

VILLAGE OF PORT SANILAC ZONING ORDINANCE ACKNOWLEDGMENTS

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AMENDED: December 6, 2022

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- Jon Davis, President Pro-Tem
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TABLE OF CONTENTS

VILLAGE OF PORT SANILAC ZONING ORDINANCE

ARTICLE 1	TITLE, INTERPRETATION AND SCOPE	1-1
	1.1 Title, Legal Basis and History	1-1
	1.2 Purposes	1-1
	1.3 Interpretation and Application	1-2
	1.4 Effective Date	1-3
ARTICLE 2	DEFINITIONS	2-1
	2.1 Purpose	2-1
	2.2 Construction of Language	2-1
	2.3 Definitions	2-2
ARTICLE 3	GENERAL PROVISIONS	3-1
	3.1 Purpose	3-1
	3.2 The Effect of Zoning	3-1
	3.3 Accessory Buildings and Structures	3-1
	3.4 Architectural Design and Character	3-3
	3.5 Boat Houses	3-4
	3.6 Boundaries	3-4
	3.7 Building Permits	3-4
	3.8 Burial of Debris on Premises	3-4
	3.9 Communication Towers	3-4
	3.10 Conflicting Regulations	3-4
	3.11 Environmental Impact Statement	3-5
	3.12 Essential Services and Municipal Facilities	3-5
	3.13 Greenbelts	3-6
	3.14 Home Occupations	3-6
	3.15 Lakefront Property	3-7
	3.16 Land Use Limitations	3-8
	3.17 Loading, Off-Street	3-8
	3.18 Lots of Record, Division of Lots, Merger of Lots, Combination of Lots	3-8
	3.19 Mobile Homes	3-9
	3.20 Off-Street Parking Requirements	3-9
	3.21 Operational Performance Standards	3-12
	3.22 Opaque Barrier	3-14
	3.23 Principal Use	3-15
	3.24 Projections in Yards	3-15
	3.25 Razing of Buildings	3-15
	3.26 Required Yard or Lot	3-15
	3.27 Requirements for Restoration in High Risk Erosion Areas	3-16
	3.28 Site Condominiums	3-16
	3.29 Substandard Dwellings	3-19
	3.30 Swimming Pools	3-19
	3.31 Temporary Buildings, Structures, and Uses	3-20
	3.32 Temporary Dwellings/Recreational Vehicles	3-20
	3.33 Traffic Impact Assessment	3-21
	3.34 Transition Zoning	3-21
	3.35 Unused Automobiles, Vehicles and Boats	3-22
	3.36 Vested Right	3-22
	3.37 Water Supply and Sewage Disposal	3-22
	3.38 Solar Energy System Requirements	3-23
ARTICLE 4	ADMINISTRATION AND ENFORCEMENT	4-1
	4.1 Purpose	4-1

4.2	Enforcement	4-1
4.3	Duties of the Zoning Administrator	4-1
4.4	Duties of the Planning Commission	4-3
4.5	Permits Required	4-4
4.6	Final Inspection	4-8
4.7	Fees	4-8
4.8	Performance Guarantees and Performance Bonding for Compliance	4-9
4.9	Zoning Approval and Interpretation	4-10
4.10	Public Hearings and Public Notification	4-11
ARTICLE 5 REVIEW AND DECISION MAKING BODIES 5-1		
5.1	Purpose	5-1
5.2	Village Council	5-1
5.3	Village Planning Commission	5-1
5.4	Zoning Board of Appeals	5-3
5.5	Variances	5-5
ARTICLE 6 NONCONFORMING USE REGULATIONS 6-1		
6.1	Purpose	6-1
6.2	Definitions	6-1
6.3	Continuation of Nonconformities	6-2
6.4	Major Nonconformities	6-2
6.5	Minor Nonconformities	6-3
6.6	Repairs and Maintenance	6-4
6.7	Prior Construction Approval	6-4
6.8	Change of Tenancy or Ownership	6-8
6.9	Elimination of Nonconformities – Uses or Structures	6-8
ARTICLE 7 SIGN REGULATIONS 7-1		
7.1	Intent	7-1
7.2	Description and Purpose	7-1
7.3	Definitions	7-1
7.4	Prohibited Signs	7-4
7.5	Exempt Signs	7-4
7.6	Signs Not Needing a Permit	7-5
7.7	Sign Permits and Applications	7-5
7.8	Design, Construction, and Location Standards	7-6
7.9	Sign Regulations Applicable to All Districts	7-7
7.10	Nonconforming Signs, Illegal Signs, and Signs Accessory to Nonconforming Uses	7-8
7.11	Measurement of Signs	7-9
7.12	Permitted Signs by Zoning District	7-9
7.13	Violations and Penalties	7-12
ARTICLE 8 SCHEDULE OF REGULATIONS 8-1		
8.1	Purpose	8-1
8.2	Schedule of District Regulations	8-1
8.2	Table 8-1: Schedule of District Regulations	8-2
8.3	Footnotes to Schedule of Regulations	8-2
ARTICLE 9 OFFICIAL ZONING MAP AND ZONING DISTRICTS 9-1		
9.1	Purpose	9-1
9.2	Zoning Districts and Map	9-1
ARTICLE 10 AGRICULTURAL-RESIDENTIAL ZONING DISTRICT (A-R) 10-1		
10.1	Agricultural-Residential (A-R) Zoning District	10-1

