gas station/Convenience Stores shall follow all of the provisions as established in GC District regulations and are required to apply for and secure Special Land Use Permit.

**5.17.8.** Gas stations/Convenience Stores are required to follow the State of Michigan Standards – MDEQ regarding underground tanks, wiring, leak protection, venting any and/or all requirements as established by the Department of Environmental Quality.

**5.17.9.** Any/all merchandise within the Convenience Store shall be subject to the licensing and approval of the State of Michigan.

**5.17.10.** The location shall be kept clean and orderly and shall follow all of the zoning provisions as established in this Ordinance. These provisions include, but are not limited to; parking, lighting, signage, storage and outdoor display of goods for sale.

## **Section 5.18 Outdoor Displays of Products or materials Intended for Retail Sale or Rental.**

### **5.18.1. General Standards**

1. An outdoor display shall be considered as an accessory to the principal business use conducted on the premises.
2. An outdoor display facility shall be properly installed, stable and maintained in a pleasingly orderly and clean condition. The zoning administrator, as officer of the Village and with a full understanding of community values, shall alone define, communicate, and enforce this standard.
3. The Village shall not be held liable or responsible for any type of damage, theft or personal injury which may occur as a result of an outdoor display.
4. In the administration of these provisions, the Zoning Administrator shall be permitted to refer a request to the Planning Commission for review and recommendation where site conditions may create difficulty in adherence to the standards contained herein.
5. Merchandise to be displayed is restricted only to merchandise that is customarily sold on the premises by an established business on that lot.
6. All merchandise that is displayed must be brought back in at the close of business each day

### **5.18.2. Standards Within CBD Districts.**

1. An outdoor display may be located in front of or adjacent to the establishment. An outdoor display that extends beyond the property lines of the applicant shall require the permission of the affected property owners.
2. If an outdoor display is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Sufficient room shall also be provided to allow car doors to open along the curbside.

### **5.18.3. Standards Within GC Districts.**

1. An outdoor display may be located within any required yard but shall not be located within any public road right of way.
2. An outdoor display shall not occupy or obstruct the use of any fire lane, required off-street parking or landscaped area required to meet the requirements of this Zoning Ordinance.

### **5.18.4. Transient and Seasonal Sales.**

1. Transient or seasonal sales may be located within any required yard but shall not be located within any public road right of way.
2. Transient or seasonal sales shall not occupy or obstruct the use of any fire lane, required off-street parking or landscaped area required to meet the requirements of this Zoning Ordinance.

## **Section 5.19 Sidewalk Café Service.**

A sidewalk cafe service operated by a restaurant or other food establishment which sells food or beverages for immediate consumption may be permitted in the CBD, C-MU, G-MU and GC Districts, subject to the following conditions:

- 5.19.1.** An application depicting the location and layout of the cafe facility shall be submitted to and approved by the Zoning Administrator. A permit shall remain in effect unless the cafe fails to meet the standards contained herein.
- 5.19.2.** A sidewalk cafe may be located in front of or adjacent to the establishment. A sidewalk cafe that extends beyond the property lines of the shall require the permission of the affected property owners.
- 5.19.3.** If a sidewalk cafe is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained.
- 5.19.4.** A sidewalk cafe shall be allowed only during normal operating hours of the establishment.
- 5.19.5.** The exterior of the premises shall be kept clean, orderly and maintained or the permit may be revoked. All food preparation shall be inside of the premises. except for outdoor grilling, which may be authorized by the Zoning Administrator as part of the permit.
- 5.19.6.** The Village shall not be held liable or responsible for any type of damage, theft or personal injury which may occur as a result of a sidewalk cafe operation.
- 5.19.7.** All sidewalk cafes shall comply with applicable regulations of the County Health Department and the State.

## **Section 5.20 Bed and Breakfast Accommodations**

- 5.20.1.** Each premise must be operated by its owner.
- 5.20.2.** The proposed use shall not cause a nuisance to adjoining residences due to noise, odor, lighting, or traffic.
- 5.20.3.** No bed and breakfast sleeping room shall be permitted that does not comply with the construction code.

**5.20.4.** There shall be no cooking facilities in the rooms used for the bed and breakfast stay.5.20.5. The stay of bed and breakfast occupants shall be no more than fourteen (14) consecutive days and not more than thirty (30) days in any one (1) calendar year.

**5.20.6.** The operator of each facility shall keep a list of the names of all persons staying at the bed and breakfast which list shall be available for inspection by the Zoning Administrator.

**5.20.7.** One (1) bathroom for every three (3) sleeping rooms shall be provided, with a minimum of two (2) bathrooms. All dwellings shall have a minimum of 3,000 square feet of living area.

**5.20.8.** One (1) parking space shall be provided off-street in the side or rear yard area for each bed and breakfast bedroom.

## **Section 5.21 Mineral Mining and Extractive Operations.**

### **5.21.1. Intent and Purpose.**

It is the intent and purpose of this section to promote the underlying spirit and intent of the entire Zoning Ordinance, but at the same time allow for the extraction of minerals in locations where they have been naturally deposited, and to insure that mineral mining activity shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use, and, to insure that mineral mining activities are consistent with the public health, safety and welfare of the Village.

### **5.21.2. Use Restriction.**

Mineral mining and extractive operations may be considered as a special land use in the I-MU District. The extraction, removal, and/or processing of sand, gravel, stone and/or other mineral mining in the Village shall be prohibited unless first authorized by the grant of a special land use application by the Village in accordance with this section, and Section 3.3.

### **5.21.3. Exemption.**

Usual and customary land balancing by cutting and filling, in preparation for immediately planned and approved development in accordance with this and all other applicable ordinances and law, shall be exempted from the provisions of this section.

### **5.21.4. Application.**

An application shall be filed with the Zoning Administrator and shall include the following:

1. Site plan prepared in accordance with Section 3.4;
2. Vertical aerial photograph, enlarged to a scale of one (1) inch equals two hundred (200) feet, from original photograph flown at a negative scale no smaller than one (1) inch equals six hundred sixty (660) feet. The date of the aerial photograph shall be certified, and shall have been flown at such time as the foliage shall be off of on-site trees, provided, if there are changes in the topography from the date of the photograph, an accompanying text shall be provided explaining each change. The vertical photograph shall cover:
  - a. All land anticipated to be mined in the application, together with adjoining land owned by the applicant.

- b. All contiguous land which is or has been used by the owner or leasehold applicant for mineral extraction and/or processing and/or storage, and all contiguous (land) in which the applicant or any affiliate has a current interest.
  - c. All lands within one-half (1/2) mile of the proposed mining area.
  - d. All private and public roads from which access to the property may be immediately gained.
  - e. Boundary of the entire planned mining area by courses and distance.
  - f. Site topography and natural features including location of water courses within the planned mining area.
  - g. Means of vehicular access to the proposed operation.
3. Duration of proposed operation, and location, timing, and any other relevant details with respect to the phasing and progression of work on the site;
  4. Land use study/drawing showing the existing land uses with specification of type of use, e.g., single-family residential, multiple-family residential, retail, office, etc., and density of individual units in areas shown, including:
    - a. Property within a radius of one (1) mile around the site; and
    - b. The property fronting on all vehicular routes within the Village contemplated to be utilized by trucks which will enter and leave the site.
  5. Geological/hydrological/engineering survey prepared by appropriate and qualified experts, indicating:
    - a. All anticipated impact to the qualitative and quantitative aspects of surface water, ground water, and drainage during and subsequent to the operation to the geographical extent reasonably expected to be affected; and
    - b. Opinion whether the exposure of subterranean waters and/or the impoundment of surface waters, where permitted, will establish a suitable water level at the level or levels proposed as part of the operation, and whether the same will not interfere with the existing subterranean water or cause any harm or impairment to the general public;
  6. Description of the vehicles, machinery and equipment proposed for use on the property, specifying with respect to each, the anticipated noise and vibration levels.

**5.21.5. Review Procedure.**

1. The Zoning Administrator shall forward the original of the application to the Village Clerk for the file, and forward the copies to the members of the Planning Commission, the Village Engineer, the Village Planner, and to the Road Commission.
2. The Village Engineer and the Village Planner shall each file a report with the Zoning Administrator, together with a recommendation on the need for additional experts. The Zoning Administrator shall retain the original of these reports for the file, and forward copies to the Planning Commission.
3. The Zoning Administrator shall request a report from the Road Commission regarding traffic safety relevant to the application and any road improvements deemed appropriate to protect the public health, safety and welfare for areas located outside of the Village.

4. After receiving all reports, including any additional reports of experts recommended by the Village Engineer and/or Planner, if deemed appropriate the Planning Commission shall consider the application in accordance with the procedures set forth in Section 3.3.
5. Reasonable conditions may be required with the approval of the application for the special land use, to insure that public services and facilities affected by proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall be reasonable and shall be in compliance with applicable law.

#### **5.21.6. Requirements and Standards.**

The determination on applications submitted under this section shall be based upon the following requirements and standards, as determined in the discretion of the Planning Commission, and if the application is approved, such standards and requirements shall be maintained as a condition to continued operation and use by the applicant:

1. Demonstration by the applicant that the proposed land use shall not result in a probable impairment to, pollution of, unreasonable impact upon and/or destruction of the following:
  - a. The water table and/or private wells of property owners within the reasonably anticipated area of impact during and subsequent to the operation.
  - b. The course, quantity, and quality of surface water, ground water, and/or the watershed anticipated to be impacted by the operation.
  - c. The surrounding property and/or property along haul routes, in terms of noise, dust, air, water, odor, light, and/or vibration, and further, shall not unreasonably impact upon persons perceiving the operation in terms of aesthetics.
2. The proposed land use shall not be incompatible with such surrounding uses, based upon an application of generally accepted planning standards and principles.
3. The proposed land use shall not unreasonably burden the capacity of public services and facilities.
4. The proposed land use shall have immediate and direct access to a paved road having a planned right-of-way not less than one hundred twenty (120) feet and having necessary and appropriate load bearing and traffic volume capacity in relation to the proposed intensity of the use.
5. All activities conducted in connection with the operation shall occur at least one hundred sixty (160) feet from the nearest property line, provided, all processing and stockpiling shall be conducted at least two hundred (200) feet from the nearest property line.
6. The hours of operation shall not reasonably interfere with usual and customary uses of land within the surrounding area anticipated to be impacted. Maximum hours of operation shall be from 7 a.m. to 6 p.m., Monday through Saturday, and closed on Sundays.
7. The maximum duration of the proposed use, if conducted in or immediately adjacent to a residential zoning district, shall be ten (10) years.
8. The site shall be secured with fencing and screened from all adjacent public highways and residentially used parcels.

9. The total area being mined which has not been reclaimed shall at no time exceed forty (40%) percent of the entire parcel.
10. The proposed transportation route or routes within the Village shall be as direct and minimal in detrimental impact as reasonably possible, as determined in the discretion of the Village at the time of application, and thereafter.

#### **5.21.7. Reclamation.**

Reclamation of the site shall be in accordance with a reclamation plan approved by the Village as part of the application review process. There shall be no final slopes having a grade in excess of a minimum ratio of one (1) foot vertical to five (5) feet horizontal, and, for permanent water areas, for a distance of not less than ten (10) feet nor more than fifty (50) feet, the submerged slopes shall be graded from the water's edge at a grade not in excess of a minimum ratio of one (1) foot vertical to seven (7) feet horizontal; the entire site shall be planted with sufficient vegetation so as to sustain short and long term growth, in order to avoid erosion and washout, and, to the extent necessary to achieve this objective, suitable soils shall be placed on the property; and, all structures, machinery, equipment and improvements shall be removed from the site. The Village Council shall have the right to impose performance bonds or letters of credit to ensure that the reclamation and restoration plans as submitted are implemented.

#### **Section 5.22 Buildings to be Moved or Demolished.**

**5.22.1.** No permit shall be granted for the moving of buildings or structures from without or within the limits of the Village to be placed on property within said limits unless the County Building Official has made an inspection of the building to be moved and finds that it is structurally safe and will not adversely affect the character of existing buildings in the neighborhoods of the new locations. The building will fully comply with the County Building Code and other codes regulating public health, safety, and general welfare. A performance bond as established by the Village Council of sufficient amount to insure the cost of completing the building move within a period of not more than ninety (90) days from the date of the permit. In the event that the move cannot be completed within the ninety (90) day time-frame, the Zoning Administrator may approve one or more extensions of up to thirty (30) days for completion of the project.

**5.22.2.** Any building moved within a district and placed upon a foundation or any building moved into a district shall be subject to all the limitations and requirements herein set forth relating to uses, construction, permits, and certificates.

**5.22.3.** Buildings to be Demolished: No building within the Village will be demolished without securing a demolition permit. All spoils of the building, including the foundation, shall be removed and appropriately discarded in a certified facility. Proper dust control measures shall be employed during demolition. The property shall be leveled and clean of all debris within six (6) months of the issuance of the permit.

**5.22.4.** The performance bond is calculated as two times (2x's) the SEV (1/2 the value of the building) times five percent (5%).



## **Section 5.23 Adult Entertainment Establishments.**

All adult entertainment as defined in Section 2.2 of this Zoning Ordinance is allowed in the I-MU District upon the granting of a Special Land Use permit by the Planning Commission. All adult Entertainment uses shall comply with the following requirements:

**5.23.1.** Adults entertainment establishments shall NOT be located within the following designated areas:

1. Within 500' feet from the nearest property line of any residential zoning district or from the nearest property line of any residential use.
2. Within 500' feet from the nearest property line of any public or private school, public library, day care facility, nursing home, hospital, church, municipal building or public park.

The distances specified above shall be measured by a straight line from the nearest property line of the premises on which the adult entertainment establishment is to be located to the nearest boundary line of a residential zoning district or to the property line of any of the public facilities listed in 'B' above.

**5.23.2. Additional Site Requirements:**

1. The maximum lot coverage, including building, parking and driveway shall be fifty percent (50%) of the lot area.
2. A fifty (50) foot vegetated buffer containing adequate screening appropriate to the character of the area.
3. An adult entertainment facility shall not be allowed within a building containing other retail, consumer or residential uses or within a bar/lounge, a shopping center, plaza or mall.
4. The appearance of buildings for adult uses shall be consistent with the appearance of buildings in similar (but not specifically adult) use, and does not employ unusual coloring or building design which would attract attention to the premises.
5. There shall be screening of all windows and doors to prevent the public's view of the interior from any private right of way or abutting property.

**5.23.3. Sign Requirements:**

1. Sign content shall identify the name of the establishment only and shall contain no advertisement in addition to the identification of the use.
2. Only one (1) identification sign shall be mounted on the building wall face.
3. No adult entertainment establishments may have any flashing lights visible from outside of the establishment. Furthermore, no sign shall rotate or contain reflective or fluorescent elements.
4. No pictures, publications, videotapes, movies, covers or other advertising items that fall within the definition of an adult book store or adult motion picture theater will be displayed.

**5.23.4. Special Land Use Permit and Submission Approval:**

1. A site plan shall be submitted by the applicant in order for the Planning Commission to determine if the above standards have been met. The site plan shall be prepared and submitted in accordance with the Village ordinance governing Special Land Use Permits. The site plan must show the appropriate

distances between the proposed adult entertainment establishment and any residential property, public or private school, church, public park, public library or recreation area, family day care, nursing home, hospital or municipal building.

2. All applications for a Special Land Use Permit must include the following:
  - a. Names and addresses of the legal owner(s) of the Adult entertainment Establishment.
  - b. Name and addresses of all persons having a fee, equity and/or security interest in such establishment. In the event a corporation, partnership, trust or other entity is listed, the names and addresses of every person who has ownership must be listed in order for the Special Land Use Permit hearing to take place.
    - i. The applicant shall be at least eighteen (18) years of age.
    - ii. The applicant shall not have been convicted of a pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
    - iii. The above listed requirements apply to any/all officers, directors and stockholders should this enterprise be listed as a corporation, partnership, trust or other entity.

**5.23.5.** A Special Land Use Permit shall be granted for an adult entertainment Establishment only upon determination by the Planning Commission that the location and design of the facility are in harmony with its surroundings, and that adequate safeguards exist through licensing and other means to assure on a continuing basis that activities therein will not be patently contrary to the prevailing standards of adults in the community and will not involve minors in any way.

**5.23.6.** In approving the Special Land Use Permit, the commission may attach such conditions, limitations and safeguards as are deemed necessary to protect the immediate area and the village, provided however that no such condition in fact prohibit the use of the property for the use intended. Conditions of approval may include but are not limited to the following:

1. Street, side or rear setbacks are no less than the minimum required by this ordinance.
2. Requirements of screening of the premises from adjoining premises or from the street, by walls, fences, plantings or other means.
3. Modification of the exterior features or appearances of the structure.
4. Limitation of size, number of occupants, method or time of operation, or extent of facilities
5. Regulation of number, design and location of access drives or other traffic features.
6. Requirement of off-street parking or other special features beyond the minimum required by this or other applicable ordinances.
7. The Special Land Use Permit shall be issued to the owner of the establishment and shall not transfer with a change in ownership of the business and/or property.
8. The hours of operation shall be established and may not be altered without prior approval.

**5.23.7. Revocation of Permit:**

The Village can suspend or revoke this permit for any of the following reasons.

1. Any/all Special Land Use Permits granted hereunder for adult entertainment establishments shall be reviewed on a quarterly basis by the Village Zoning Official. Failure to comply with a quarterly inspection shall constitute a violation of the conditions of the permit and may result in suspension or termination of said permit.
2. Discovery that false or misleading information or date was given on the permit application.
3. Pleading to a felony or a felony conviction.
4. Serving any intoxicating liquor, cereal malt beverage or wine on the premises.
5. No employee or patron under the age of eighteen (18) years shall be allowed on the premises.
6. The operation of the establishment must be maintained in a clean and sanitary manner at all times.

#### **5.23.8. Prohibited Uses:**

Nothing in this Ordinance is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any Village Ordinance regarding public nuisances, sexual conduct, lewdness, obscene, harmful, or exhibition of public display thereof.

### **Section 5.24 Wireless Communication Facilities.**

#### **5.24.1. Purpose and Intent.**

It is the general purpose and intent of the Village to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the Village to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempt has been made to balance these potentially competing interests.

Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this section to:

1. Facilitate adequate and efficient provision of sites for wireless communication facilities and ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.
2. Establish predetermined districts or zones of the number, shape, and in the location, considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.
3. Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within the predetermined districts or zones.
4. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
5. Minimize the negative visual impact of wireless communication facilities on neighborhoods, community land marks, historic sites and buildings, natural beauty areas and public rights-of-way.

#### **5.24.2. Approval Process.**

1. Collocation.

- a. Pursuant to Section 3514,(1) of Public Act 110 of 2006, as amended, collocation is permitted on existing and approved wireless communication support structures (WCSS) without a zoning permit, provided the following requirements are met:
    - i. The proposed collocation will not increase the overall height of the WCSS by more than 20 feet or 10% of its original height, whichever is greater.
    - ii. The proposed collocation will not increase the width of the WCSS by more than the minimum necessary to permit collocation.
    - iii. The proposed collocation will not increase the area of the existing equipment compound to greater than 2,500 square feet.
  - b. Plans for collocation installation shall be administratively reviewed by the Zoning Administrator to verify compliance with the requirements herein. The Zoning Administrator shall complete his or her administrative review of the proposed installation plans within 14 business days of his or her receipt of such plans.
  - c. Collocation which does not meet the requirements of subsection 1., a., above shall require a special land use permit in accordance with the approval process for a new WCSS as outlined in subsection 2, below.
2. Establishment of New WCSS. The establishment of a new WCSS shall require a special land use permit in accordance with Section 3.3 and the following:
    - a. An application for special land use approval of WCSS shall include a site plan containing all information required by Section 3.4.
    - b. After an application for a special land use approval is filed, the Zoning Administrator shall determine the special land use permit application is administratively complete within 14 business days of its receipt.
    - c. The Planning Commission shall approve or deny the application not more than 90 days after the application is considered to be administratively complete.
  3. Replacement of Existing WCSS. An existing WCSS which was lawful at the time of its construction may be replaced for purposes of accommodating collocation of additional WCE, or otherwise, provided that the replacement WCSS does not exceed the original approved height, will be located within the same zoning lot as the existing WCSS, and will be located so as to maximize compliance with existing minimum yard requirements. Such installation shall be considered to be a permitted use of property, not subject to special land use permit approval. Further, the existing WCSS shall be removed within 180 days of the Village's final construction inspection of the replacement WCSS.
    - a. The Zoning Administrator shall determine that the application is administratively complete within 14 business days of its receipt. The Zoning Administrator shall approve or deny the application not more than 90 days after the application is considered administratively complete. Such review by the Zoning Administrator shall be without notice.
  4. Installation of Wireless Communication Equipment (WCE). The installation of WCE, not part of a proposed collocation activity, is permitted within existing and approved equipment compounds without a zoning permit.
    - a. Plans for such installation shall be administratively reviewed by the Zoning Administrator to verify compliance with the requirements herein. The Zoning Administrator shall complete his or

her administrative review of the proposed installation plans within 14 business days of his or her receipt of such plans.

#### **5.24.3. WCSS Standards for All Zoning Districts.**

1. WCSS shall not exceed one-hundred fifty (150) feet in height.
2. WCSS shall be set back not less than a distance equal to the height of the tower measured from the base of the tower to all points on each property line.
3. In order to protect the rural dark sky environment and reduce lighting confusion for approaching aircraft, all WCSS shall be designed or painted to be without lighting. If the FAA requires lighting, the applicant shall apply to the FAA for painting requirements and red lighting. Intermittent strobes shall be a last option and only then with written documentation from the FAA certifying its necessity.
4. No antenna or similar sending/receiving devices appended to the WCSS, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the WCSS thereby jeopardizing the WCSS's structural integrity.
5. The design plans for the WCSS shall be prepared by a Michigan registered professional structural engineer.
6. The WCSS shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements indicating the suitability of soil conditions for the proposed use.
7. A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.

#### **5.24.4. WCSS Standards for Non-Residential Zoning Districts.**

1. WCSS may be permitted by the Planning Commission to locate within non-residential zoning districts (AG, C-MU, G-MU, GC, CBD and I-MU Districts), subject to the following conditions and findings:
  - a. All reasonable measures to collocate must be documented, and such collocation proves infeasible.
  - b. The proposed height meets FCC, FAA, Michigan Tall Structure (MDOT), and any applicable Airport Overlay Zone regulations.
  - c. WCSS must be equipped with devices to prevent unauthorized climbing including but not limited to "No Trespassing" signs and/or fencing.
  - d. All reasonable measures are taken to blend the WCSS into the landscape, including greenbelt planting and/or screening, if appropriate, and painting.
  - e. WCSS over 100 feet in height shall be designed for collocation.
  - f. Protective fencing and screening may be required to be placed around all guy wire anchor points as appropriate to the site.
  - g. The WCSS shall be of monopole design, unless it can be demonstrated that such design is not feasible to accommodate the user or collocation.

#### **5.24.5. WCSS Standards for Residential Zoning Districts.**

1. WCSS may be permitted by the Planning Commission to locate within the R-1, R-2, R-3, and MHP Districts, subject to the following conditions and findings:
  - a. All reasonable measures to collocate must be documented, and such collocation proves infeasible.
  - b. The WCSS shall be of monopole design, unless it can be demonstrated that such design is not feasible to accommodate the user or collocation.
  - c. All reasonable efforts to locate in non-residential zoning districts have been made and are proven to be infeasible, unavailable, or not a compatible land use as determined by the Planning Commission.
  - d. The WCSS shall not exceed a height of one-hundred (100) feet, including the antenna, and no lights are used or required.
  - e. WCSS shall be of a design such as (without limitation) a steeple, bell tower, or a form which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the Planning Commission.
  - f. The Planning Commission finds that a location in a residential district is the best overall alternative considering all factors of land use, visibility, and satisfactory signal coverage.

#### **5.24.6. Abandonment.**

All wireless communication facilities shall be removed and the site restored to its original condition by the property owner or lessee within 90 days of being abandoned. For the purposes of this section, abandoned shall mean that no WCE or other commercial antenna has been operational and located on the WCSS for 180 days or more.

### **Section 5.25 Short Term Rentals.**

#### **5.25.1. Applicability, Intent and Purpose**

Short term rentals within the R-1, C-MU and G-MU Districts are subject to the requirements of this Section. The provisions of this Section shall not apply to short term rentals within the CBD and GC Districts.

Short term rentals within the Village of Lexington are necessary because of the limited availability of lodging; however, it is important to strike a balance between the interests of the community residents, community business owners, visitors to the community and property owners wishing to engage in short term residential rentals. While these short term rentals bring many benefits to the community, they can simultaneously create concerns surrounding issues of traffic, parking, congestion, litter and noise and they were in violation of the R-1 zoning ordinances.

As of this date, most if not all of the short term residential rentals are located in those areas zoned as R-1 with the majority located east of M-25 near Lake Huron. Many of these rentals are very close together creating the potential to jeopardize the single family neighborhood character; therefore, for purposes of maintaining the small town character of our Village, short term rentals will be limited to one every 250 feet and comprise a maximum of five percent (5%) of the total number of houses in the Village that are not restricted by deed or HOA (as of September 2017: 402 total homes x 5%= 20).

The required minimum distance between STR properties shall be 250 ft. For the purpose of determining the distance between properties, the measurement shall begin and terminate at the closest point between the two properties, for a distance of not less than 250 ft.

Those in operation as of May 2018 and initially registered by July 31, 2018 will be considered established and permitted until such date as they are either sold, fail to be used as a short term rental for more than eighteen (18) months or the owner fails to renew the registration of the rental by the registration deadline.

#### **5.25.2. Registration.**

All dwellings used for short term rentals must be registered annually at the Lexington Village office. To register a short-term rental, the property owner or agent of the owner shall:

1. Provide and certify as true the following on a form provided by the Village:
  - a. Name, address, and telephone number of the local agent for the dwelling unit.
  - b. The street address of the dwelling unit, along with other identification if more than one dwelling unit has the same street address.
  - c. The number of bedrooms in the dwelling.
  - d. The maximum number of occupants to which the applicant intends to rent in any given rental period.
  - e. The length of the typical rental period for which the applicant intends to rent the property.
  - f. A statement certifying that the property owner or a local agent will provide at least one copy of the Village's Good Visitor Guideline materials to the renters each time the dwelling unit is rented.
  - g. A statement certifying whether or not the dwelling unit was used as a short-term rental for at least 15 days or at least three (3) times during the current or previous calendar year.
2. Pay a registration fee and renewal fee determined by the Planning Commission.
3. Upon acceptance of the registration, the Village of Lexington will issue a short term residential rental permit.
4. Applications will be time and date stamped and handled in chronological order.
5. The Zoning Administrator may impose conditions or limitations to protect against adverse impacts from the proposed short term rental.

#### **5.25.3. Short term rental regulations:**

1. Local agent required- All dwelling units used for short term rentals shall have a designated local agent who lives within 30 miles of the dwelling if the owner does not live within 100 miles of the dwelling.
2. Street number clearly posted on the exterior of the building to identify the residence.

#### **5.25.4. Violations; revocation of registration:**

*Violations as municipal civil infractions.* Any violation of a provision of this article shall be a municipal civil infraction. Each day that a violation continues constitutes a separate violation. Notwithstanding any other provision of the Code of Ordinances, violations of this article are subject to the following fines:

1. *Short-term rental of unregistered dwellings.* The fine for leasing an unregistered dwelling unit is \$750 for a first violation and \$1,000 for each subsequent violation.
2. *Other Provisions.* Subject to all civil infractions in the Village.
3. *Revocation of permit* will require the authorization of a committee which may consist of the Zoning Administrator, Village manager, and Planning Commission Chairperson or their designee. The revocation may be appealed to the Village Council

## **Section 5.26 Alcohol Manufacturing Facilities.**

Micro-breweries, breweries, small wineries, wineries, small distilleries and distilleries shall be subject to the following conditions:

- 5.26.1.** Such facilities may contain a restaurant, bar or tasting room as an accessory use. Sidewalk café service may be allowed within the CBD, C-MU and GC Districts, subject to Section 5.19.
- 5.26.2.** For production areas (brewing, wine-making or distilling), off-street parking as required for manufacturing per Section 9.4.1 shall be provided. For restaurant, bar or tasting room areas, off-street parking as required for sit down restaurants per Section 9.4.1 shall be provided.
- 5.26.3.** All production (brewing, wine-making or distilling) activities shall be conducted within an enclosed structure.
- 5.26.4.** The outdoor storage of machinery, equipment, barrels, kegs, or similar materials associated with the operation shall only be allowed within an area surrounded by a solid, unpierced fence or wall not to exceed six (6) feet in height and not closer to the lot lines than the minimum yard requirements for buildings permitted in said districts.
- 5.26.5.** Appropriate licenses with the State of Michigan shall be maintained.

## **Section 5.27 Mixed-Use Buildings.**

Except as otherwise specified herein, buildings containing multiple uses are specifically allowed within the C-MU, G-MU, GC and CBD Districts. The uses allowed within mixed-use buildings shall be limited to those permitted within the district in which the building is located. If any use within a mixed-use building is allowed as a special land use, special land use approval for the project shall be required in accordance with Section 3.3.

## **Section 5.28 Required Sidewalks and Non-Motorized Site Amenities.**

All projects requiring full site plan review by the Planning Commission in accordance with Section 3.4.1,(3) shall comply with the following:

### **5.28.1. Site Amenities.**

1. Not less than one (1) site amenity shall be provided which enhances safety and convenience and promotes walking or bicycling as an alternative means of transportation. Site amenities may include bike racks, drinking fountains, canopies and benches.



**5.28.2. Sidewalks:**

1. Developments abutting any public street shall be required to install a minimum five (5) foot wide concrete sidewalk along the entire street frontage.
2. For any development, an on-site sidewalk shall be required as a means of connecting the principal building with the road frontage sidewalk. The Planning Commission shall determine if a proposed sidewalk system has provided an adequate connection between the site and the road frontage.

## ARTICLE 6 ENVIRONMENTAL PROTECTION AND DESIGN PROVISIONS

### **Section 6.1 Purpose.**

Environmental standards are established in order to preserve the short and long-term environmental health, safety, and quality of the Village. No parcel, lot, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Any use permitted by this Ordinance may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance standards. No use, otherwise allowed, shall be permitted within any district which does not conform to the following standards of use, occupancy, and operation. These standards are established as minimum requirements to be maintained.

### **Section 6.2 Landscaping, Greenbelts and Buffers, and Screening.**

#### **6.2.1. Intent.**

The intent of this section is to:

1. Protect and preserve the appearance, character, and value of the community.
2. Minimize noise, air, and visual pollution.
3. Improve the overall aesthetics and appearance, divide the expanse of pavement, and define parking areas and vehicular circulation within off-street parking lots and other vehicular use areas.
4. Require buffering of residential areas from more intense land uses and public road rights-of-way.
5. Prevent soil erosion and soil depletion and promote sub-surface water retention.
6. Encourage an appropriate mixture of plant material, such as evergreen and deciduous trees and shrubs, to protect against insect and disease infestation and produce a more aesthetic and cohesive design.
7. Encourage the integration of existing woodlands in landscape plans.

#### **6.2.2. Application of Requirements.**

These requirements shall apply to all uses for which site plan review is required under Section 3.4 of this Ordinance and subdivision plat review as required under the Subdivision Control Ordinance.

No site plan, site condominium plan, or subdivision plat shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

The Planning Commission, during site plan review, may determine that conditions unique to the parcel exist which would prevent compliance with the requirements of this Ordinance, or which would make such compliance unnecessary. In such cases, these requirements may be modified in whole or in part. Criteria to be used when considering a modification shall include, but not be limited to:

1. Existence of natural vegetation or screening

2. Topography
3. Existence of areas of poor soils
4. Existing and proposed building placement
5. Building height
6. Adjacent land uses
7. Distance between land uses
8. Dimensional conditions unique to the parcel
9. Traffic, sight distances and traffic operational characteristics on and off site
10. Visual, noise and air pollution levels
11. Public health, safety, and welfare.