	Intent	10-1
	Uses Permitted by Right or Special Land Use	10-1
	Minimum Lot Area	10-2
	Corner Lot	10-2
	Driveways and Parking	10-2
	Yards	10-2
	Fences and Buffers	10-2
	Building Floor Area	10-2
	Building Height	10-3
	Accessory Buildings	10-3
ARTICLE 11	RESIDENTIAL ZONING DISTRICTS (R-1, R-2, AND MFR)	11-1
11.1	Residential Zoning Districts	11-1
	Intent	11-1
	Uses Permitted by Right or Special Land Use	11-1
	Prohibited Uses	11-1
	Minimum Residential Lot Area	11-1
	Residential Corner Lot	11-2
	Residential Driveways and Parking	11-2
	Residential Yards	11-2
	Residential Floor Area	11-2
	Residential Building Height	11-3
11.2	Multiple Family Residential District (MFR)	11-3
	Intent	11-3
	Regulations	11-3
	Uses Permitted by Right or Special Land Use	11-3
	Prohibited Uses	11-4
	Lot Area and Density/Computation of Area	11-4
	Minimum Lot Area	11-4
	Corner Lot	11-5
	Driveways and Parking	11-5
	Yards	11-5
	Fences	11-5
	Building Floor Area and Height	11-5
	Accessory Buildings	11-6
ARTICLE 12	MOBILE HOME SUBDIVISION DISTRICT (MHS)	12-1
12.1	Mobile Home Subdivision or Park District	12-1
	Intent	12-1
	New Mobile Home Parks and Subdivisions	12-1
	Uses Permitted by Right and Special Land Uses	12-1
	Prohibited Uses	12-2
	Driveways and Parking	12-2
	Yards	12-2
	Fences and Buffers	12-2
	Building and Floor Area Height	12-2
	Accessory Buildings	12-3
ARTICLE 13	COMMERCIAL ZONING DISTRICTS (C AND CBD)	13-1
13.1	Commercial District (C)	13-1
	Intent	13-1
	Uses Permitted by Right and Special Land Uses	13-1
	Driveways and Parking	13-3
	Yards	13-3
	Fences and Buffers	13-3
	Building Floor Area and Height	13-3

	Accessory Buildings	13-4
13.2	Central Business District (CBD)	13-4
	Intent	13-4
	Uses Permitted by Right and Special Land Uses	13-4
	Parking	13-6
	Yards	13-6
	Fences and Buffers	13-6
	Building Floor Area and Height	13-6
	Accessory Buildings	13-6
ARTICLE 14	INDUSTRIAL ZONING DISTRICT	14-1
14.1	Industrial Zoning District	14-1
	Intent	14-1
	Uses Permitted by Right and Special Land Uses	14-1
	Yards and Fences	14-3
ARTICLE 15	HIGH RISK EROSION OVERLAY DISTRICT (HRE)	15-1
15.1	Flood Hazard and High Risk Erosion (HRE) Overlay	15-1
15.2	Disclaimer of Liability	15-2
ARTICLE 16	SITE PLAN REQUIREMENTS	16-1
16.1	Purpose	16-1
16.2	Uses Requiring Site Plan Approval	16-1
16.3	Informal Review Process	16-2
16.4	Application Procedure	16-2
16.5	Site Plan Submittal Requirements	16-3
16.6	Planning Commission Review of Site Plan and Performance Guarantee	16-4
16.7	Fees	16-5
16.8	Site Plan Amendment	16-5
16.9	Conformity to Approved Site Plans	16-5
16.10	Appeals of Site Plan Decisions	16-5
16.11	As-Built Site Plans	16-6
ARTICLE 17	SPECIAL LAND USE REGULATIONS	17-1
17.1	Purpose	17-1
17.2	Special Land Use	17-1
17.3	Review Process	17-1
17.4	Basis for Determination	17-2
17.5	Fees	17-4
17.6	Appeal to Circuit Court	17-4
17.7	Permits	17-4
17.8	Reapplication	17-5
17.9	Site Plan Amendment	17-5
17.10	Special Land Use Standards	17-5
ARTICLE 18	AMENDMENTS	18-1
18.1	Purpose	18-1
18.2	Initiation of Amendments	18-1
18.3	Fees	18-1
18.4	Amendment Procedures	18-1
18.5	Findings of Fact Required	18-2
18.6	Public Hearing	18-2
18.7	Planning Commission Recommendations	18-3
18.8	Consideration by the Village Council	18-3
18.9	Notice of Ordinance Adoption	18-3

ARTICLE 19	PLANNED UNIT DEVELOPMENTS (PUD)	19-1
19.1	Purpose	19-1
19.2	Objectives	19-1
19.3	Definitions	19-2
19.4	Minimum Requirements	19-3
19.5	Eligibility Requirements	19-3
19.6	District Requirements and Criteria	19-4
19.7	Application, Review, and Approval Procedures	19-5
19.8	Basis of Determination	19-7
ARTICLE 20	RESERVED FOR FUTURE USE	20-1
ARTICLE 21	RESERVED FOR FUTURE USE	21-1
ARTICLE 22	RESERVED FOR FUTURE USE	22-1
ARTICLE 23	VIOLATIONS AND PENALTIES	23-1
23.1	Purpose	23-1
23.2	Violations and Penalties	23-1
ARTICLE 24	ENACTMENT AND EFFECTIVE DATE	24-1
24.1	Enactment and Effective Date	24-1

ARTICLE 1
TITLE, INTERPRETATION AND SCOPE

SECTION 1.1: PURPOSE

1.1.1 **Title:** This Ordinance shall be known and may be cited as the “Zoning Ordinance of the Village of Port Sanilac, Michigan.”

1.1.2 **Legal Basis:** This Ordinance is adopted pursuant to the authority and requirements of the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.

SECTION 1.2: PURPOSES

1.2.1 **Purposes:** The purposes of this Ordinance include the:

- A. Protection of public health, safety, morals, comfort and general welfare;
- B. Promoting the health, safety and general welfare of the inhabitants of the Village of Port Sanilac;
- C. Protection and conservation of property and property values;
- D. Promoting the use of land and resources in accordance with character, adaptability and plan of further growth and development.
- E. Providing for compatible uses and development of land with reduced congestion by buildings, traffic and population and with provisions for water, transportation, sewage, schools, parks, lights and other public requirements;
- F. Promoting increased safety from fire, erosion, flood and other dangers; Division of the Village into compatible use districts;
- G. Conforming land uses to social, demographic, economic, technological changes and other developmental trends with a flexible and objective Ordinance based on statutory and common law;
- H. Providing for administration of this Ordinance; and
- I. Promoting and maintaining an architectural theme aesthetically consistent with the history and nautical heritage of the Village.

1.2.2 **Other Purposes:** It is not the intent of this Ordinance to legitimize activities which are prohibited by local Ordinance, state law, or federal law. If any portion of this Ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the Village intends that portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Village further states that it would have passed and adopted what remains of any portion of this Ordinance following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

SECTION 1.3: INTERPRETATION AND APPLICATION

1.3.1 **Introduction:** In interpreting and applying the provisions of this Ordinance, the provisions shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

- A. This Zoning Ordinance does not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or Ordinances, except those specifically or implicitly repealed by this Zoning Ordinance, nor any private

Article 1
Title, Interpretation and Scope

restrictions placed upon property by covenant, deed or other private agreement unless repugnant hereto.