### **6.2.3. Landscape Plan Requirements.**

A separate detailed landscape plan shall be required to be submitted to the Village as part of the site plan review or tentative preliminary plat review. The landscape plan shall demonstrate that all requirements of this Section are met and shall include, but not necessarily be limited to, the following items:

1. Location, spacing, size, root type and descriptions for each plant type.
2. Typical straight cross section including slope, height, and width of berms.
3. Typical construction details to resolve specific site conditions, such as landscape walls and tree wells used to preserve existing trees or maintain natural grades.
4. Details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
5. Identification of existing trees and vegetative cover to be preserved.
6. Identification of grass and other ground cover and method of planting.
7. Identification of landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with standards of this Ordinance.

### **6.2.4. Screening Between Land Uses.**

1. Upon any improvement for which a site plan is required, a landscape buffer shall be constructed to create a visual screen at least six (6) feet in height along all adjoining boundaries between either a conflicting non-residential or conflicting residential land use and residentially zoned or used property. A landscape buffer may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least eighty (80%) percent. Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1) foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three (3) years.
2. Where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall or fence shall be required by the Village. Such wall or fence shall be a minimum of six (6) feet

but no greater than eight (8) feet in height as measured on the side of the proposed wall having the higher grade.

3. A required wall shall be located on the lot line except where underground utilities interfere and except in instances where this Zoning Ordinance requires conformity with front yard setback requirements. Upon review of the landscape plan, the Village may approve an alternate location of a wall. The Village and the Building Official shall approve the construction materials of the wall or fence which may include face brick, poured-in-place simulated face brick, and pre-cast brick face panels having simulated face brick, stone or wood.

#### **6.2.5. Parking Lot Landscaping.**

1. *Required Landscaping Within Parking Lots.* Separate landscape areas shall be provided within parking lots in accordance with the following requirements:
  - a. There shall be a minimum of one (1) tree for every eight (8) parking spaces within a landscape island, provided that a landscape island is required for each sixteen (16) continuous spaces. Where landscape islands are not required, the same ratio of trees shall be placed on the site.
  - b. Landscaping shall be arranged in curbed islands with intermittent water drainage within the parking lot which shall not be less than fifty (50) square feet in area.
  - c. A minimum distance of three (3) feet from the backside of the curb and the proposed landscape plantings shall be provided. Where vehicles overhang a landscape island or strip, a minimum distance of five (5) feet from the backside of the curb and the proposed landscape plantings shall be provided.
  - d. The Village, at its discretion, may approve alternative landscape plantings at the perimeter of parking lots where landscaping within parking lots would be impractical due to the size of the parking lot or detrimental to safe and efficient traffic flow, or would create an unreasonable burden for maintenance and snowplowing.
2. *Required Landscaping at the Perimeter of Parking Lots.* Separate landscape areas shall be provided at the perimeter of parking lots in accordance with the following requirements:
  - a. Parking lots which are considered to be a conflicting land use as defined by this Section shall meet the screening requirements set forth in Section 6.2.4.
  - b. Parking lots shall be screened from view with a solid wall at least three (3) feet in height along the perimeter of those sides which are visible from a public road. The Village, at its discretion, may approve alternative landscape plantings in lieu of a wall.

#### **6.2.6. Greenbelts.**

A greenbelt shall be provided which is an area established at a depth of the required front yard setback within that zoning district and landscaped in accordance with the following requirements:

1. The greenbelt shall be landscaped with a minimum of one (1) tree for every thirty (30) lineal feet, or fraction thereof, of frontage abutting a public road right-of-way. Non-ornamental deciduous trees within a greenbelt shall be a minimum caliper of two and one-half (2 1/2) inches or greater. Evergreen trees within a greenbelt shall be a minimum height of six (6) feet.
2. If ornamental deciduous trees are substituted for either non-ornamental deciduous trees or evergreen trees, they shall be provided at a minimum of one (1) tree for every twenty (20) lineal feet, or fraction

thereof, of frontage abutting a public road right-of-way. Ornamental deciduous trees within a greenbelt shall be a minimum caliper of two (2) inches or greater.

3. In addition to the required trees within the greenbelt, the remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs and other natural landscape materials.
4. Access drives from public rights-of-way through required greenbelts shall be permitted, but such drives shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.

#### **6.2.7. Site Landscaping.**

In addition to any landscape greenbelt and/or parking lot landscaping required by this section, ten (10%) percent of the site area, excluding existing public rights-of-way, shall be landscaped. Such site area landscaping may include a combination of the preservation of existing tree cover, planting of new trees and plant material, landscape plazas and gardens and building foundation planting beds. Site area landscaping shall be provided to screen potentially objectionable site features such as, but not limited to, retention/detention ponds, transformer pads, air-conditioning units, and loading areas.

#### **6.2.8. Subdivision and Site Condominium Landscaping.**

Landscaping for single-family residential subdivisions and site condominiums shall be provided in accordance with the following requirements:

1. *Street Trees.* The frontage of all internal public streets shall be landscaped with a minimum of one (1) tree for every fifty (50) lineal feet, or fraction thereof. Such street trees shall meet the minimum size and spacing requirements set forth in Section 6.2.11.
2. *Screening Between Land Uses.* Where a subdivision or site condominium contain uses which are defined as conflicting land uses by this Section, the screening requirements set forth in Section 6.2.4. shall be met.
3. *Screening From Public Roads.* Where a subdivision or site condominium abuts a public road right-of-way located outside of the proposed subdivision or site condominium, the screening requirements set forth in Section 6.2.4. shall be met.
4. *Other Site Improvements.* A landscape plan for a subdivision or site condominium development shall also include landscaping details of the entrance to the development, storm water retention and/or detention areas, community buildings and other recreational areas, and any other site improvement which would be enhanced through the addition of landscaping.

#### **6.2.9. Screening of Trash Containers.**

1. Outside trash disposal containers shall be screened on all sides with an opaque fence or wall, and gate at least as high as the container, but no less than six (6) feet in height, and shall be constructed of material which is compatible with the architectural materials used in the site development.
2. Containers shall be consolidated to minimize the number of collection sites, and located so as to reasonably equalize the distance from the building they serve.
3. Containers and enclosures shall be located away from public view insofar as possible.
4. Containers and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.

5. Concrete pads of appropriate size and construction shall be provided for containers or groups of containers having a capacity of six (6) 30-gallon cans or more. Aprons shall be provided for loading of bins with a capacity of 1.5 cubic yards or more.
6. For storage of recyclable materials, the enclosure area and pad size shall be increased to amply accommodate the extra materials and their containers.
7. Screening and gates shall be of a durable construction.

**6.2.10. Landscape Elements. The following minimum standards shall apply:**

1. Quality. Plant materials shall be of generally acceptable varieties and species, free from insects and diseases, hardy to Sanilac County, conform to the current minimum standard of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.
2. Composition. A mixture of plant material, such as evergreen deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.
3. Berms. Berms shall be constructed with slopes not to exceed a 1:3 gradient. Berm slopes shall be protected with sod, seed, or other form of natural ground cover.
4. Existing Trees. The preservation and incorporation of existing trees is encouraged. Where existing trees are used to satisfy the requirements of this Section, the following requirements shall apply:
  - a. Paving, or other site improvements, shall not encroach upon the drip line of the existing tree(s) to be preserved.
  - b. If existing plant material is labeled "To Remain" on site plans by the applicant or required by the Village, protective techniques, such as, but not limited to, fencing or barriers placed at the drip line around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Village.
  - c. In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the drip line, as determined by the Village, the Contractor shall replace them with trees which meet Ordinance requirements.
5. Installation, Maintenance, and Completion.
  - a. All landscaping required by this Ordinance shall be planted before obtaining a Certificate of Occupancy or the appropriate financial guarantee, as set forth in Section 3.7, shall be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed.
  - b. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner, according to accepted planting and grading procedures.
  - c. The owner of property required to be landscaped by this Ordinance shall maintain such landscaping in a strong and healthy condition, free from refuse, debris and insects. All materials

used to satisfy the requirements of this Ordinance which become unhealthy or dead shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.

**6.2.11. Minimum Size and Spacing Requirements.**

Where landscaping is required the following schedule sets forth minimum size and spacing requirements; for representative landscape materials

**6.2.11. Size and Spacing Requirements.**

TREES	Minimum Size Allowable Height/Spread				Recommended on Center Spacing (in feet)			
	6'	3'-4'	2"	2.5"	30	25	15	10
<b>Evergreen Trees:</b>								
Fir	•						•	
Spruce	•						•	
Pine	•						•	
Hemlock	•						•	
Douglas Fir	•						•	
<b>Narrow Evergreen Trees:</b>								
Red Cedar		•						•
Arborvitae		•						•
Juniper (selected varieties)		•						•
<b>Large Deciduous Trees:</b>								
Oak				•	•			
Maple				•	•			
Beech				•	•			
Linden				•		•		
Ash				•	•			
Gingko (male only)				•	•			
Honey Locust (seedless, thorn less)				•	•			
Birch				•		•		
Sycamore				•	•			
<b>Small Deciduous Trees (ornamental):</b>								
Flowering Dogwood (disease resistant)			•				•	
Flowering Cherry, Plum, Pear			•			•		
Hawthorn			•				•	
Redbud			•			•		
Magnolia			•				•	
Flowering Crabapple			•				•	
Mountain Ash			•				•	
Hornbeam			•			•		

6.2.11. Size and Spacing Requirements (continued)

SHRUBS	Minimum Size Allowable Height/Spread			Recommended On Center Spacing (in feet)				
	3'-4'	24"-36"	18"-24"	10	6	5	4	3
<b>Large Evergreen Shrubs:</b>								
Pyramidal Yew	•			•				
Hicks Yew			•				•	
Spreading Yew		•				•		
Alberta Spruce	•						•	
Chinese Juniper Varieties		•			•			
Sabina Juniper			•			•		
Mugho Pine			•		•			
<b>Small Evergreen Shrubs:</b>								
Brown's Ward's Seaborn Yews			•					•
Horizontal Juniper Varieties			•					
Boxwood			•				•	◇
Euonymus Spreading Varieties			•		•	•		
<b>Large Deciduous Shrubs:</b>								
Honeysuckle		•		•				
Lilac		•		•				
Privet		•			•			◇
Sumac		•			•			
Buckthorn/Tall hedge	•					•		◇
Pyracantha			•			•		
Weigela	•						•	
Flowering Quince		•			•			
Cotoneaster (Peking and Spreading)		•				•		
Dogwood (Red Osier & Grey)		•			•			
Euonymus (Burning Bush)		•			•	◇		
Viburnum varieties		•			•			
<b>Small Deciduous Shrubs:</b>								
Barberry			•			•		
Dwarf Winged Euonymus			•			•		◇
Spirea			•				•	
Fragrant Sumac			•					
Japanese Quince			•					•
Cotoneaster			•					•
(Rockspray, Cranberry)			•			•		
Potentilla			•					•

◇ For hedge plantings



### **Section 6.3 Fences, Walls, and Screens.**

Any person desiring to build or cause to be built a fence upon property within the Village of Lexington shall first apply to the Zoning Administrator for a permit. Application for such permit shall contain any and all information, including site plan and opacity, which are required and necessary for the determination of whether the erection of such fence would be contrary to the provisions of this Ordinance. The fee for such permit shall be set by Council resolution.

Except as otherwise required by this Ordinance, the following regulations shall apply:

- 6.3.1.** In a residential district, fences shall not exceed six (6) feet in height. However, fences are not permitted in front yards, and fences in side yards shall not exceed (4) feet in height and fifty (50%) percent opacity. Opacity is the degree to which a fence is impervious to rays of light. This condition shall be measured by the observation of any two (2) square yard area of fence between one (1) foot above the ground level and the top of the fence. The observation shall be from a direction perpendicular to the place of the fence.
- 6.3.2.** In a commercial, industrial, or office district, no fence, wall, or other screening structure shall exceed eight (8) feet in height. No fence is allowed in the front yard area or in the area fronting the primary building along the street.
- 6.3.3.** For property adjacent to Lake Huron, no fence, wall or screen will exceed the height of four (4) feet and must have no more than fifty percent (50%) opacity.
- 6.3.4.** The use of barbed wire, spikes, nails, or any other sharp point or instrument of any kind on top or on the sides of any fence is prohibited. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or wherever deemed necessary in the interests of public safety.
- 6.3.5.** No fence shall be constructed or maintained which is charged or connected with an electrical current.
- 6.3.6.** Retaining walls shall be designed and constructed in accordance with applicable building code requirements.
- 6.3.7.** Temporary construction fences and fences required for protection around excavations shall comply with Article 18 of the Basic Building Code. Such fences shall not remain in place for a period greater than a year.
- 6.3.8. Clear Vision Requirements.**
1. No fence, wall, screen, hedge, sign, or other structure or planting shall obstruct visibility between the heights of thirty (30) inches and ten (10) feet above the sidewalk grade within twenty-five (25) feet of the intersection of two or more streets.
  2. On any interior lot, no fence, wall, screen, hedge, sign, or other structure or planting shall obstruct the visibility of a driveway, either on a parcel or on an adjacent parcel, between the height of thirty (30) inches and ten (10) feet measured a distance of twenty (20) feet back from the point where the driveway intersects the street's edge.

**Section 6.4 Airborne Emissions.**

**6.4.1. Smoke and Air Contaminants.**

It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke or air contaminant in violation of air quality standards adopted by Federal and/or state regulatory authorities.

**6.4.2. Odors.**

Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor. The provisions of this Section are not intended to apply to farming activities.

**6.4.3. Gases.**

The escape or emission of any gas which is injurious or destructive, harmful to person or property, or explosive shall be unlawful and shall be abated.

**Section 6.5 Noise and Vibration.**

**6.5.1.** Noise which is objectionable as determined by the Village due to volume, frequency, or beat shall be muffled, attenuated, or otherwise controlled, subject to the noise control provisions in Chapter 34 Environment of the Village Code.

**6.5.2.** In addition, objectionable sounds of an intermittent nature, or sounds characterized by high frequencies, even if falling below the decibel readings in Chapter 34, shall be so controlled so as not to become a nuisance to adjacent uses. Sirens and related apparatus used solely for public purposes are exempt from this requirement. Noise resulting from temporary construction activity shall also be exempt from this requirement.

**6.5.3.** No use shall generate any ground transmitted vibration in excess of the limits set forth below. Vibration shall be measured at the nearest adjacent lot line. The vibration maximums set forth below are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following standards shall apply:

Particle Velocity, Inches per Second	
Frequency in Cycles per Second	Displacement in Inches
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

**6.5.4.** Vibrations resulting from temporary construction activity shall be exempt from the requirements of this section.

## **Section 6.6 Use, Storage and Handling of Hazardous Substance; Storage and Disposal of Solid, Liquid, and Sanitary Wastes.**

**6.6.1.** It shall be unlawful for any person, firm, corporation or other legal entity to pollute, impair or destroy the air, water, soils or other natural resources within the Village through the use, storage and handling of hazardous substances and/or wastes or the storage and disposal of solid, liquid, gaseous and/or sanitary wastes.

**6.6.2.** Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores or generates hazardous substances shall obtain the necessary permits or approval from the appropriate Federal, State or local authority having jurisdiction.

**6.6.3.** Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores or generates hazardous substances shall complete and file a Hazardous Chemicals Survey on a form supplied by the Village in conjunction with the following:

1. Upon submission of a site plan.
2. Upon any change of use or occupancy of a structure or premise.
3. Upon any change of the manner in which such substances are handled, and/or in the event of a change in the type of substances to be handled.

**6.6.4.** All business and facilities which use, store, or generate hazardous substances in quantities greater than 100 kilograms per month (equal to or greater than 25 gallons or 220 pounds) shall comply with the following standards:

1. Above-Ground Storage and Use Areas for Hazardous Substances.
  - a. Secondary containment of hazardous substances and polluting materials shall be provided. Secondary containment shall be sufficiently impervious to contain the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
  - b. Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
  - c. Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains.
  - d. Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and used shall be designed and constructed to prevent discharge or runoff.
2. Underground Storage Tanks - Existing and new underground storage tanks shall be registered, installed, operated, maintained, and removed in accordance with requirements of the appropriate Federal, State or local authority having jurisdiction.
3. Loading and Unloading Areas.
  - a. Areas used for the loading and unloading of hazardous substances shall be designed and constructed to prevent the harmful release to the environment of hazardous materials which may be spilled or leaked.

**6.6.5.** All site plans for business or facilities which use, store or generate hazardous substances shall be reviewed by the Fire Department, Village Engineer and any other appropriate experts determined necessary by the Planning Commission prior to approval by the Planning Commission.

### **Section 6.7 Electrical Disturbance, Electromagnetic, or Radio Frequency Interference.**

No use shall create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

### **Section 6.8 Glare and Exterior Lighting.**

#### **6.8.1. Light and Glare from Indirect Sources.**

1. Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines.
2. The design and/or screening of the development shall insure that glare from automobile and commercial or industrial vehicle headlights shall not be directed into any adjacent property, particularly residential property.
3. Exterior doors shall be located, operated, and maintained so as to prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.

#### **6.8.2. Exterior Lighting from Direct Sources.**

1. Subject to the provisions set forth herein, all parking areas, walkways, driveways, building entryways, off-street parking and loading areas, and building complexes with common areas shall be sufficiently illuminated to ensure the security of property and the safety of persons using such public or common areas.
2. Exterior lighting shall be located and maintained to prevent the reflection and glare of light in a manner which created a nuisance or safety hazard to operators of motor vehicles, pedestrians and neighboring land uses. This provision is not intended to apply to public street lighting.
3. The following additional standards shall apply:
  - a. Only white, non-glare lighting such as metal halide, color-corrected high-pressure sodium, or other types of lighting which achieve the same effect shall be permitted. Lighting shall be placed and shielded so as to direct the light onto the site and away from adjoining properties. Lighting shall be shielded so that it does not cause glare for motorists.
  - b. The light intensity provided at ground level shall be a minimum of 0.3 foot-candle anywhere in the area to be illuminated. Light intensity shall average a minimum of 0.5 foot-candle over the entire area, measured five (5) feet above the surface.
  - c. Except as noted below, lighting fixtures shall not exceed a height of twenty-five (25) feet. In portions of a site adjacent to residential areas, lighting fixtures shall not exceed a height of twenty (20) feet.

### **6.8.3. Architectural Lighting.**

1. Illumination of buildings, monuments or flags shall not exceed fifteen (15) foot-candles average maintained. All fixtures shall be shielded or designed to prohibit glare from shining into any residential area, street or public right-of-way.
2. Unshielded luminous tube (neon), LED, incandescent or fluorescent lighting shall be prohibited as an architectural detail on the exterior of any structure; including but not limited to rooflines, cornices, eaves, windows, and door openings. The Planning Commission may approve internally illuminated architectural bands or similar shielded lighting accents as part of a site plan, upon determining that such lighting accents would enhance the aesthetics of the site, and would not cause off-site glare or light pollution.

### **6.8.4. Window Lighting.**

1. All interior light fixtures visible through a window from a public right-of-way or adjacent property shall be shielded to prevent glare at the property line or within a public right-of-way. Unshielded luminous tube (neon), LED, incandescent and fluorescent light fixtures shall be prohibited where the light source would be visible through the window from a public right-of-way or adjacent property.

### **6.8.5. Prohibited Lighting Elements.**

1. Running, chasing or otherwise intermittent lighting.
2. The internal illumination of translucent building-mounted canopies/awnings.
3. The use of laser light sources, searchlights, or any similar high intensity light.

### **6.8.6 Exemptions.**

The following are exempt from the lighting requirements of this Section, except that the Zoning Administrator may take steps to eliminate the impact of the exempted items when deemed necessary to ensure that they will not interfere with vehicular traffic or the enjoyment and use of adjacent properties:

1. Holiday decorations.
2. Window displays without glare.
3. Shielded pedestrian walkway lighting.
4. Residential lighting with no off-site glare

### **6.8.7. Sign Illumination.**

1. The illumination of signs shall comply with all applicable requirements of Article 8 (Signs).

### **6.8.8. Submittal Requirements.**

1. All lighting, including ornamental lighting, shall be shown on site plans in sufficient detail to allow determination of the effects of such lighting upon adjacent properties, and traffic safety.

## **Section 6.9 Fire Hazard.**

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

## **Section 6.10 Safety.**

Existing hazards or potential hazards and nuisances, such as construction sites, junk yards, landfills, sanitary landfills, demolition sites, unused basements, abandoned wells or cisterns and sand, gravel, and stone pits or piles are to be enclosed by suitable fencing or barriers so as not to endanger public health, safety and welfare.

## **Section 6.11 Storm Water Management.**

### **6.11.1. Storm water Management.**

All developments and earth changes subject to review under the requirements of this Ordinance shall be designed, constructed, and maintained to prevent flooding and protect water quality. The particular facilities and measures required on-site shall reflect the natural features, wetlands, and watercourses on the site; the potential for on-site and off-site flooding, water pollution, and erosion; and the size of the site.

Storm water Management shall comply with the following standards:

1. The design of storm sewers, detention facilities, and other storm water management facilities shall comply with the standards for green site technology.
2. Storm water management conveyance, storage and infiltration measures and facilities shall be designed to prevent flood hazards and water pollution related to storm water runoff and soil erosion from the proposed development.
3. The use of swales and vegetated buffer strips is encouraged in cases where the Planning Commission deems to be safe and otherwise appropriate as a method of storm water conveyance so as to decrease runoff velocity, allow for natural infiltration, allow suspended sediment particles to settle, and to remove pollutants.
4. Alterations to natural drainage patterns shall not create flooding or water pollution for adjacent or downstream property owners.
5. Discharge of runoff from any site which may contain oil, grease, toxic chemicals, or other polluting materials is prohibited. If a property owner desires to propose measures to reduce and trap pollutants, the owner must meet the requirements of the Michigan Department of Environmental Quality. Based upon professionally accepted principles, such a proposal shall be submitted and reviewed by the Village Engineer, with consultation of appropriate experts.
6. Drainage systems shall be designed to protect public health and safety and to be visually attractive, taking into consideration viable alternatives.

### **6.11.2. On-Site Storm water Detention.**

For the purpose of controlling drainage to off-site properties and drainage ways, all properties which are developed under this zoning ordinance, whether new or improved shall provide for on-site detention storage of storm water in accordance with the current Michigan Department of Environmental Quality standards.

## **Section 6.12 Regulation of Floodplain Areas.**

### **6.12.1. Purpose.**

1. The floodplains of the Village are subject to periodic inundation of floodwaters which result in loss of property, health, and safety hazards, disruption of commerce and governmental service, and impairment of tax base.
2. It is the purpose of this section to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accordance with the National Flood Insurance Act of 1968, and subsequent enactments and rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency (FEMA), as published in the Federal Register, Vol. 41, No. 207, October 26, 1976, and re-designated at 44FR 31177, May 31, 1979.
3. The provisions of this section are intended to:
  - a. help protect human life, prevent or minimize material losses, and reduce the cost to the public for rescue and relief efforts;
  - b. restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause excessive increases in flood heights or velocities;
  - c. require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction;
  - d. protect individuals from buying lands which are designated to be unsuited for intended purposes because of flooding;
  - e. permit reasonable economic use of property located within a designated floodplain area.

### **6.12.2. Delineation of Floodplain Areas.**

1. Designated floodplain areas shall overlay existing zoning districts delineated on the Zoning District Map of the Village. The boundaries of the floodplain areas are identified in the report entitled, the Flood Insurance Study, Village of Lexington, prepared by FEMA with an effective date of January 6, 2012, a flood insurance rate map (FIRM) produced by FEMA that shows the floodplain boundary, the base flood elevation (587 feet or such other applicable elevation as determined by the appropriate governmental authority) and the special hazard areas (SFHA's) which are labeled as Zone AE and the community panel (map) number 26151C0494B. The flood insurance study, the flood insurance rate map (FIRM) and the community panel map as revised from time to time are adopted by reference, appended, and declared to be part of this Ordinance.
2. The standard applied to establishing the floodplain area is the base floodplain delineated by the base flood. In areas associated with ravine flooding, a floodway is designated within the floodplain area.
3. Where there are disputes as to the location of a floodplain area boundary, the Zoning Board of Appeals shall resolve the dispute in accordance with Article 12.0.

### 6.12.3. Application of Regulations.

1. In addition to other requirements of this Ordinance applicable to development in the underlying zoning district, compliance with the requirements of this section shall be necessary for all development occurring within designated floodplain areas. Conflicts between the requirements of this section and other requirements of this Ordinance or any other Ordinance shall be resolved in favor of this section, except where the conflicting requirement is more stringent and would further the objectives of this section. In such cases, the more stringent requirement shall be applied.
2. Upon application for land use permits, the Zoning Administrator shall determine whether said use is located within a designated floodplain area utilizing the documents cited in Section 6.12.2. The issuance of a land use permit within the floodplain area shall comply with the following standards:
  - a. The requirements of this section shall be met;
  - b. The requirement of the underlying districts and all other applicable provisions of this Ordinance shall be met; and
  - c. All necessary development permits shall have been issued by appropriate Local, State, and Federal authorities, including a floodplain permit, approval, or letter of authority from the Michigan Department of Natural Resources under authority of Act 245, Public Acts of 1929, as amended by Act 167, Public Acts of 1968. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.
3. Floodplain Management Administrative Duties.
  - a. With regard to the National Flood Insurance Program, and the regulation of development within the flood hazard area zone as prescribed in Section 6.12.4, the duties of the Zoning Administrator shall include, but are not limited to;
    - i. Notification to adjacent communities and the Department of Natural Resources of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration;
    - ii. Verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in the case of flood proofed structures, the elevation to which the structure was flood proofed; and
    - iii. Recording of all certificates of flood proofing, and written notification to all applicants to whom variances are granted in flood hazard area zone indicating the terms of the variance. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.
  - b. All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.
  - c. It shall be the responsibility of the Zoning Administrator to obtain and utilize the best available flood hazard data for purposes of administering the Ordinance in the absence of data from FEMA.



#### 6.12.4. Floodplain Standard and Requirements.

1. The following general standards and requirements shall be applied to all uses proposed to be located within the floodplain area:
  - a. All new construction and substantial improvements within a floodplain, including the placement of prefabricated buildings and mobile homes, shall;
    - i. Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
    - ii. Be constructed with materials and utility equipment resistant to flood damage;
    - iii. Be constructed by methods and practices that minimize flood damage.
  - b. All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
  - c. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the systems and discharges from systems into flood waters.
  - d. All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
  - e. Adequate drainage shall be provided to reduce exposure to flood hazards.
  - f. The Village Engineer or his representative shall review development proposals to determine compliance with the standards in this section, and shall transmit his determination to the Zoning Administrator.
  - g. Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this Article.
  - h. The flood carrying capacity of any altered or relocated watercourse not subject to state and Federal regulations designed to ensure flood carrying capacity shall be maintained.
  - i. Available flood hazard data from Federal, state, or other sources, shall be reasonably utilized in meeting the standards of this section. Data furnished by FEMA shall take precedence over data from other sources.
2. The following specific standards shall be applied to all uses proposed to be located within the floodplain area but not within the floodway portion of the floodplain area.
  - a. All new construction and substantial improvements of non-residential structures shall have either;
    - i. The lowest floor, including basement, elevated at least one-tenth (0.1) foot above the base flood level;
    - ii. Be constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the flood proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with base flood in the location of the structure.

3. Mobile Home Standards: The following general standards and requirements shall be applied to mobile homes located within flood plain areas:
  - a. Anchoring must meet HUD specifications, per rule 605.
  - b. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the Village and Sanilac County Sheriff Department for mobile home parks and mobile home subdivisions.
  - c. Mobile homes within zones A1-30 on the Flood Insurance Rate Map shall be located in accord with the following standards:
    - i. All mobile homes shall be placed on stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level.
    - ii. Adequate surface drainage away from all structures and access for a mobile home hauler shall be provided.
    - iii. In the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten (10) feet apart; and reinforcement shall be provided for piers more than six (6) feet above ground level.
    - iv. In mobile home parks and mobile home subdivisions which exist at the time this subsection is adopted, where repair, reconstruction or improvement of streets, utilities, and pads equals or exceeds fifty (50%) percent of the value of the streets, utilities, and pads before the repair, the standards in the subparagraphs above shall be complied with.
4. The following standards shall be applied to all uses proposed to be located within the floodway portion of the floodplain area.
  - a. Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited. Exception to this prohibition shall only be made upon certification by a registered professional engineer or the Department of Natural Resources that the development proposed will not result in any increases in flood levels during a base flood discharge, and compliance with Act 245, Public Acts of 1929, as amended by Act 167, Public Acts of 1968.
  - b. The placement of mobile homes shall be prohibited.
  - c. The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the regulatory floodway, except upon compliance with the provisions of this section.

**6.12.5. Warning and Disclaimer of Liability.**

1. The degree of flood protection required by provisions of this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions.
2. These provisions do not imply that areas outside the floodplain or land uses permitted within such districts will be free from flooding or flood damages nor shall the Village or any officer or employee thereof be liable for any flood damages that result from reliance on the provisions of this section or any administrative decision lawfully made there under.

## **Section 6.13 Building Grades.**

**6.13.1.** Any building requiring yard space shall be located at such an elevation that a finished grade shall be maintained to cause the flow of surface water to run away from the walls of the building. All grades shall be established and maintained so that surface water run-off damage does not occur to adjoining properties prior to, during, and after construction.

**6.13.2.** When a new building is constructed on a vacant lot between two (2) existing buildings or adjacent to an existing building, the Building Official shall use the existing established finished grade or the minimum established grade, in determining the proper grade around the new building. The yard around the new building shall be graded in such a manner as to meet existing codes and to preclude normal run-off of surface water to flow onto the adjacent property.

**6.13.3.** Final grades shall be approved by the Building Official who may require a grading plan which has been duly completed and certified by a registered engineer or land surveyor.

## **Section 6.14 Shoreline/Water Protection**

### **6.14.1. Purpose.**

It is the purpose of this section to protect the waters of Lake Huron and its shoreline as a community resource to which the welfare and prosperity of village residents are dependent.

### **6.14.2. Delineation of Shoreline Protection Areas.**

1. All properties adjacent to Lake Huron within the boundaries of the Village with the exception of those parcels contiguous to the inner Harbor and that are also within the Harbor break walls. Maps that show the parcels that are excluded from the shoreline protection area are available from the zoning administrator.

### **6.14.3. Natural Resource Management**

1. No building or structure shall be built, located, relocated or constructed within the 100 year floodplain as determined by FEMA [currently lakeward of FEMA, B.F.E. 587, DAVD 88, also refer to Section 6.12.2. of a shoreline protection area with the exception of:
  - a. Engineered non recreational shoreline protection or erosion control structures, such as seawalls, jetties, breakwaters, groins, bulkheads, and revetments erected for land conservation purposes and permitted by the MDEQ and/or USACE.
  - b. Accessory buildings as permitted in Section. 5.4.1.
2. A natural vegetation strip shall be maintained within 10 feet of the water's edge of tributaries which empty into Lake Huron and within 25 feet landward of the natural Lake Huron beachfront sand. Existing soil and organic matter shall not be altered or disturbed within the natural vegetation strip. Shrubbery, trees or other vegetation shall be preserved as far as practicable and when removed shall be replaced with other naturally occurring vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.\* A mowed lawn shall not serve as a desirable vegetation strip adjacent to the shoreline. It shall be the landowner's responsibility to maintain this vegetation belt in a healthy state.

\*OURS TO PROTECT, Appendix B for Best Management Practices and additional guidelines (available at Village Office)

## ARTICLE 7 PUD – PLANNED UNIT DEVELOPMENT DISTRICT

### **Section 7.1 Purpose and Intent.**

Planned Unit Development (PUD) district regulations are intended to provide for various types of land uses planned in a manner which shall; encourage the use of land in accordance with its character and adaptability; conserve natural resources and energy; encourage innovation in land use planning; provide enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the people of the Village; and bring about a greater compatibility of design and use. The provisions of this Article provide enabling authority and standards for the submission, review, and approval of applications for planned unit developments.