- B. Whenever any regulations made under authority of this Zoning Ordinance require a greater or impose other more restrictive standards than are required in, or under, any other Ordinance or statute, the provisions of the regulations made under authority of this Zoning Ordinance shall govern.
- C. Whenever the provisions of any other Ordinance or statute impose other more restrictive standards than are required by any regulations made under authority of this Zoning Ordinance, the provisions of such statute shall govern.

1.3.2 Language and Definitions: Many words, terms and phrases within this Ordinance have a meaning that may be different from their everyday use. Article 2, Definitions, presents definitions of words, terms, and phrases used within this Ordinance. Section 2.2.1 presents rules for the interpretation of words and phrases in the Ordinance.

ARTICLE 2 DEFINITIONS

SECTION 2.1 PURPOSE

2.1.1 Purpose: This Article is intended to clarify the meaning of any term used within this Ordinance for which the common definition may not serve the purpose of this Ordinance, or which is not a commonly used term outside of the context of this Ordinance.

SECTION 2.2 CONSTRUCTION OF LANGUAGE

2.2.1 Rules of Construction: The following rules of construction apply to the text, tables and illustrations of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof.
- F. The phrase "used for" or "occupied" includes "arranged for," "designed for," "intended for," "maintained for," or occupied for."
- G. The word "person" includes an individual, a corporation, a partnership, trust, firm, an incorporated association, or any other similar entity.
- H. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
 1. "And" indicates that all the connected items, conditions, provisions or events shall apply.
 2. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply individually but not in combination.
- I. Terms not herein defined shall have the meaning customarily assigned to them. A dictionary may be consulted.
- J. The word "lot" includes the word "plot," "tract," or "parcel."
- K. The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, schedules as included or attached and as enacted or subsequently amended.
- L. The "Village" is the Village of Port Sanilac in Sanilac County, State of Michigan; the "Council" is the Village Council for the Village of Port Sanilac; the "Planning Commission" is the Village of Port Sanilac Planning Commission; the "Board of Appeals" is the Zoning Board of Appeals or Board of Zoning Appeals of the Village of Port Sanilac.
- M. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day the Village is open.

Article 2
Definitions

- N. All statutory citations are to statutes as amended, including codifications and repeals if a new statute is adopted with a similar scope and purpose.

SECTION 2.3 DEFINITIONS

Access Drive: A private street designed to provide vehicular access from a public road.

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

Accessory Building/Structure: A building or a structure subordinate to the principal use of a lot, or of a principal building or structure on the same lot, and serving a purpose clearly incidental to a permitted principal use of the lot or of the building and which accessory use or structure is compatible with the principal permitted uses or structures authorized under zoning regulations applicable to the property.

Accessory Use: A use which is clearly incidental to, customarily found in connection with, and (except in the case of some accessory off-street parking spaces or loading) located on the same zoning lot as, the principal use to which it is related.

When "accessory" is used in this text, it shall have the same meaning as accessory use. An accessory use includes, but is not limited to, the following:

- A. Residential accommodations for servants in single-family dwellings.
- B. Residential accommodations for caretakers.
- C. Swimming pools for the use of the occupants of a residence or their guests.
- D. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure.
- E. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
- F. Storage of goods used in, or produced by, industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
- G. Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
- H. Uses clearly incidental to a main use such as, but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
- I. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.
- J. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.

Alley: Any public space or thoroughfare which has been dedicated or deeded to the public for public travel and which affords secondary access to abutting property.

Adult Day Care Facility: A facility which provides daytime care for any part of a day but less than 24 hours for functionally impaired elderly persons through a structured program of social and rehabilitative or maintenance services in a supportive group setting other than the client's home.

Article 2
Definitions

Adult Foster Care Facility: An establishment that provides supervision, personal care, and protection in addition to room and board, for 24 hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation for adults over 18 years of age. 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.

These facilities may be licensed and regulated by the state under Michigan Public Act 218 of 1979, as amended. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers or residential center for persons released from or assigned to a correctional facility. Adult foster care facilities are classified as follows:

- A. Adult Foster Care Congregate Facility. An adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.
- B. Adult Foster Care Small Group Home. An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care.
- C. Adult Foster Care Large Group Home. An adult foster care facility with approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.
- D. Adult Foster Care Family Home. A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for 24 hours a day for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee is a member of the household and occupant of the residence.

Alteration: A change, addition, or modification in construction or type of occupancy, any change in the structural numbers (members) of a building, such as walls or partitions, columns, beams, or girders, the consummated act of which may be referred to herein as “altered” or “reconstructed.”

Amusement Center: Business from which the proprietor's primary income is derived from the operation of pool tables, billiard tables, or amusement devices, or equipment of a similar nature, as distinguished from those businesses wherein such tables, devices or similar equipment are clearly accessory uses and do not generate the proprietor's primary income.

- A. Amusement Device. A pinball machine, video game, ski-ball machine, air-hockey machine, motion picture machine, shuffleboard, miniature pool table or any other similar machine, instrument or contrivance which may be operated or set in motion upon the insertion of a coin or where the proprietor charges a flat rate to use the device.
- B. Arcade. A place of business that has in operation an excess of five (5) mechanical amusement devices; electronic tables featuring pool, billiards, bowling, basketball, football, or the like; or electronic games of skill or dexterity utilizing video tapes or video screen or T.V. adaptations; or similar activities for hire or amusement.

Animal, Domestic: An animal that has traditionally, through long association with humans, lived in a state of dependence upon humans or under the dominion and control of humans and has been kept as tame pets no longer possessing a disposition or inclination to escape or to bite without provocation nor cause death, maiming, or illness

Article 2
Definitions

of a human, nor used for commercial breeding purposes. Domestic animals shall include the following:

- A. Bird (caged)
- B. Cat (domestic)
- C. Prairie Dog (bred)
- D. Chinchilla
- E. Dog
- F. Fish (non-biting or non-poisonous)
- G. Lizard (non-poisonous)
- H. Marmoset (bred)
- I. Rodent (bred)
- J. Snake (non-poisonous)
- K. Spider (non-poisonous)

Animal, Wild or Exotic: Any animal not indigenous to the Village; incapable of being completely domesticated; requiring the exercise of art, force, or skill to keep it in subjection; or that a person is prohibited from possessing by law. Wild or exotic animals shall include, but not be limited to, the following:

- A. Alligator and crocodile (family)
- B. Badger
- C. Bear
- D. Bird (wild)
- E. Cat (wild family)
- F. Coyote
- G. Deer (family)
- H. Dog (wild family)
- I. Dog-Wolf
- J. Ferret
- K. Fish (biting and or poisonous)
- L. Lemur
- M. Lizard (poisonous)
- N. Marten
- O. Opossum (family)
- P. Primate (family)
- Q. Raccoon
- R. Snake and another reptile (poisonous)
- S. Skunk
- T. Spider (poisonous)
- U. Weasel (family)
- V. Wild boar or swine (family)

Apartment House: A multi-family dwelling for three or more families, living independently of each other as separate housekeeping units with separate access and egress, and doing their cooking upon the premises.