### **Section 7.2 PUD Regulations.**

**7.2.1.** A planned unit development (PUD) may be applied for in any zoning district. The grant of a planned unit development application shall require a rezoning by way of amendment of this Ordinance upon the recommendation of the Planning Commission and approval of the Village Council.

**7.2.2.** Any land use authorized in this Ordinance may be included in a planned unit development, subject to adequate public health, safety, and welfare protection mechanisms being designed into the development to ensure the compatibility of varied land uses both within and outside the development.

**7.2.3.** The applicant for a planned unit development must demonstrate all of the following criteria as a condition to being entitled to planned unit development treatment:

1. Grant of the planned unit development will result in one of the following:
  - a. A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or
  - b. Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or
  - c. A non-conforming use shall, to a material extent, be rendered more conforming, or less offensive, to the zoning district in which it is situated.
2. The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, streets and utilities.
3. The proposed development shall be consistent with the public health, safety and welfare of the Village.
4. The proposed development shall be consistent with adjacent circulation patterns or there should be stub streets to accommodate the traditional street patterns that could be developed on adjacent parcels.
5. The proposed development shall not result in an unreasonable negative environmental impact on the subject site or surrounding land.

6. The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.
7. The proposed development shall be under single ownership and/or control such that there is a single person having responsibility for completing the project in conformity with this Ordinance.
8. The proposed development shall be consistent with the Goals and Policies of the General Development Plan.

### **Section 7.3 Procedure for Review.**

#### **7.3.1. Pre-application Conference.**

Prior to the submission of an application for planned unit development approval, the applicant shall meet with the Zoning Administrator, together with any staff and consultants the Administrator deems appropriate. The applicant shall present at such conference, or conferences, at least a sketch plan of the proposed planned unit development, as well as the following information: Total number of acres in the project; a statement of the number of residential units, if any; the number and type of non-residential uses, the number of acres to be occupied by each type of use; the known deviations from ordinance regulations to be sought; the number of acres to be preserved as open or recreational space; and, all known natural resources and natural features to be preserved.

#### **7.3.2. Preliminary Plan.**

Following the Pre-application Conference, the applicant shall submit a preliminary site plan of the proposed planned unit development. The preliminary site plan shall be prepared in accordance with the standard set forth in Section 3.4.2. A narrative report shall accompany the site plan providing a description of the project, discussing the market concept and feasibility of the project, and explaining the manner in which the criteria set forth in Section 7.1 have been met.

1. *Planning Commission Action.* The Preliminary Plan shall be noticed for public hearing as a zoning amendment before the Planning Commission. Following the hearing, the Planning Commission shall review the preliminary site plan and shall take one of the following actions:
2. *Approval.* Upon finding that the Preliminary Plan meets the criteria and standards set forth in Sections 7.1 and 7.2, the Planning Commission shall grant preliminary approval. Approval shall constitute approval of the uses and design concept as shown on the Preliminary Plan and shall confer upon the applicant the right to proceed to preparation of the Final Plan.
3. Approval of the Preliminary Plan by the Planning Commission shall not constitute rezoning of the property to PUD nor bind the Village Council to approval of the Final Plan.
4. *Tabling.* Upon finding that the Preliminary Plan does not meet the criteria and standards set forth in Sections 7.1 and 7.2, but could meet such criteria if revised, the Planning Commission may table action until a revised Preliminary Plan is resubmitted.
5. *Denial.* Upon finding that the Preliminary Plan does not meet the criteria and standards set forth in Sections 7.1 and 7.2, the Planning Commission shall deny preliminary approval.

### 7.3.3. Final Plan.

Within six (6) months following receipt of the Planning Commission comments on the preliminary plan, the applicant shall submit a final plan and supporting materials conforming with this Section. If a final plan is not submitted by the applicant for final approval within six (6) months following receipt of Planning Commission comments, the preliminary plan approval becomes null and void.

1. *Information Required.* A final site plan and application for a PUD shall contain the following information:
  - a. A site plan meeting all requirements of Section 3.4.3, Final Site Plan.
  - b. A separately delineated specification of all deviations from this ordinance which would otherwise be applicable to the uses and development proposed in the absence of this planned unit development article.
  - c. A specific schedule of the intended development and construction details, including phasing or timing.
  - d. A specific schedule of the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features.
  - e. A specification of the exterior building materials with respect to the structures proposed in the project.
  - f. Signatures of all parties having an interest in the property.
2. *Planning Commission and Action.* The final plan shall constitute an application to amend this Ordinance, and shall be noticed for public hearing as a zoning amendment before the Planning Commission, and otherwise acted upon by the Planning Commission, and the Village Council, as provided by law.
  - a. Approval. Upon finding that the Final Plan meets the criteria and standards set forth in Section 7.1 and 7.2, the Planning Commission shall recommend approval to the Village Council.
  - b. Tabling. Upon finding that the Final Plan does not meet the criteria and standards set forth in Section 7.1 and 7.2, but could meet such criteria if revised, the Planning Commission may take action until a revised Final Plan is resubmitted.
  - c. Denial. Upon finding that the final plan does not meet the criteria and standards set forth in Section 7.1 and 7.2, the Planning Commission shall recommend denial to the Village Council.

The Planning Commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the planned unit development project including, without limitation, recommendations with respect to matters on which the Village Council must exercise discretion.
3. *Village Council Action.* Upon receiving a recommendation from the Planning Commission, the Village Council shall review the Final Plan. Taking into consideration the recommendations of the Planning Commission and the criteria and standards set forth in Sections 7.1 and 7.2, the Village Council shall approve, table or deny the Final Plan.
4. Prior to approval of a Final Plan, the Village Council shall require all standards and conditions of approval to be incorporated in a Development Agreement. The Agreement shall be prepared by the Village Attorney, approved by the Village Council, and signed by both the Village and the Applicant.

## **Section 7.4 Project Design Standards.**

### **7.4.1. Residential Design Standards.**

1. Residential density shall not be greater than the maximum density permitted in the zoning district in which the property is situated immediately prior to classification under this Article.

Additional density for residential uses may be allowed in the discretion of the Village Council upon the recommendation of the Planning Commission and based upon a demonstration by the applicant of consistency with the General Development Plan and of planning and design excellence resulting in a material benefit to the Village, adjacent land uses, and/or the ultimate users of the project, where such benefit would otherwise be unlikely to be achieved without the application of the PUD regulations, including, without limitation, innovative design producing significant energy efficiency, pedestrian or vehicular safety, long term aesthetic beauty, and protection and preservation of natural resources and features.

2. Residential street layout patterns shall be consistent with the traditional street patterns as established in the Village in order to meet the intent of this Ordinance as outlined in Section 1.2 of this Ordinance.

### **7.4.2. Non-Residential Design Standards.**

1. Non-residential uses may be permitted in combination with other non-residential uses or as part of a common development with residential uses.
2. The non-residential uses, including parking and vehicular traffic ways, shall be separated and buffered from residential units in a manner consistent with good land and community planning principles.
3. Nonresidential properties in excess of 200 feet in width along an existing right-of-way shall provide at least on side street right-of-way to permit access to the property to the rear of the nonresidential parcel.

### **7.4.3. General Design Standards.**

1. All regulations applicable to setbacks, parking and loading, general provisions, and other requirements shall be met in relation to each respective land use in the development based upon zoning districts in which the use is listed as a Principal Permitted Use. In all cases, the strictest provisions shall apply.

Notwithstanding the immediately preceding paragraph, deviations with respect to such regulation may be granted as part of the overall approval of the planned unit development, provided there are features or elements demonstrated by the applicant and deemed adequate by the Village Council upon the recommendation of the Planning Commission designed into the project plan for the purpose of achieving the objectives of this Article.

2. To the maximum extent feasible, the development shall be designed so as to preserve the natural resources and natural features. The benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state and national concern for the protection and preservation of the natural resources or features and the following criteria:
  - a. The availability of feasible and prudent alternative methods of accomplishing any development.
  - b. The extent and permanence of the beneficial or detrimental effects of the proposed activity.
  - c. The size, quality and rarity of the natural resources or natural features which would be impaired or destroyed.



3. There shall be a perimeter setback and berming, as found to be necessary by the Village, for the purpose of buffering the development in relation to surrounding properties. If the planned unit development project includes non-residential uses adjacent to a district authorizing residential uses, and/or if the project is larger than one acre in area, such perimeter setback shall be established with a dimension from the property line of up to one hundred (100) feet in the discretion of the Village Council, taking into consideration the use or uses in and adjacent to the development. The setback distance need not be uniform at all points on the perimeter of the development.
4. Thoroughfare, drainage, and utility design shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.
5. There shall be underground installation of utilities, including electricity and telephone, as found necessary by the Village.
6. Pedestrian walkways shall be separated from vehicular circulation, as found necessary by the Village.
7. Signage, lighting, landscaping, building materials for the exterior of all structure, and other features of the project, shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.
8. Where non-residential uses adjoin off-site residentially zoned property, noise reduction and visual screening mechanisms such as earthen and/or landscape berms and/or decorative walls, shall be employed. The Village, in its discretion, shall review and approve the design and location of such mechanisms.
9. The Village Council upon the recommendation of the Planning Commission shall resolve all ambiguities as to applicable regulations using the Zoning Ordinance, General Development Plan, and other Village standards or policies as a guide.

## **Section 7.5**                      **Conditions.**

**7.5.1.** Reasonable conditions may be required with the approval of a planned unit development, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.

**7.5.2.** Conditions imposed shall be designed to protect natural resources and the public health, safety, and welfare of individuals in the project and those immediately adjacent, and the community as a whole; reasonably related to the purposes affected by the planned unit development; and, necessary to meet the intent and purpose of this Ordinance, and be related to the objective of ensuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved planned unit development.

## **Section 7.6 Phasing and Commencement of Construction.**

### **7.6.1. Phasing.**

Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, the relative mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable in the discretion of the Village Council after recommendation from the Planning Commission.

### **7.6.2. Commencement and Completion of Construction.**

To ensure completion of required improvements, the Village is authorized to impose performance guarantees in accordance with Section 3.7. Construction shall be commenced within one (1) year following final approval of a planned unit development and shall proceed substantially in conformance with the schedule set forth by the applicant, as required by Section 7.2.3. If construction is not commenced within such time, any approval of a site plan on the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Village Council upon good cause shown if such request is made to the Village Council prior to the expiration of the initial period. Moreover, in the event a site plan has expired, the Village Council, based on a recommendation from the Planning Commission, shall be authorized to rezone the property in any reasonable manner, and, if the property remains classified as PUD, a new application shall be required, and shall be reviewed in light of then existing and applicable law and ordinance provisions.

## **Section 7.7 Effect of Approval.**

When approved, the planned unit development amendment, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such amendment. Notice of adoption of the final PUD plan and conditions shall be recorded by the applicant at the Sanilac County Register of Deeds, evidence of which shall be supplied to the Zoning Administrator.

## ARTICLE 8 SIGNS

### Section 8.1 Intent and Purpose.

It is hereby determined that a proliferation of signs in the Village of Lexington is unduly distracting to motorists and pedestrians, creates a traffic hazard, and reduces the effectiveness of signs needed to direct and warn the public. It is also determined that the appearance of the Village is damaged by a proliferation of signs, which restricts light and air. It is further determined that a proliferation of signs negatively affects property values and also results in an inappropriate use of land.

The purpose of this Article is to control the occurrence and size of signs in order to reduce the aforementioned negative effects. It is also determined that the signs of least value to people within the Village are those which carry commercial message other than the advertisement of a product, service, event, person, institution or business located on the premise where the sign is located or indicate the sale or rental of such premise. It is also determined that the regulations contained herein are the minimum amount of regulation necessary to implement the purpose and intent of this Article. It is also further determined that restrictions in this Article and/or other Articles on the size of signs and/or their height and placement on real estate are the minimum amount necessary to achieve their purpose.

### Section 8.2 Permit

1. Required. A sign permit shall be required for the erection, construction or alteration of any sign, except as provided in this article, and all such signs shall be approved by the Zoning Administrator as to compliance with the requirements of the zoning district wherein such sign is to be located with the requirements of this article and with all applicable regulations as set forth by the county building department. All illuminated signs are additionally subject to the provisions of the county electrical code and any permit fees required there under.
2. Application contents requisites.
  - a. Name and address of the applicant.
  - b. Location of the building, structure or lot to which the sign is to be attached or erected.
  - c. Position of the sign in relation to the neighboring buildings or structures and to the property lines.
  - d. One blueprint or ink drawing of the plans and specifications for the method of construction, materials to be used and/or attachment to the building or ground.
  - e. Names of persons erecting the structures.
  - f. Written consent of the owner of the building or structure to which or on which the sign is to be erected.
  - g. An electrical permit (if required) attached to the permit application.
  - h. Such other information as the zoning administrator or the building inspector deems necessary to show full compliance with this article.

3. Issuance. If, upon examination of the submitted plans and other data, it appears, that the proposed sign is in compliance with all the requirements of this chapter, the zoning administrator shall issue a sign permit. If the work authorized under said permit has not been completed within six (6) months after the date of issuance, the permit will be null and void.
4. Revocation. All rights and privileges acquired under this article are mere licenses revocable at any time, and all such permits shall contain this provision.
5. Unsafe, unlawful signs: Inspection authority. If the zoning administrator finds that a sign/mural is unsafe or is a menace to the public or has been constructed or erected or is maintained in violation of this article or contains any offensive, obscene, indecent, or immoral matter, determined as such by the village, he/she shall give written notice to the owner of said sign. If the owner fails to remove or alter the structure so as to comply with this article within ten days after such notice, the sign shall be removed or altered by the village at the expense of the owner. The village may cause any sign, which is an immediate peril to persons or property, to be removed immediately and without notice.

### **Section 8.3 Exemptions from Permit.**

No sign shall be erected, constructed and maintained until a permit for the sign has been issued by the zoning administrator, unless otherwise noted in this article; provided no permit will be required for the following:

1. Nameplates not exceeding four (4) square feet in size.
2. Political signs for public office or issues to be determined by election may be erected Forty-five (45) days prior to an election. Such signs shall be erected on private property only and no less than one hundred (100) feet from any entrance to a building in which a polling place is located. No signs shall be placed in public right-of-ways. All such political signs must be removed within five (5) days following Election Day. Sizes of signs are limited as follows:
  - a. Sixteen (16) square feet in R-1, R-2, R-3, MHP, C-MU, G-MU and CBD districts.
  - b. Thirty-two (32) square feet ft. in GC, I-MU and AG districts.
3. Real estate signs for land or buildings for rent, lease, or sale in any district provided such signs are located on the property intended to be rented, leased or sold. Sizes of signs are limited as follows:
  - a. Sixteen (16) square feet in R-1, R-2, R-3, MHP, C-MU, G-MU and CBD districts.
  - b. Thirty-two (32) square feet in GC, I-MU and AG districts.
4. Directional signs which indicate the direction of traffic flow on private property. Directional signs shall not exceed four (4) square feet in size and shall contain no advertising but may be illuminated.
5. Traffic or other municipal signs, legal notices, danger signs and such temporary, emergency or non-advertising signs as may be approved by the village council.
6. Bulletin boards for public, charitable or religious institutions when bulletin boards are located on the premises of the institution. Sizes of signs are limited as follows:
  - a. Sixteen (16) square feet in R-1, R-2, R-3, MHP C-MU, G-MU and CBD districts.
  - b. Thirty-two (32) square feet in GC, I-MU and AG districts.
7. One (1) non-illuminated freestanding sign listing persons or firms connected with development or construction work being performed on a premise with a valid building permit. Such signs shall not

exceed sixteen (16) square feet in R-1, R-2, R-3, MHP, C-MU, G-MU and CBD districts or thirty-two (32) square feet in GC, I-MU and AG districts. Further, such signs shall be removed within thirty (30) days of the issuance of a certificate of occupancy.

8. Signs advertising essential services, such as landscaping, carpet cleaning, etc. are allowed in all districts for a time period of no more than the period of time the service is actively being performed and shall not exceed four (4) square feet.

The exemptions provided for in this section shall apply only to the requirement for a permit and shall not be construed as relieving the owner of the sign from the responsibility for its erection and maintenance in a good safe condition.

#### **Section 8.4 Definitions.**

Refer to Section 2.2 for the definition of sign and various types of signs.

#### **Section 8.5 General Requirements for Wall and Free-Standing Signs**

##### **8.5.1. Wall Sign General Requirements.**

1. One (1) wall sign shall be permitted per premise. One (1) additional wall sign may be permitted if at least one of the following conditions exists:
  - a. The premise has frontage on more than one public roadway.
  - b. The premise includes a building with more than one wall providing an individual means of access to the public.
  - c. The premise includes a building where the only means of access to the public is provided from a wall other than the front wall.

Where two (2) wall signs are permitted, the total allowable square footage of the two (2) wall signs in combination shall not exceed one-hundred fifty (150%) percent of the maximum allowable square footage for the District as specified in Section 8.6.

2. For premises containing a building(s) with distinct and separate uses, one (1) wall sign shall be permitted for each store front. However, no individual sign shall exceed the maximum allowable square footage for the District as specified in Section 8.6

##### **8.5.2. Free Standing Sign General Requirements.**

1. One (1) free-standing sign shall be permitted per premise which has frontage on only one public roadway.
2. Two (2) free-standing signs shall be permitted per premise which has frontage on two (2) public roads. One (1) sign shall not exceed the area requirements set forth herein. The second sign shall not exceed fifty (50%) percent of the area requirements as set forth herein and shall be placed at least one hundred (100) feet from the first sign and along the other street.
3. A free-standing sign shall have a minimum setback of five (5) feet from a public road right-of-way and a setback distance equal to the height of the sign from all other boundaries.

4. A free-standing sign which advertises multi-businesses located on that property may have a sign one hundred fifty (150%) percent larger than otherwise permitted. The supporting structure shall not be more than one (1) foot higher than the height of the permitted sign.
5. Signage on awnings is regulated as wall signs except where the signage is limited to the height and width of the awning rather than the supporting wall.

**Section 8.6 Specific Requirements for Wall and Free-Standing Signs.**

Wall and Free-Standing signs shall be permitted by the District in accordance with the following regulations:

**8.6.1 District, Height, & Width Requirements & Area:**

Type of Sign/ District	Maximum Height & Width	Maximum Area and Additional Requirements
<p><b><u>Wall and Free Standing Signs:</u></b> All non-residential permitted and special uses such as schools, churches, parks and municipal buildings within the AG, R-1, R-2, R-3 and MHP Districts.</p>	<p>Six (6) feet in height and Eight (8) feet in width</p>	<p>One (1) square foot for each lineal foot of building wall not to exceed a total of twenty-four (24) square feet.</p>
<p><b><u>Free Standing Signs:</u></b> Identification signs for residential developments within the AG, R-1, R-2, R-3 and MHP Districts.</p>	<p>Four (4) feet in height and six (6) feet in width</p>	<p>Twenty-four (24) square feet.</p>
<p><b><u>Wall Signs:</u></b> CBD, C-MU and G-MU Districts</p>	<p>Four (4) ft. in height and eight (8) ft. in width</p>	<ol style="list-style-type: none"> <li>1) Not to exceed fifteen percent (15%) of the net wall surface (per side) or thirty-two (32) square feet, whichever is less.</li> <li>2) Signage shall be addressed in the site plan, Including: a detailed schematic of the proposed sign, dimensions, a color rendition of the completed sign and all detail for lighting. (if any)</li> <li>3) No flashing or blinking lettering or graphics.</li> <li>4) The premises shall have no current zoning violations.</li> <li>5) A written maintenance plan must be on file in the Village office.</li> </ol>

Type of Sign/ District	Maximum Height & Width	Maximum Area and Additional Requirements
<p><b>Wall Signs:</b> GC Districts</p>	<p>Four (4) ft. in height and eight (8) ft. in width</p>	<ol style="list-style-type: none"> <li>1) Not to exceed one (1) square foot for each lineal foot of building wall or thirty-two (32) square feet, whichever is less.</li> <li>2) Signage shall be addressed in the site plan, including: a detailed schematic of the proposed sign, dimensions, a color rendition of the completed sign and all detail for lighting. (if any)</li> <li>3) No flashing or blinking lettering or graphics.</li> <li>4) The premises shall have no current zoning violations.</li> <li>5) A written maintenance plan must be on file in the Village office.</li> </ol>
<p><b>Free Standing Signs:</b> CBD, C-MU, G-MU and GC Districts</p>	<p>Six (6) feet in height and eight (8) feet in width</p>	<ol style="list-style-type: none"> <li>1) Sign area shall not exceed a total of forty-eight (48) square ft.</li> <li>2) The placement of the sign shall not endanger traffic, safety, public health, safety or general welfare.</li> <li>3) The premises shall have no uncorrected current zoning violations</li> <li>4) No flashing or blinking graphics.</li> <li>5) No flashing or blinking graphics.</li> <li>6) Only advertisement shall be displayed which is subsequent to the primary business at the location.</li> </ol>

Type of Sign/ District	Maximum Height & Width	Maximum Area and Additional Requirements
<p><b><u>Murals:</u></b> CBD and C-MU Districts</p>		<ol style="list-style-type: none"> <li>1) Requires a Special Land Use Permit.</li> <li>2) A detailed drawing of the mural and exact specifications must be provided for approval.</li> <li>3) The property owner shall, in writing, consent to the placement of said mural on the property and shall assume full responsibility for the maintenance, restoration, and/or removal of the mural. If that burden is placed on the Village, the property owner will be assessed.</li> <li>4) A maintenance plan must be in place.</li> <li>5) The placement of mural shall not endanger traffic safety, public health, safety or general welfare.</li> <li>6) The building shall have no uncorrected current zoning violations.</li> <li>7) The mural must mask an unattractive building façade or accentuate the historic features of the building, and neither the mural, nor the placement of the mural, would be injurious to the use and enjoyment of other property in the immediate vicinity of the proposed location.</li> <li>8) The only text permitted on the mural is the name of the business.</li> <li>9) If the mural or graphic includes specific services, goods or products, or a representation of the types of services, goods or products provided, that portion of the mural area will count toward the total permitted wall sign area.</li> <li>10) Advertising of specific commercial products not produced on premises is not permitted.</li> <li>11) Advertising of events is not permitted.</li> <li>12) The message mural must be static with no illumination.</li> <li>13) No mural may be placed on any building or structure that includes non-conforming signs.</li> </ol>
<p><b><u>Sandwich Board Signs:</u></b> CBD and C-MU Districts</p>	<p>Four (4) feet in height and not to exceed thirty (30) inches in width.</p>	<ol style="list-style-type: none"> <li>1) The sign must be of a temporary nature and be removed daily at the close of business or no later than 9:00 PM.</li> <li>2) Must be kept in good repair.</li> </ol>
<p><b><u>Wall and Free Standing Signs:</u></b> I-MU Districts</p>	<p>Eight (8) ft. in height and nine (9) ft. in width</p>	<p>One square foot for each lineal foot of building wall not to exceed a total of seventy-two (72) square feet.</p>



## **Section 8.7 Permitted Projecting Signs.**

**8.7.1.** Projecting signs shall be permitted in CBD (Central Business District), C-MU, and GC Districts.

**8.7.2.** The surface area of the projecting sign shall not exceed twenty (20) square feet on each side or a total of forty (40) square feet. The total square feet of the projecting sign (both sides) shall be subtracted from the total allowable wall signage square footage permitted for the District in which the sign is located.

**8.7.3.** The bottom of the projecting sign shall be a minimum of ten (10) feet above the surface of the sidewalk or ground area, or otherwise be located so as not to interfere with pedestrian traffic.

**8.7.4.** A permitted projecting sign may extend past the roofline or the side of the building not more than two (2) feet, providing that the portion of the sign that projects past the roofline or the side of the building does not interfere with the sight of clear vision of the surrounding businesses or impede a clear line of vision for the orderly flow of pedestrian or vehicular traffic. Projecting signs shall not be located closer to the ground than ten (10) feet.

## **Section 8.8 Permitted Temporary Signs and Banners.**

Temporary signs, i.e. political, real estate, address identification, portable, etc., do not require a permit, but must otherwise adhere to the ordinance. In the CBD District, these signs must not occupy the five (5) foot sidewalk clear area space. In all other districts, the signs shall not be placed in a public right-of-way.

1. In all districts, the Zoning Administrator may allow a business, as part of a startup phase, a grand opening, an anniversary celebration, etc. to use a temporary sign for up to a thirty (30) day period. All temporary signs under this provision shall comply with all requirements pertaining to height and area for the zoning district in which they are located.
2. Permission to use portable non-illuminated changeable letter signs for civic or charitable activities may be authorized by the zoning administrator without fee. The use is limited to four (4) times per year and shall not exceed thirty (30) days for any one use. The sign shall not exceed thirty-two (32) square feet.
3. Permission to use a portable non-illuminated changeable letter sign for business or other related activities may be authorized by the zoning administrator without fee. The use is limited to two (2) times per year and shall not exceed sixteen (16) days for any one use. The sign shall not exceed thirty-two (32) square feet.
4. Permission to display a banner or sign for a civic or charitable activity may be authorized by the Zoning Administrator without fee. The sign/banner may be placed up to ten (10) days prior to the event and must be removed within forty-eight (48) hours of the completion of the event.
5. Within the CBD Districts, banners are permitted for up to a thirty (30) day period no more than one (1) time per year. Only those businesses with direct pedestrian access from the public right-of-way shall be permitted to have banners. These banners shall not exceed twenty (20) square feet in area. The banners must be affixed to the building and shall be designed and attached to avoid interference with or distraction to pedestrian or vehicular traffic. Banners shall not exceed thirty (30%) per cent of the square foot of the wall they are attached to, less all openings. Feather flag signs shall not be permitted as banners within the CBD Districts.

6. Within the C-MU, G-MU and GC Districts, banners are permitted for up to a thirty (30) day period no more than one (1) time per year. Only those businesses with direct pedestrian access from the public right-of-way shall be permitted to have banners, and no more than one (1) banner is allowed per premises. Banners affixed to the ground, including feather flag signs, shall not exceed twenty (20) square feet of display area or ten (10) feet in height and shall be so located to avoid interference with or distraction to pedestrian or vehicular traffic. Banners affixed to a building shall not exceed twenty (20) square feet in area.
7. All banners which are not properly maintained shall be removed at the order of the Zoning Administrator.

## **Section 8.9 Permitted Billboards.**

Billboards shall be permitted only in the I-MU District, subject to the Standards contained herein, and the Advertising Act of 1972, as amended.

### **8.9.1. Spacing.**

1. Not more than three (3) billboards may be located per linear mile of street or the highway regardless of the fact that such billboards may be located on different sides of the street or highway. The linear measurement shall not be limited to the boundaries of the Village of Lexington where the particular street or highway extends beyond such boundaries.

Double-faced billboard structures having only one (1) face visible to traffic proceeding from any given direction on a street or highway shall be considered as one (1) billboard. Additionally, billboard structures having tandem faces [i.e., two (2) parallel faces facing the same direction and side by side to one (1) another] or stacked billboard faces (i.e., two (2) billboard faces facing the same direction with one (1) face being directly above the other) shall be considered as one (1) billboard. Otherwise, billboard structures having more than one (1) billboard face shall be considered as two (2) billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in Subsection 2 below.

2. No billboard shall be located within 1,000 feet of another billboard abutting either side of the same street or highway.
3. No billboard shall be located within two hundred (200) feet of a residential zone and/or existing residence. If the billboard is illuminated, this requirement distance shall instead be three hundred (300) feet.
4. No billboard shall be located closer than seventy-five (75) feet from a property line adjoining a public right-of-way or ten (10) feet from any interior boundary line of the premises on which the billboard is located.

### **8.9.2 Height.**

The height of a billboard shall not exceed thirty (30) feet above the level of the street or road upon which the billboard faces or to which the message upon the billboard is directed. In the event that the billboard is situated upon two (2) streets or roads having different levels, the height of the billboard shall be measured from the higher street or road.

### **8.9.3 Surface area.**

The surface display area of any side of a billboard may not exceed three hundred (300) square feet. In the case of billboard structures with tandem or stacked faces, the combined surface display area of both faces may not exceed three hundred (300) square feet.

### **8.9.4 Illumination.**

A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, not shall the lights be permitted to rotate or oscillate.

### **8.9.5 Construction and Maintenance.**

1. No billboard shall be on top of, cantilevered or otherwise suspended above the roof of any building.
2. A billboard must be constructed in such a fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability.

## **Section 8.10 Miscellaneous Permitted Signs.**

### **8.10.1 Directory Signs.**

For offices, parks, industrial parks and multi-tenant buildings in the CBD, C-MU, G-MU and GG districts, directory signs which identify multiple occupants or uses within a building on a lot shall be permitted in addition to other permitted signs under these regulations.

1. No more than one (1) directory sign per lot is permitted, except where a lot has frontage on no less than two (2) sides.
2. No directory sign shall exceed twenty-four (24) square feet in area or six (6) feet in height from the finished grade.
3. No directory sign shall be located closer than ten (10) feet to any property line in all districts except for CBD and shall not be a projecting sign.

### **8.10.2 Menu Board Signs.**

One menu board sign for a restaurant shall be permitted in addition to other signs permitted under these regulations provided such sign does not exceed sixteen (16) square feet in area. The sign shall be a wall sign or mounted on an existing free-standing sign.

### **8.10.3 Changeable Copy Signs.**

Within the C-MU and GC Districts, changeable copy signs, including electronic changeable copy signs shall be permitted when incorporated into a permitted freestanding or ground sign, provided that the area devoted to changeable copy does not exceed thirty percent (30%) of the freestanding or ground sign area. They are prohibited in all other districts.

1. Electronic changeable copy signs shall be further subject to the following:
  - a. Sign displays shall contain static messages only, changed through dissolve or fade transitions or the use of other suitable transitions and frame effects that do not otherwise have the appearance of moving text and images caused by flashing, scrolling, or varying light intensity levels. Full animation or video broadcasting is expressly prohibited, as well as the use of flashing, traveling, scrolling, rolling, splicing, zooming, exploding, pulsating, blinking and other such characters. The top of a changeable sign shall not exceed 15 feet in height above average ground level.
  - b. Each message must be displayed for a minimum of thirty (30) seconds, with no more than one (1) second of message change interval or "off-time" between messages.
  - c. The level of illumination produced by an electronic changeable copy sign shall not exceed 0.3 footcandles over ambient (i.e., naturally illuminated environment) lighting conditions. Measurement of sign brightness shall be in accordance with the then-current methodology, sign area, and measurement distances recommended by the International Sign Association.
  - d. The sign shall be equipped with, and shall use, photocell technology, a programmable dimmer or a similar mechanism to automatically adjust brightness and contrast based on ambient light conditions. The sign shall also incorporate security technology or devices to prevent unintended changes to sign messages or images by other than the sign operator.
  - e. Any sign permit application shall include a certification from either the owner, operator and/or manufacturer of the sign stating that the sign shall at all times be operated in accordance with the operational and performance requirements of this section. Any electronic changeable copy sign found to be in violation of the operational and performance requirements shall be turned off until such time as the Zoning Administrator determines the sign is in full compliance with such requirements.
  - f. All electronic changeable copy signs shall be designed to achieve a default status during periods of sign malfunction that will turn off the sign entirely.
  - g. Electronic changeable copy signs shall be installed in a manner that does not unreasonably interfere with the use and enjoyment of neighboring residentially zoned property. No electronic changeable copy sign shall be located closer than 100 feet to any dwelling in residential zoned property (R-1, R-2, R-3, MHP) or used for residential purposes. However, the planning commission may increase this setback distance by up to an additional 100 feet to minimize any potential nuisance effects deemed caused by the unique attributes of the sign installation in relationship to abutting residential property. These characteristics include, but are not necessarily limited to, the height and/or size of the proposed electronic changeable copy sign, the adequacy of existing or proposed buffers, or the orientation of residential sleeping quarters found in neighboring homes.
  - h. Messages shall only relate to the business, event, goods, profession or services being conducted, sold or offered at the same location where the sign is erected or messages of a civic or emergency nature displayed for the benefit of the general public.
2. Manual copy signs shall be further subject to the following:
  - a. Lettering on manual changeable copy signs directed to local or collector streets shall not exceed three (3) inches in height.