Applicant: A person who submits an application under one of the procedures therefore in this Ordinance.

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

Article 2
Definitions

Auto Repair Garage: A place where the following activities may be carried on: vehicle body repair, engine rebuilding or repair, undercoating, painting, upholstery work, welding and auto glass work.

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. A special land use permit required.

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

Basement: A portion of a building which is partly or wholly below grade so located that the vertical distance from average grade to the floor is greater than the vertical distance from the average grade to the ceiling. If the vertical distance from the grade to the ceiling is over 5 feet, such basement shall be rated as a first story.

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. In addition, in return for payment, a breakfast may be provided.

Berm: A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes to provide a transition between uses of differing intensity.

Bluff Line: The line which is the edge or crest of the elevated segment of the shoreline above the beach which normally has a precipitous front inclining steeply on the lake ward side. Where there is, no precipitous front indicating the bluff line, the line of perennial vegetation may be considered the bluff line.

Boarding House/Rooming House: A dwelling in which lodging or meals, or both, are furnished to guests for compensation.

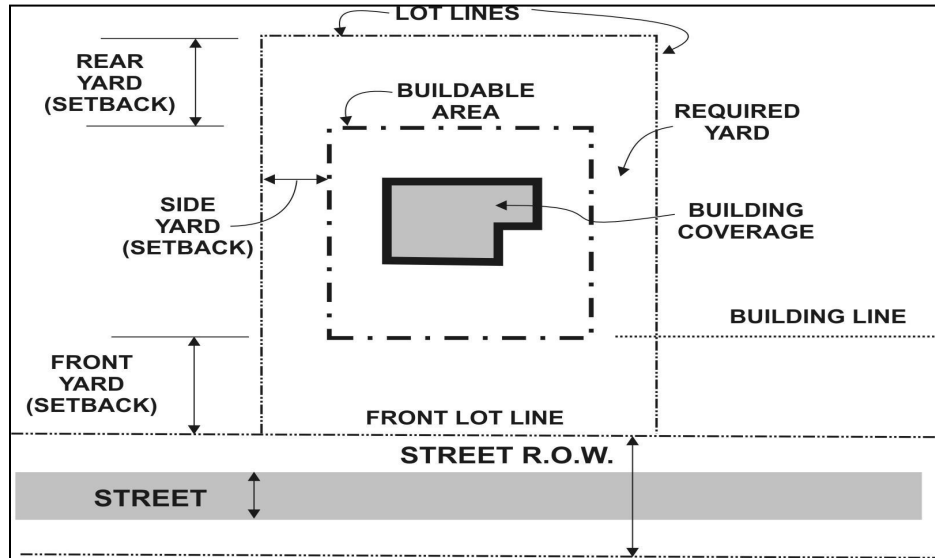
Brewpub: A license issued in conjunction with a Class C tavern, Class A hotel, or Class B hotel license that authorizes the person licensed with a Class C tavern, Class A hotel or Class B hotel to manufacture and brew no more than 5,000 barrels of beer per calendar year in Michigan and sell at those licensed premises the beer produced for consumption on or off the licensed brewery premises in the manner provided for in Sections 405 and 407 of the Michigan Liquor Control Code of 1998 (Public Act 58 of 1998), as amended.

Buffer Strip: A strip of land reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting properties and properties in different zoning districts. Landscaping, berms, fencing or open space can also be used to buffer noise, light and related impacts from abutting properties even if not in a separately established buffer strip and may be so required by this Ordinance.

Article 2
Definitions

Buildable Area: The area of a lot remaining after the minimum yard and open space requirements of the zoning Ordinance have been met. See Figure 2-1.

Figure 2-1
BUILDABLE AREA



Building: A structure designed, built, or occupied as a shelter or roofed enclosure for persons, animals, or property, including tents, lunch wagons, dining cars, camp cars, trailers, and other roofed structure on wheels or other supports, used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational, or recreational purposes For the purposes of this definition, “roof” shall include an awning or other similar covering, whether or not permanent in nature.

Building Height: In the case of a principal building, the vertical distance measured from the floor of the first story in the yard with the greatest number of stories to the highest point of the roof surface for flat roofs and A-frames, to the deck line of mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs (see Figure 2-2). A cupola, widow’s watch or tower that extends above the roof line shall be considered the highest point of the roof surface on roofs with such features. The measurement of the height of an accessory building or structure shall be determined as the greatest vertical distance from the average grade of any side to the highest point of the roof surface.