- b. Lettering used on a manual changeable copy signs directed to secondary or major arterial streets shall not exceed six (6) inches in height.
- c. Lettering on manual changeable copy signs directed to pedestrians shall be at least two (2) inches in height, but not more than four (4) inches in height.

#### **8.10.4. Historical Markers.**

If a structure/building within the Village has been designated a State Historical Site or is listed in the National Register of Historic Places, then a marker designating that fact, obtained from the appropriate state or federal agency, shall be permitted in addition to any other sign or signs which may lawfully be placed on the structure or the property on which the structure is located.

Anyone wishing to place a historic marker on a structure or property shall complete and file a sign permit application with the Zoning Administrator. No fee shall be charged for a historic marker application. Placement of the historic sign/marker will be subject to the state or federal specifications. In the case of no specifications detailed by the state or federal agency, the zoning administrator will determine the placement.

#### **8.10.5. Window Signs.**

1. Any sign, including the posting of hours of operation, display of credit cards, illuminated open sign, and/or street or building address, which is painted or mounted onto a window pane, or which is hung directly inside the window with the purpose or effect of identifying any premises from the sidewalk or street does not require a permit or fee.
2. Window signs do not count in the calculation of total building signage permitted. However, window signs shall not exceed more than 30% of the total window area on the floor level and no more than 50% coverage per window.

### **Section 8.11 Prohibited Signs.**

All signs that are not expressly permitted in this ordinance are prohibited, including the following prohibited signs: flashing signs; interactive signs (except temporary signs used by law enforcement); mechanical movement signs; and, signs painted, posted, or mounted on trees, rocks, or other natural features, fences, fence posts, light poles, benches, flower boxes, perimeter or privacy walls, and telephone or utility poles.

### **Section 8.12 Substitution Clause.**

The owner of any sign which is otherwise allowed under this section may substitute noncommercial copy in lieu of any other commercial or noncommercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision prevails over any more specific provision to the contrary. This provision does not create a right to increase the total amount of signage on a lot or allow the substitution of an off-site commercial message in place of an on-site commercial message.

## ARTICLE 9 OFF-STREET PARKING AND LOADING

### **Section 9.1 Intent and Purpose.**

The purpose of this section is to ensure the provision of off-street parking facilities that are sufficient in number, adequately sized and properly designed to meet the range of parking needs and demands that are associated with land uses now in place in the Village or with land uses allowed by this Ordinance.

### **Section 9.2 General Provisions.**

#### **9.2.1. Where Required.**

In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees, and patrons of the buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as said main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

#### **9.2.2. Existing Off-Street Parking at Effective Date of Ordinance.**

Off-street parking existing at the effective date of this Ordinance which serves an existing building or use, shall not be reduced in size to less than that required under the terms of this Ordinance.

#### **9.2.3. Required Greenbelt and Setbacks.**

Off-street parking, including maneuvering lanes, shall not be located within the required front greenbelt in accordance with Section 6.2.6. Off-street parking shall be permitted within the required side or rear yard setbacks, provided a minimum five (5) foot setback is maintained between off-street parking and the side and rear lot lines of all adjoining properties. In C-MU, G-MU and CBD districts, off-street parking shall further comply with the siting standards of Section 4.8.

#### **9.2.4. Parking Duration.**

Except when land is used as storage space in connection with the business of a repair or service garage, a twenty-four (24) hour time limit for parking in non-residential off-street parking areas shall prevail, it being the purpose and intention of the foregoing that the requirement of maintaining vehicle storage or parking space is to provide for the public safety in keeping parked cars off the streets, but such requirement is not designed to or intended to provide, and it shall be unlawful to permit, the storage or prolonged parking on any such parking area in any such district wrecked or junked cars, or for creating a junk yard or a nuisance in such areas.

#### **9.2.5. Units and Methods of Measurement.**

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

1. *Floor Area.* Where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that floor area's within the principal building used for parking, incidental service and storage, housing of mechanical equipment, heating systems and similar uses need not be included.
2. *Employees.* For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
3. *Places of Assembly.* In stadiums, sports arenas, churches and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each twenty-four (24) inches of such shall be counted as one (1) seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.
4. *Fractional Requirements.* When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction shall require one (1) parking space.

**9.2.6. Location of Parking.**

1. *One- and Two-Family Dwellings.* The off-street parking facilities required for one- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this Article. Existing non-conforming driveways within the five (5) foot setback maybe paved, repaved, asphalt, or re-asphalted.
2. *Multiple-Family Residential.* The off-street parking facilities for multiple-family dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as set forth in this Article. In no event shall any parking space be located nearer than ten (10) feet to any main building.
3. *Other Land Uses.* The off-street parking facilities required for all other uses shall be located on the lot or within three hundred (300) feet of the permitted uses requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served.
4. *Restriction on Parking on Private Property.* It shall be unlawful for any person, firm, or corporation to park any motor vehicle on any private property without the authorization of the owner or agent of such property.

**Section 9.3 Off-Street Parking Requirements.**

**9.3.1.** The amount of required off-street parking spaces for new uses or buildings, and additions to existing buildings shall be determined in accordance with the Schedule set forth in Section 9.4. Parking requirements listed in Section 9.4 shall not include off-street stacking spaces for drive-through facilities set forth in Section 9.7.

**9.3.2. Similar Uses and Requirements.**

When a use is not specifically mentioned, the requirements of off-street parking for a similar use shall apply.

**9.3.3. Collective Provisions.**

Nothing in this Section shall be construed to prevent collective provisions of off-street parking facilities for two (2) or more buildings or uses, provided:

1. Such facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with Section 9.4 of this Article. However, the planning commission may reduce the total number of spaces by up to twenty-five (25) percent upon a determination that the peak space requirements for the individual uses occur at distinctly different times.
2. Each use served by collective off-street parking shall have direct access to the parking without crossing any public rights-of-way.
3. Written easements which provide for continued use and maintenance of the parking shall be submitted to the City for approval.

#### **9.3.4. Parking Exemption.**

As of the effective date of this Ordinance, buildings and uses located within the CBD - Central Business District shall be exempt from providing off-street parking. However, in no case should a building or use be expanded to remove off-street parking established before the effective date of this Ordinance.

#### **9.3.5. Flexibility in Application.**

The Village recognizes that, due to the specific requirements of any given development, inflexible application of the parking standards set forth in Section 9.4 may result in development with inadequate parking or parking far in excess of that which is needed. The former situation may lead to traffic congestion or unauthorized parking on adjacent streets or neighboring sites. The latter situation may result in excessive paving and storm water runoff and a waste of space which could be left as open space.

The Planning Commission may permit deviations from the requirements of Section 9.4 and may require more or allow less parking whenever it finds that such deviations are more likely to provide a sufficient number of parking spaces to accommodate the specific characteristics of the use in question.

The Planning Commission may attach conditions to the approval of a deviation from the requirement of Section 9.4 that bind such approval to the specific use in question. Where a deviation results in a reduction of parking, the Planning Commission may further impose conditions which ensure that adequate reserve area is set aside for future parking, as needed.

The Planning Commission, may allow deviations from the hard durable surface lot requirement for seasonal or auxiliary lots. The recommended surface shall be suitable for the given parking area in question.

The Planning Commission may allow deviations from the hard durable surface lot requirement to permit durable alternative materials, such as pervious concrete or permeable pavers, for the purpose of improved stormwater filtration.

### **Section 9.4 Table of Off-Street Parking Requirements.**

The amount of required off-street parking space for new uses or buildings, and additions to existing buildings shall be determined in accordance with the following table:



**9.4.1. Required Number of Parking Spaces.**

Use	Per Each Unit of Measure as Follows
<b>Residential Uses</b>	
Single- or Two-Family Dwelling	2 per each dwelling unit
Multiple-Family Dwelling	2 per each dwelling, plus 1 per each ten (10) dwelling units
Senior Citizen Housing and Senior Assisted Living	1 per each dwelling unit, plus 1 per each ten (10) dwelling units, plus 1 per each employee
<b>Institutional Uses</b>	
Churches	1 per each eight (8) seats based on maximum seating capacity in the main place of assembly therein
Private Clubs & Lodges	1 per each three (3) individual members allowed within the maximum occupancy load as established by fire and/or building codes
Hospitals	1 per each four (4) beds, plus 1 per staff doctor, plus 1 per each employee at peak shift
Convalescent Homes, Homes for the Aged, Children’s Homes	1 per each five (5) beds, plus 1 per each staff doctor, plus 1 per each employee at peak shift
High Schools, Trade Schools, Colleges & Universities	1 per each teacher, plus 1 per each twenty-five (10) students, plus 1 per each employee
Elementary & Middle Schools	1 per each teacher, plus 1 per each twenty-five (25) students, plus 1 per each employee
Child Care Center, or Nursery Schools	1 per each five (5) students, plus 1 per each employee
Day Care Homes	1 per each employee and/or caregiver
Stadiums, Sports Arenas, and Auditoriums	1 per each four (4) seats based on maximum seating capacity
Libraries & Museums	1 per each 500 sq. ft. of floor area
<b>General Commercial Uses</b>	
Retail Stores, except as otherwise specified herein	1 per each 300 sq. ft. of floor area
Supermarkets, drugstores, and other self-serve retail establishments	1 per 200 sq. ft. of floor area
Convenience Stores and Video Stores	1 per 100 sq. ft. of floor area
Planned Shopping Center	1 per 150 sq. ft. of floor area for the first 15,000 sq. ft., plus 1 per 300 sq. ft. of floor area in excess of 15,000 sq. ft.

Furniture, Appliances, Hardware, Household Equipment Sales	1 per each 600 sq. ft. of floor area, plus 1 per each employee
Motels and Hotels	1 per each guest bedroom, plus 1 per each ten guests bedrooms, plus 1 per employee, plus amount required for accessory uses, such as a restaurant or cocktail lounge
Fast Food Restaurants	1 per each 125 sq. ft. of floor area, plus 1 per each employee during peak shift
Sit-Down Restaurants	1 per each four (4) seats and for the first 48 seats and per each eight seats for the next 49 seats to 100 seats, and per each 12 seats over 100, plus 1 per each employee during peak shift
Taverns and Cocktail Lounges	1 per each four (4) persons allowed within the maximum occupancy load as established by fire and/or building codes, plus 1 per each employee during peak shift
Nurseries, Garden Centers, Building Material Sales	1 per each 800 sq. ft. of lot area used for said business provided for herein
Movie Theaters	1 per each four (4) seats based on the maximum seating capacity, plus 1 per each employee
Wholesale Stores, Machinery Sales, and other similar uses	1 per each 800 sq. ft. of floor area, plus 1 per each employee
<b>Automotive Uses</b>	
Auto Sales	1 per each 200 sq. ft. of showroom floor area, plus 1 per each employee, plus 1 per each service stall
Automotive Repair Facilities	2 per each service stall, plus 1 per each employee, plus 1 per each service vehicle
Gasoline Stations without Convenience Store	1 per each pump unit, plus 2 per each service stall, plus 1 per each employee
Gasoline Stations with Convenience Store	1 per each pump unit, plus 2 per each service stall, plus 1 per each employee, plus 1 per each 100 sq. ft. of floor area devoted to retail sales and customer service
Car Washes (self-serve)	1 per each wash stall, plus 1 per each vacuum station, plus 1 per each employee
Car Washed (automatic)	1 per 200 sq. ft. of floor area of customer waiting and service areas, plus 1 per each vacuum station, plus 1 per each employee
Collision or Bump Shops, and other Similar Uses	2 per each stall or service area, plus 1 per each employee

<b>Office and Service Uses</b>	
Medical & Dental Office	1 per each 150 sq. ft. of floor area
Business & Professional Offices	1 per each 200 sq. ft. of floor area
Banks	1 per each 200 sq. ft. of floor area
Barber & Beauty Shops	3 per each chair
Laundromats or Coin-Operated Dry Cleaners	1 per each 2 washing or dry cleaning machines
<b>Recreational Uses</b>	
Bowling Alleys	4 per bowling lane, plus 1 per employee, plus amount required for accessory uses such as a restaurant or cocktail lounge
Private Tennis, Swim or Golf Clubs, or other Similar Uses	1 per each two (2) memberships, plus amount required for accessory uses such as a restaurant or cocktail lounge
Gold Course, open to the general public	4 per each hole, plus 1 per each employee, plus amount required for accessory uses such as a restaurant or cocktail lounge
<b>Industrial Uses</b>	
Industrial or Manufacturing Establishments	1 per each employee, at peak shift, or 1 per each 800 sq. ft. of floor area (whichever is greater)
Warehouses and Storage Buildings	1 per each employee, or 1 per each 2,000 sq. ft. of floor area (whichever is greater)
Contractors Office	1 per each employee

## **Section 9.5 Off-Street Parking Lot Design and Construction.**

The construction of any parking lot shall be in accordance with the requirements of the provisions of this Ordinance and such construction shall be completed and approved by the Zoning Administrator before use of the property as a parking lot and before a Certificate of Occupancy is issued. Unless incorporated in a site plan prepared and approved in accordance with Section 3.4, plans for the development of any parking lot must be submitted to the Zoning Administrator, prepared at a scale of not less than fifty (50) feet equals one (1) inch and indicating existing and proposed grades, drainage, pipe sizes, parking of all dimensions, type of curbing, drive and aisle dimensions, lighting, adjacent main buildings, sidewalks, landscaping, surfacing and base materials to be used and the layout of the proposed parking lot.

**9.5.1.** All such parking lots, driveways, or loading areas required for uses other than single- or two-family residential shall be a hard durable, smooth, and dustless surface and shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be completely constructed prior to a Certificate of Occupancy being issued. Drainage for parking lots shall conform to the standards set forth in Section 6.11. Hard durable surface is defined as cement, bituminous materials (asphalt), or other comparable compacted materials for those adjacent to or ingressing from a state highway or located in the DDA district.

**9.5.2.** All illumination for all such parking lots shall meet the standards set forth in Section 6.8.

- 9.5.3. Parking lot landscaping and buffering requirements shall meet the standards set forth in Section 6.2.5.
- 9.5.4. Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles.
- 9.5.5. Where necessary to prevent encroaching upon pedestrian walkway or damaging required landscaping, wheel stops shall be provided. No portion of a parking space and/or maneuvering aisle shall obstruct or encroach upon a public sidewalk.
- 9.5.6. All parking lots must clearly mark parking spaces either by painted lines, wheel stops, or the equivalent.
- 9.5.7. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum regulations.

Pattern	Maneuvering Lane Width		Parking Space	
	One-Way	Two-Way	Width	Length
0 Parallel	12 ft	18 ft	9 ft	20 ft
30-53	12 ft	18 ft	9 ft	20 ft
54-74	15 ft	20 ft	9 ft	20 ft
75-90	18 ft	20 ft	9 ft	20 ft

**Section 9.6 Off-Street Loading Requirements.**

On the same premises with every building or part thereof, erected and occupied for any uses involving the receipt or distribution of trucks and/or delivery vehicles, material or merchandise, adequate space for loading and unloading shall be provided in accordance with the following:

- 9.6.1. Such loading and unloading space, unless completely and adequately provided for within a building, shall be an area ten (10) feet by fifty (50) feet, with fourteen (14) foot height clearance, and shall be provided according to the following schedule.

Gross Floor Area of Building (sq. ft.)	Required Loading & Unloading Spaces
0 – 5,000	None
5,000 – 10,000	One (1) space with a minimum length of 20 ft
10,000 – 20,000	One (1) space
20,000 – 100,000	One (1) space plus one (1) space for each 20,000 sq. ft. in excess of 20,000 sq. ft.
100,000 – 500,000	Five (5) spaces plus one (1) space for each 40,000 sq. ft. in excess of 100,000 sq. ft.
Over 500,000	Fifteen (15) spaces plus one (1) space for each 80,000 sq. ft. in excess of 500,000 sq. ft.