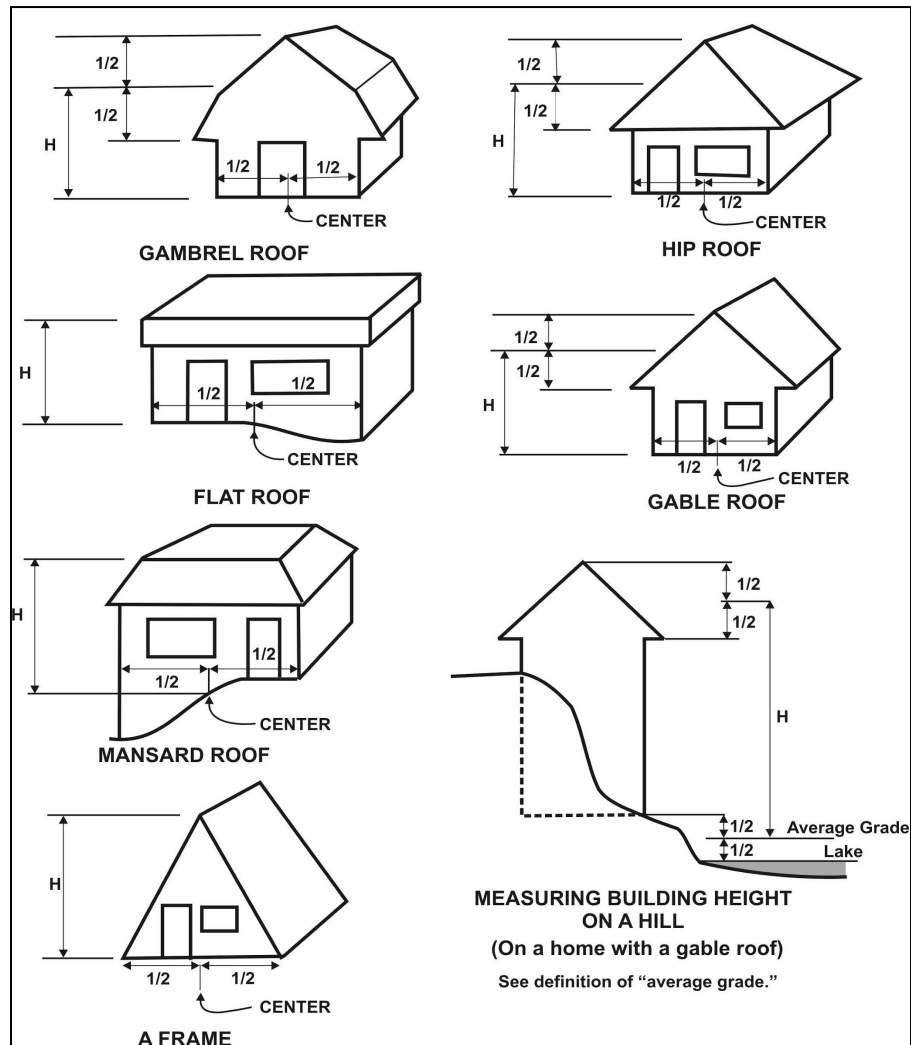
Building Line or Setback Line: The vertical plane beyond which no building or other structure or portion thereof may be erected, for setback purposes.

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

Car Wash: A commercial establishment contained within a building or premises or portion thereof where the exterior or interior of automobiles, trucks or other motor vehicles or recreational vehicles are automatically or manually cleaned.

**Article 2
Definitions**

**Figure 2-2
BUILDING HEIGHT**



Cemetery: Property, including crematories, mausoleums, and/or columbariums, used or intended to be used solely for the perpetual interment of deceased human beings.

Child Care Organization: A governmental or nongovernmental organization having as its principal function the receiving of minor children for care, maintenance, training, and supervision, notwithstanding that educational instruction may be given. These facilities care for children under the age of eighteen (18) years of age, and are licensed and regulated by the State under the Child Care Organizations Act (Public Act 116 of 1973), as amended or the Adult Foster Care Facility Licensing Act (Public Act 218 of 1979), as amended, and the associated rules promulgated by the State Department of Consumer and Industry Services. Such care organizations are classified below:

- A. Child Day Care Center. A facility, other than a private residence, receiving one (1) or more preschool or school age children for group day care for periods of less than 24 hours a day, and where the parents or guardians are not immediately

Article 2
Definitions

- available to the child. It includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. This facility is also described as a childcare center, day care center, day nursery, nursery school, parent cooperative preschool, play group or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.
- B. Child Caring Institution. A child care facility which is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a twenty-four (24) hour basis, in a building maintained for that purpose, and operates throughout the year. It includes a maternity home for the care of unmarried mothers who are minors, an agency group home, and institutions for mentally retarded or emotionally disturbed minor children. It does not include hospitals, nursing homes, boarding schools or an adult foster care facility in which a child has been placed.
- C. Family Child Day Care Home. A private home, as licensed by the State of Michigan, in which up to six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption.
- D. Foster Family Home. A private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage or adoption, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
- E. Foster Family Group Home. A private home in which more than four (4) but less than seven (7) children, who are not related to an adult member of the household by blood, marriage or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
- F. Group Child Day Care Home. A private home, as licensed by the State of Michigan, in which up to twelve (12) children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian except children related to an adult member of the family by blood, marriage or adoption.

Church: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Clinic: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professions.

Club: An organization of persons or a group of persons associated for a common purpose or a special purpose for promotion or engaging in sports, recreational and social activities, arts, sciences, literature, politics or the like, but not operated for profit and open only to members and not to the general public.

Article 2
Definitions

Commercial Vehicle: Any one of a class of vehicles and similar vehicles whose characteristics are described below which have or require commercial license plates and have a gross vehicle weight in excess of 6,500 pounds. Any commercially licensed vehicle that does not possess the characteristics of a commercial vehicle, as defined below, shall not be subject to the restrictions applying to commercial vehicles.

- A. **Semi-trailer.** A trailer unit customarily attached to and propelled by a truck tractor vehicle, but which can be detached to stand alone, including trailers with flat beds, stake beds, roll-off beds, tanker bodies, dump bodies and full or partial box-type enclosures, any of which above units exceeds twelve (12) feet in height.
- B. **Truck Tractor.** A commercial vehicle capable of attaching to and propelling semi-trailers, mobile homes, modular homes, boat trailers and similar units, and which is not customarily operated without an attached trailer.
- C. **Other Commercial Vehicles.** Any truck or motor vehicle with a cab and chassis with a stake, rack, dump body, wrecker body, tanker body or any other body, the mounted height of which exceeds the height of the cab roof by more than eight (8) inches. This shall include any vehicle which has a commercial license plate and which is designed to accommodate a body length in excess of nine (9) feet. This term does not include motor homes or recreational vehicles, but does include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, and similar vehicles.

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

Common Open Space: An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners and occupants, and generally owned and maintained in common.

Communication Tower: A radio, telephone or television relay structure, including but not limited to: monopole, skeleton framework, or other design which is attached directly to the ground or to another structure, used for the transmission or reception of radio, television, microwave, or any other form of telecommunications signals.

Composting: A controlled process of degrading compostable organic material by microorganisms.

Compostable Material: Compostable or organic matter and material shall include typical yard wastes and clippings, such as and limited to leaves, grass clippings, vegetable, garden, or agricultural plantings debris, shrubbery or brush, weeds, tree trimmings less than four (4) feet in length and two (2) inches in diameter, that can be converted to compost humus. This term does not include stumps, roots, animal waste, sewage sludge, or garbage.

Condominium Project: A plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act (Public Act 59 of 1978), as amended.

Condominium Subdivision or Site Condominium Development: A division of land on the basis of condominium ownership, pursuant to the Condominium Act (Public Act 59 of

Article 2
Definitions

1978), as amended, and which is not subject to the provisions of the Land Division Act (Public Act 288 of 1967), as amended.

Condominium Subdivision Plan: The drawings attached to the master deed for a condominium subdivision which describes the size, location, area, horizontal and vertical boundaries, and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location, and size of common elements.

Condominium Unit or Site Condominium: That portion of a condominium project or condominium subdivision which is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. The owner of a condominium unit also owns a share of the common elements. The term "condominium unit" shall be equivalent to the term "lot," for purposes of determining compliance of the site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage.

Conflict of Interest: Participation by a member of the Zoning Board of Appeals, Planning Commission, or Village Council in a public hearing, lobbying, or voting on a matter in which the property in question is owned, leased, rented or is proposed to be developed by the member; is owned or is to be developed by a relative, boss or friend of the member; or involves a party with whom the member shares a financial interest, such as a partner, borrower, lender, renter or investor; or is property which abuts or is near property owned by the member and the member does not feel he/she can objectively evaluate the request and vote in an unbiased manner. This definition applies to any matter being decided under the Zoning Ordinance. Conflict of interest provisions in other Ordinances shall guide other decisions unless the Village attorney or a court of law rules otherwise.

Convalescent or Nursing Home: A structure whose principal purpose is the provision of sleeping, eating and gathering rooms where persons afflicted with illness, injury, or an infirmity are housed or lodged, often for extended periods of time, and who are furnished with meals and nursing care.

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.

Court: An occupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

Court, Inner: A court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable.

Court, Outer: A court enclosed on not more than three sides by exterior walls, and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley or yard.

Article 2
Definitions

District (or Zone): A portion of the Village within which certain regulations and requirements or various accommodations thereof apply under the provisions of this Ordinance.

Drive-in or Drive-through Establishment: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure. Except for banks and car washes there shall be no drive-through facilities within the Village of Port Sanilac.

Dwelling, Non-farm: A non-farm dwelling is a home built on land that is not involved in farming regardless of the number of acres.

Dwelling, Single-Family: A detached residential dwelling unit, other than a mobile home, designed for and occupied by one (1) family only.

Dwelling, Two-Family: A detached residential building, other than a mobile home containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

Dwelling, Multiple-Family: A residential building, other than a mobile home designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling Unit: A room or rooms connected together, constituting a separate, independent housekeeping establishment for one-family occupancy, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathrooms, and sleeping facilities.

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.

Electric Vehicle Charging Station: EV charging station, electric recharging point, charging point, charge point and EVSE (electric vehicle supply equipment), is an element in an infrastructure that supplies electric energy for the recharging of electric vehicles, such as plug-in electric vehicles, including electric cars, neighborhood electric vehicles and plug-in hybrids.

Erected: The word “erected” includes built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for a building or structure. Excavation, fill, drainage, and the like shall be considered a part of erection when done in conjunction with a structure.

Erosion: The collapse or subsidence of land along the shore of a lake or other body of water, including drains, creeks, streams and rivers, as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels.

Essential Service: The erection, construction, alteration or maintenance by public utilities or municipal departments, of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems or collection, communication,

Article 2
Definitions

supply or disposal systems therewith that are reasonably necessary for the furnishing of adequate service for the general health, safety and welfare.

- A. Poles, wires, mains, drains, sewers, pipes, conduits, transformers, splice boxes, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants or similar equipment and accessories associated with an essential service shall be considered essential services under this Ordinance.
- B. Wireless communication towers or antennas, utility buildings and storage yards shall not be considered essential services under this Ordinance.

Extraction 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.

Excavation: The removal of rock, sand, soil, or fill material below the average grade of the surrounding land and/or road grade, whichever is highest. This does not include alterations for farming or gardening purposes.

Exception: An exclusion from the normal Zoning Ordinance rules and regulations allowed by the Zoning Board of Appeals under certain conditions.

Façade: The vertical plane of the exterior surface of a building, including all visible architectural, decorative, and structural features.

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 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 another similar determinable period.

Farm: The land, plants, animals, buildings, structures, and ponds used for agricultural/aqua cultural activities, machinery, equipment and other appurtenances used in the commercial production of farm products.

Fence: A partition, structure, or gate erected as a dividing marker, barrier, or enclosure. Linear structures or partitions of definite height and location erected upon or near the dividing line between adjoining owners intended to serve as: a physical barrier to ingress or egress; a screen from objectionable vista or noise; a marker; an enclosure in carrying out the requirements of this Ordinance; or for decorative use.

- A. **Chain-link fence.** A fence constructed of galvanized steel or similar materials as approved by the Zoning Administrator for the purpose of enclosing or securing an area (see illustration).
- B. **Ornamental fence.** A fence consisting of wrought iron, galvanized steel, aluminum, vinyl, wood or similar materials fabricated into a design with specific pattern elements or ornamentation, and which does not block vision to an extent

Article 2
Definitions

- greater than fifty percent (50%). Ornamental fences shall not include chain-link, wire or similar fences (see illustration).
- C. **Privacy fence.** Any fence that blocks vision to an extent greater than fifty percent (50%) for the purpose or effect of obscuring or screening an area from public view (see illustration).
 - D. **Rail fence.** A fence constructed of wood, vinyl or similar materials and consisting of one (1) to four (4) horizontal rails connecting to vertical posts spaced a minimum of six (6) feet apart, and which does not block vision to an extent greater than fifty percent (50%) (see illustration).
 - E. **Temporary fence.** A fence constructed of canvas, plastic, chain-link, wood or similar material for the purpose of enclosing or securing an area for a limited period of time; for securing a construction site against unauthorized access; or for public safety at a special event.