**9.6.2. Required Greenbelt, Setbacks, and Screening.**

1. Off-street loading areas, including maneuvering lanes, shall not be located within the front greenbelt required in accordance with Section 6.2. Off-street loading shall be permitted within the required side or rear yard setbacks, provided a minimum ten (10) foot setback is maintained between off-street loading and the abutting side and rear lot lines.

2. Off-street loading which abuts residentially zoned or used property shall be screened in accordance with Section 6.2.

**9.6.3. Double Count.**

Off-street loading space areas shall not be construed as, or counted toward, the supplying of area required as off-street parking space area.

**Section 9.7 Off-Street Stacking Space for Drive -Through Facilities.**

All businesses which provide drive-through facilities for serving customers within their automobile shall provide adequate off-street stacking space and lanes which meets the following requirements. Banks and carwashes are the only drive-through businesses permitted in the village of Lexington.

- 9.7.1. Each stacking space shall be computed on the basis of ten (10) feet in width and twenty (20) feet in length. Each stacking lane shall be a minimum of twelve (12) feet in width.
- 9.7.2. Clear identification and delineation between the drive-through facility and parking lot shall be provided. Drive-through facilities shall be designed in a manner which promotes pedestrian and vehicular safety.
- 9.7.3. For all drive-through facilities which have a single stacking lane, an escape lane shall be provided which allows other vehicles to pass those waiting to be serviced.
- 9.7.4. The number of stacking spaces per service lane shall be provided for the following uses:

Use	Stacking Spaces Per Service Lane
Banks	4
Car Washes (self-service)	
Entry	3
Exit	1
Car Washes (automatic)	
Entry	6
Exit	2

When a use is not specifically mentioned, the requirements for off-street stacking space for the similar use shall apply.

**Section 9.8 Outdoor Storage of Recreational Vehicles.**

In all Residential Districts, a recreational vehicle may be parked or stored subject to the following conditions:

- 9.8.1. Storage or parking shall not be permitted on vacant lots or parcels, except as approved by the Zoning Administrator.
- 9.8.2. Unless within a completely enclosed building, a recreational vehicle shall be parked or stored in one of the following manners.

1. Within the or rear yard, but no closer than five (5) feet from any side or rear lot line; or,
2. In those instances where the rear yard is not accessible or has insufficient clearance for the passage of a recreational vehicle, the Zoning Administrator may allow (in writing) the parking or storage of a recreational vehicle to be parked in the side yard. In no instance shall such a recreational vehicle be parked or stored in such a manner which obstructs a neighbor's clean line of vision from their porch/deck, doors or windows.
3. For property adjacent to Lake Huron, recreational vehicles must be stored inside a garage or accessory structure.

**9.8.3.** No recreational vehicle shall be used for living, sleeping, or housekeeping purposes to accommodate visitors which exceeds a maximum period of forty-eight (48) hours without written authorization from the zoning administrator. If approved for use, the vehicle must be fully self-contained.

**9.8.4.** No recreational vehicle shall be stored on a public street or right-of-way or private road easement.

**9.8.5.** All recreational vehicles shall be locked or secured at all times so as to prevent access or injury to person or persons.

**9.8.6.** Except for periods of less than forty-eight (48) hours, only those recreational vehicles which are owned by the property owner or resident of the property and which are properly plated and registered may be parked or stored.

**9.8.7.** At such time as the Zoning Administrator approves storage of a recreational vehicle other than in a rear yard, that written approval is limited to six (6) months. Additional time may be granted but must be approved in writing by the Zoning Administrator.

## ARTICLE 10 NON-CONFORMING USES, STRUCTURES, AND LOTS

### Section 10.1 Intent.

Certain existing lots, structures and uses of lots and structures were lawful before this Ordinance was adopted, but have become non-conformities under the terms of this Ordinance and its amendments. It is the intent of this Ordinance to permit such non-conformities to remain until they are discontinued or removed, but not to encourage their survival or, where discontinuance or removal is not feasible, to gradually upgrade such non-conformities to conforming status. Non-conformities shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Non-conformities are declared by this Ordinance to be incompatible with the structures and uses permitted in the various Districts.

### Section 10.2 Non-Conforming Lots.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations for the district in which such lot is located.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel or lot shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel or lot be made which leaves remaining any parcel or lot with width or area below the requirements stated in this Ordinance.

### Section 10.3 Non-Conforming Uses of Land.

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of the Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- 10.3.1.** No such non-conforming uses shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- 10.3.2.** No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
- 10.3.3.** If such non-conforming use of land ceases operation for a period of more than six (6) months this shall constitute abandonment. Any subsequent use of such land shall conform to the regulations specified by the Ordinance for the district in which such land is located.

## **Section 10.4 Non-Conforming Structures.**

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

- 10.4.1.** No such structure may be enlarged or altered in a way which furthers its non-conformity.
- 10.4.2.** Should such structure be destroyed by any means to an extent of more than fifty (50%) percent of replacement value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
- 10.4.3.** Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

## **Section 10.5 Non-Conforming Uses of Structures and Land.**

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject of the following provisions:

- 10.5.1.** No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- 10.5.2.** Any non-conforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- 10.5.3.** Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations pertaining to the uses permitted in the district in which such structure is located, and the non-conforming use may not thereafter be resumed. Section 10.4 shall apply to any non-conformity relating to the structure(s).
- 10.5.4.** If such non-conforming use of land and structures ceases operation for a period of more than six (6) months this shall constitute abandonment. Any subsequent use of such land shall conform to the regulations specified by this Ordinance pertaining to the uses permitted in the district in which such land is located. Structures occupied by seasonal uses shall be excepted from this provision only so long as seasonal uses shall continue.
- 10.5.5.** Where non-conforming use status applies to a structure and premises in combination, removal, or destruction of the structure shall eliminate the non-conforming status of the land.
- 10.5.6.** If no structural alterations are made, any non-conforming use of structure, or structure and premises, may be changed to another non-conforming use of the same or a more restricted classification provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In



permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restricted classification.

### **Section 10.6 Repairs and Maintenance.**

On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty (50%) percent of the replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased.

A nonconforming structure, nonconforming portion of a structure, or a structure containing a nonconforming use which is physically unsafe or unlawful due to lack of repairs and maintenance, as determined by the Building Official may be restored to a safe condition. Where enlargement or structural alternation is necessary to allow compliance with health and safety laws or ordinances, the cost of such work shall not exceed twenty-five (25%) percent of the structure's fair market value, as determined by the Assessor at the time such work is done.

### **Section 10.7 Uses Allowed As Special Land Uses, Not Non-Conforming Uses.**

Any use for which special land use is permitted as provided in this Ordinance shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

### **Section 10.8 Change of Tenancy or Ownership.**

There may be a change of tenancy, ownership, or management of any existing non-conforming uses of land, structures, and premises provided there is no change in the nature or character of such non-conforming uses except in conformity with the provisions of this Ordinance.

### **Section 10.9 Non-Conforming Uses of Signs.**

Any sign, billboard, commercial advertising structure or object which existed and was maintained at the time this zoning ordinance was adopted and which are subject to the regulations of this zoning ordinance because of any changes or additions made by this new ordinance, shall be deemed a non-conforming sign. Non-conforming signs may remain provided they are not expanded, enlarged or reduced other than routine maintenance and upkeep of the sign itself. Any non-conforming sign shall be removed or made to conform to the provision of this ordinance within thirty (30) days of the happening of any of the following events:

1. The change of the activity advertised thereon.
2. Change in the use of the property on which the sign is located.
3. Any alterations or changes to the sign.

# ARTICLE 11

## ZONING BOARD OF APPEALS

### Section 11.1 Authority.

There is hereby established a Zoning Board of Appeals (ZBA), the membership, powers, duties of which are prescribed in Public Act 110 of 2006 (MCL 125.3601 et seq.), as amended. The Zoning Board of Appeals, in addition to the general powers and duties conferred upon it by said Act, in specific cases and subject to appropriate conditions and safeguards, shall interpret and determine the application of the regulations established under this Ordinance in harmony with their purpose and intent as hereinafter set forth.

### Section 11.2 Membership.

The Zoning Board of Appeals shall consist of three (3) members appointed by the Village Council.

1. The members of the Zoning Board of Appeals shall be selected from the electors of the village. The members selected shall be representative of the population distribution and the various interests present in the village. An employee or contractor of the Village Council may not serve as a member of the Zoning Board of Appeals.
2. Terms shall be for three (3) years, and the period stated in the resolution appointing them. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.
3. The Village Council may appoint not more than two (2) alternate members for the same term as regular members to the board. The alternate member(s) has the same voting rights as a regular member of the board when serving. The alternate member appointed to a case shall serve in the case until a final decision is made. An alternate member may be called to serve as a regular member of the board if;
  - a. the regular member is absent from or will be unable to attend one (1) or more meetings, or
  - b. a regular member needs to abstain for reasons of conflict of interest.

### Section 11.3 Removal of Member(s) Conflict of Interest

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

Conflict of Interest as defined: a) if the member is the applicant b) if the member is a close relative of the applicant c) a business associate of the applicant or the lender or a renter d) if the member could receive financial gain or benefit from the decision e) if the member has participated in a decision that preceded this question.

## **Section 11.4 Meetings.**

**11.4.1.** All decisions of the Board shall be made at a meeting open to the public. All deliberations of the Board constituting a quorum of its member shall take place at a meeting open to the public except as provided in compliance with the Open Meetings Act, Act 267 of 1976 as amended.

**11.4.2.** A majority of the members of the Board shall constitute a quorum for purposes of transacting the business of the Board and the Open Meetings Act, Act 267 of 1976, as amended. Each member of the Board shall have one (1) vote.

**11.4.3.** Regular meetings of the Board shall be called as needed in response to receipt of a Notice of Appeal, so long as the meeting is scheduled within twenty (20) days of the notice of Appeal. The meeting can be called by the Zoning Administrator, the Chair of the Appeals Board, or, in his or her absence, the Vice-Chair. Public notice of the date, time, and place of a public meeting of the Board shall be given in the manner required by Act 267 of 1976, as amended.

**11.4.4.** The business of the Board of Appeals shall be conducted in accordance with its adopted bylaws.

**11.4.5.** The Chair, or in his or her absence, Vice-Chair may administer oaths and compel the attendance of witnesses.

## **Section 11.5 Powers and Duties.**

### **11.5.1. General.**

The Zoning Board of Appeals has the power to act on matters as provided in this Ordinance and Public Act 110 of 2006 (MCL 125.3601 et seq.), as amended. The specific powers of the ZBA are enumerated in the following sections of this Article

### **11.5.2. Voting.**

The concurring vote of a majority of the members of the board shall be necessary to reverse an order, requirements, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the board is required to pass under an ordinance, or to effect a variation in an ordinance except that a concurring vote of 2/3 of the members of the board shall be necessary to grant a variance from uses of land permitted in an ordinance.

A member shall be disqualified from a vote in which there is a conflict of interest. Failure of a member to disclose a conflict of interest and be disqualified from a vote shall constitute misconduct in office.

### **11.5.3. Administrative Review.**

The Board shall hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or other duly authorized enforcing agent, in enforcing any provision of this Ordinance.

#### 11.5.4. Interpretation.

1. The Board shall hear and decide requests for interpretation of this Ordinance or the Zoning Map taking into consideration the intent and purpose of the Ordinance and the General Development Plan.
2. A record shall be kept by the ZBA of all decisions for interpretation of this Ordinance or Zoning Map and land uses which are approved under the terms of this section. The ZBA may request that the Planning Commission consider initiation of an amendment to clarify a point that has given rise to uncertainty.

#### 11.5.5. Variances.

Upon an appeal, the Board is authorized to grant a variance from the strict provisions of this ordinance, whereby extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this ordinance. Further, in granting a variance, the Board shall state the grounds upon which it justifies the granting of a variance as outlined below. When granting any variance, the Board must ensure that the spirit of the ordinance is observed, public safety secured, and substantial justice done.

1. *Use variance.* The applicant must present evidence to show that if the zoning ordinance is applied strictly, unnecessary hardship to the applicant will result, and that all four of the following requirements are met:
  - a. That the property could not be reasonably used for the purposes permitted in that zone;
  - b. That the appeal results from unique circumstances peculiar to the property and not from general neighborhood conditions;
  - c. That the use requested by the variance would not alter the essential character of the area; and
  - d. That the alleged hardship has not been created by any person presently having an interest in the property.
2. *Nonuse variances.* The applicant must present evidence to show that if the zoning ordinance is applied strictly, practical difficulties will result to the applicant and:
  - a. That the ordinance restrictions unreasonably prevent the owner from using the property for a permitted purpose;
  - b. That the variance would do substantial justice to the applicant as well as to other property owners in the district, and a lesser relaxation than that requested would not give substantial relief to the owner of the property or be more consistent with justice to other property owners;
  - c. That the plight of the landowner is due to the unique circumstances of the property; and
  - d. That the alleged hardship has not been created by any person presently having an interest in the property.

## **Section 11.6 Procedure for Appeal.**

**11.6.1.** An applicant requesting any action by the Board shall commence such request by filing a notice of appeal, on the form supplied by the Village, accompanied by such appeal fee as determined by the Village Council, and all plans, studies and any other information and data as applicable, all of which shall be made a part of the record.

**11.6.2.** Every appeal from a determination of the Zoning Administrator or other duly authorized enforcing agent shall be made by the applicant within thirty (30) days of the date of the order issuance or refusal to issue permit, requirement, or refusal.

**11.6.3.** Upon receipt of a completed application for an appeal, a public hearing shall be held by the Zoning Board of Appeals with advance notice provided in accordance with the requirements of Section 103 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

**11.6.4.** Any person may appear in person at the public hearing, or be represented by an agent or attorney, and present any evidence in support of their appeal. The Board of Appeals shall have the power to require the attendance of witness, administer oaths, compel testimony, and otherwise cause the production of books, papers, files, and other evidence pertaining to matters properly coming before the Board of Appeals.

**11.6.5.** The Board shall not decide an appeal until after a public hearing.

**11.6.6.** The Board may reverse, affirm, vary, or modify, any order, requirement, or determination, as to which it has the power to consider, and have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit.

**11.6.7.** The Board may impose conditions with any decision. Such conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, public health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards. Violations of any of these conditions shall be deemed a violation of this Ordinance, enforceable as such, and/or may be grounds for revocation or reversal of such decision.

**11.6.8.** All decisions of the Board shall be in writing and so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts, and findings of the Board. The applicant shall be advised of the decision after the public hearing unless the Board moves for a continuation of such hearing.

**11.6.9.** Any decision of the Board favorable to the applicant shall remain valid only as long as the information or data relating thereto are found to be correct, and the conditions upon which the decision was based are maintained.

**11.6.10.** The Board may reconsider an earlier decision, if, in the opinion of the Board, circumstances justify taking such action.

**11.6.11.** No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period of longer than one (1) year, unless a land use and building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

No order of the Board of Appeals permitting a use of a building or premises shall be valid for a period longer than one (1) year, unless such use is established within such period; provided, however, that such order shall continue in force and effect if a land use and building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.

**11.6.12.** Any person or persons, or any board or department of the Village having an interest affected by a decision of the Board shall have the right to appeal to the circuit court on questions of law and fact. Such appeal must be taken within twenty-one (21) days after the date of the Board's decision. A request for reconsideration under subsection (10) above shall not toll the time for taking such appeal. In the event a request for reconsideration is granted, the time period for appeal shall commence from 21 days from the date of the decision of the meeting where the appeal was reconsidered. In any event, only one request for reconsideration on each appeal shall be allowed.

#### **Section 11.12. Severability Clause:**

The various parts of this ordinance shall be deemed severable. Should any section, paragraph, or provision hereof be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part held to be unconstitutional or invalid.

#### **Section 11.13. Repeal:**

All Ordinances or portions, thereof, which are in conflict with this Ordinance are hereby repealed.

#### **Section 11.14. Effective Date:**

Public hearing having been held hereon, the provisions of this Ordinance shall take effect upon the expiration of seven days after publication, pursuant to the provision of Section 401 (6), Act 110 of the Public Acts of 2006, as amended.