Filling: The depositing or dumping of ground, soil, gravel, stone or fill dirt above the average grade of the surrounding land and/or road grade, whichever is highest, except common household gardening, farming, and general ground care of a residential or agricultural character. *Amended 12-6-2022.*

Flea Market: An enclosed shop or open market selling primarily used goods, antiques, curios, art objects, and collectibles. 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.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of drains, creeks, streams, rivers, lakes or other bodies of water, caused by severe storms, hurricanes, tornadoes or heavy rains. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of Inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

- A. **Flood, 100-Year.** A flood having an average frequency of occurrence in the order of once in 100 years, although the flood may occur in any year.
- B. **Floodplain.** Any land area susceptible to being inundated by floodwaters when high amounts of precipitation are experienced or natural cyclic conditions raise the water levels. Determinants of a floodplain are as follows:
 - 1. That area which typically is adjacent to a river, stream, or other body of water, and is subject to flooding from a 100-year flood.
 - 2. Principal estuary courses of wetland areas that are part of the river flow system.
 - 3. Contiguous areas paralleling a river, stream, or other body of water that exhibit unstable soil conditions for development.

Floor Area, Gross: The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, not including any basements, utility rooms, breezeways, unfinished attics, porches or attached garages.

Floor Area, Residential: The sum of the horizontal areas of each story of the dwelling, as measured from the exterior faces of the exterior walls or from the centerline of walls separating dwellings units. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, or porches.

Article 2
Definitions

Floor Area, Usable: That portion of the floor area, measured from the interior face of the exterior walls, used for or intended to be used for services to the public or to customers, patrons, clients or patients, including areas occupied by fixtures or equipment used for the display or sale of goods or merchandise, but not including areas used or intended to be used for the storage of merchandise, utility or mechanical equipment rooms or sanitary facilities. In the case of a half story, the usable floor area shall be considered to be only that portion having a clear height above it of four (4) feet or more.

Footprint or Building Footprint: The ground area a building or structure covers.

Frontage: A linear measurement of the lot line(s) abutting a road right-of-way, as measured along the right-of-way line, or at the front yard setback line for lots on cul-de-sacs.

Garage, Private: A building or part hereof accessory to a main building and providing for the storage of motor vehicles and in which no occupation or business for profit is carried on.

Garage, Public or Storage: A building or part thereof (other than a private residential garage) for the storage of motor vehicles or boats or in which service, maintenance or repair activities may be performed.

Garage Sale: A sale of primarily used goods, antiques, curios, clothing, etc., operated on residential property by the owner or occupant on an occasional basis.

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

Glare: The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and ability.

Grade: The highest ground elevation in contact with any portion of the basement or foundation of a dwelling.

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

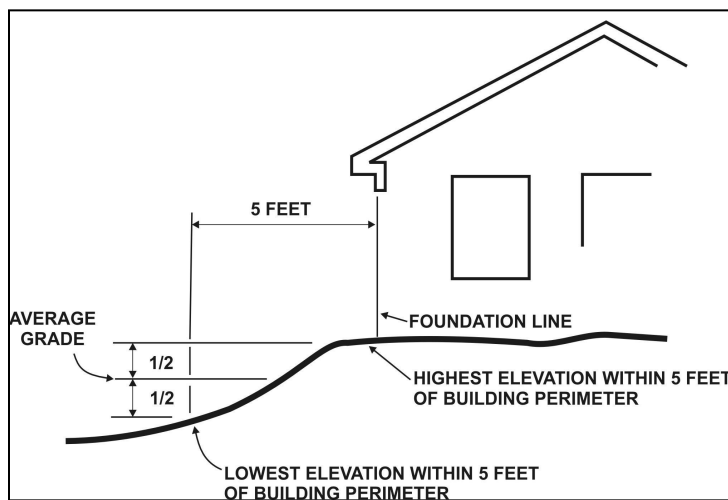
Grade, Finished: The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

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

Greenbelt: A strip of land, not less than five (5) feet in width, which is planted with trees or shrubs in compliance with the requirements of this Ordinance.

Article 2
Definitions

Figure 2-3
AVERAGE GRADE



Hazardous Materials: Pursuant to the Natural Resources and Environmental Protection Act (P.A. 451 of 1994, as amended), “hazardous substance” shall include one (1) or more of the following, but not including fruit, vegetable, or field crop residuals or processing by-products, or aquatic plants, that are applied to the land for an agricultural use or for use as an animal feed, if the use is consistent with generally accepted agricultural management practices developed pursuant to the Michigan Right to Farm Act (Public Act 93 of 1981, as amended):

- A. Any substance that is demonstrated, on a case by case basis, to pose an unacceptable risk to the public health, safety, welfare, or the environment, considering the fate of the material, dose-response toxicity, or adverse impact on natural resources.
- B. “Hazardous substance” as defined in the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Title 42, U.S. Code Chapter 103), as amended.
- C. “Hazardous waste” as defined in the Natural Resources and Environmental Protection Act (P.A. 451 of 1994, as amended).
- D. “Petroleum” as defined in the Natural Resources and Environmental Protection Act (P.A. 451 of 1994, as amended).

Article 2
Definitions

High Risk Erosion Area: An area subject to shore land deterioration as designated by the Department of Natural Resources pursuant to Part 323 (Shorelands Protection and Management) of the Natural Resources and Environmental Protection Act (Public Act 451 of 1994), as amended.

Home Occupation: An occupation or profession carried on by an occupant of a dwelling unit as a secondary use which is incidental to the use of the dwelling unit for residential purposes.

Hospital: An institution providing in-patient or out-patient medical or surgical care for the acutely sick or injured, who are generally confined for relatively short periods of time, plus such accessory uses as laboratories, educational facilities, food services, and staff offices.

Hotel: A facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, and recreation facilities.

Institutional Uses: The following specific uses of an educational, social, or religious character, as defined or used in this Ordinance:

- A. Public and private elementary and secondary schools, business schools or private schools operated for profit, and institutions for higher education.
- B. Auditoriums, theaters, concert halls, and similar places of assembly.
- C. Libraries, museums, and similar centers for cultural activities.
- D. Churches, temples, and other places of worship.
- E. Post offices.
- F. Private clubs, fraternal organizations, and lodge halls.

Junk: Articles that have outlived their intended usefulness in their original form and are commonly discarded or gathered up to be converted into another product, either of the same or different kind.

Junkyard: 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: Any building, lot or premises where three (3) or more dogs or cats over twelve (12) weeks of age are kept, or any structure, lot or premises where animals are kept or housed for remuneration. This definition shall not include the raising of animals for agricultural purposes or premises used for residential purposes, where the occupant keeps personal pets.

Laboratory: A facility devoted to experimental study such as testing and analyzing, but not devoted to the manufacturing of a product or products.

Article 2
Definitions

Landfill: A tract of land that is used to collect and dispose of “solid waste” as defined and regulated under the Natural Resources and Environmental Protection Act (P.A. 451 of 1994, as amended).

Lighting: The following definitions are related to lighting:

- A. **Fixture.** The assembly that holds the lamp in a lighting system. The Fixture includes the elements designed to give light output control, such as a reflector, lens, ballast, housing, and attachments.
- B. **Floodlight.** A fixture or lamp designed to direct light over a broad area.
- C. **Foot-candle.** Illuminance produced on a surface one (1) foot from a uniform point source of one (1) candela, or when one (1) lumen is distributed into an area of one (1) square foot.
- D. **Fully Shielded Fixture.** An outdoor lighting fixture shielded or constructed so that all light emitted is projected onto the site and away from adjoining properties. Light from a fully shielded fixture is not visible from adjoining properties, and does not cause glare or interfere with the vision of motorists.
- E. **Glare.** An intense and blinding light that results in reduced visual performance and visibility, and is often accompanied by discomfort.
- F. **Lamp or Bulb.** The source of electric light (to be distinguished from the whole assembly, which is called the luminaire). “Lamp” is often used to denote the bulb and its housing.
 - 1. High Pressure Sodium (HPS) Lamp. High-intensity discharge lamp where radiation is produced from sodium vapor at relatively high partial pressures.
 - 2. Incandescent or Tungsten-Halogen Lamp. A lamp that produces light by a filament heated to a high temperature by electric current.
 - 3. Low Pressure Sodium (LPS) Lamp. A discharge lamp where the light is produced by radiation from sodium vapor at a relatively low partial pressure.
 - 4. Mercury Vapor Lamp. A high-intensity discharge lamp where the light is produced by radiation from mercury vapor.
 - 5. Metal Halide Lamp. A high-intensity discharge lamp where the light is produced by radiation from metal-halide vapors.
 - 6. Laser Source Light. An intense beam of light, in which all photons share the same wavelength.
 - 7. Light Trespass. Light falling where it is not wanted or needed (also called spill light).
 - 8. Lumen. Unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one candela. One (1) foot-candle is equal to one (1) lumen per square foot. One lux is one lumen per square meter.
 - 9. Recessed Fixture. An outdoor lighting fixture recessed into a structure so that the bottom of the fixture is flush with the ceiling or underside of the structure.

Liquor License Establishment, Class C: Any place licensed by the State of Michigan Liquor Control Commission to sell beer, wine, spirits, and mixed drinks for consumption on the premises.

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

Article 2
Definitions

Loading Space: An off-street space on the same lot with a building, or contiguous to a group of buildings for unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

Lodging House: See Boarding House/Rooming House.

Long-Term Rental: A dwelling unit providing transient accommodations for periods of more than ninety (90) days. *Added 12-6-2022.*

Lot: A 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:

- A. A single lot of record;
- B. A portion of a lot of record;
- C. Any combination of complete and/or portions of lots of record;
- D. 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.

Lot Coverage: The amount of a lot, stated in terms of percentage, that is covered by all buildings and/or structures located thereon. This shall be deemed to include all buildings, roofed porches, arbors, breezeways, patio roofs, whether open box types and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, unroofed decks (four inches or less above the finished grade), patios or swimming pools. Lot coverage shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof.

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.

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.

Article 2
Definitions

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 parcel of land, the dimensions of which are described in a document or shown on a map on file with the Sanilac County Register of Deeds or in common use by Village or County officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

Lot Split or Consolidation: The dividing or uniting of lots by virtue of changes in the deeds recorded with the Sanilac County Register of Deeds and the City Assessor.

Lot, Zoning: A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control.

A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the Sanilac County Register of Deeds, but may include one or more lots of record.

Manufactured Home: A structure, transportable in one (1) or more sections, which is built on a non-motorized chassis and designed to be used with or without a permanent foundation as a dwelling when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. A mobile home shall not include modular homes, motor homes, house trailer, trailer coach or travel trailers.

- A. **Manufactured Home, HUD-Code.** A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air- conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by federal Manufactured Home Procedural and Enforcement Regulations (24 CFR §3282.8g).
- B. **Manufactured Home Site.** An area within a mobile home park that is designated for the exclusive use of a specific mobile home.

Manufactured Housing Park: A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, road, equipment or facility used or intended for use incident to the occupancy of a manufactured or mobile home, subject to the rules and requirements of the Mobile Home Commission Act (Public Act 96 of 1987), as amended, and the Manufactured Housing Commission General Rules.

Manufacturing: The use of land, buildings or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering,

Article 2
Definitions

repairing, warehousing or storing or adapting for sale or other use of any goods, substance, article, thing or service.

Massage Therapist: An individual specifically trained and licensed or certified in therapeutic massage by the State of Michigan under Part 179A of the Michigan Public Health Code (Public Act 368 of 1978), as amended.

Master Plan: The comprehensive plan of the Village of Port Sanilac, including graphic and written text indicating the Village's development goals and objectives, planned future use of all land within the Village of Port Sanilac, general location for roads, parks, schools, public buildings, and all physical development, and any portion or amendment to such plan. Such plans shall have been adopted by the Planning Commission, and may or may not be adopted by Village Council.

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.

Micro-Units: A residential dwelling between 400 and 1,000 square feet.
Added 12-6-2022.

Mixed Use: A structure or project containing residential and nonresidential uses.

Mobile, Factory Built or Portable Home: As used herein the term "mobile home" shall mean a movable or portable dwelling constructed to be towed on its own integral chassis and designed for permanent year-round living as a single-family dwelling. Provided, however, that the term "mobile home" shall not include modular homes (which are transported to the placement site on independent frames and running gear), motor homes, campers, recreation vehicles (whether licensed or not as motor vehicles) or other transportable structures designed for temporary use and which are not designed primarily for permanent residence and connection to sanitary sewage, electrical power and potable water utilities.

Mobile Home Park: Any parcel of land intended and designed to accommodate more than one (1) mobile 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.

Motel: A series of attached, semi-detached or detached rental units containing bedroom and toilet utilities for temporary lodging for compensation.

Natural Area: A land area or body of water that is generally not occupied by structures, roads, or other manmade elements, and which contains flora, fauna, biotic, geologic or other similar features having scenic, educational, or scientific value to residents. An area may be considered "natural" even though excavation, filling or other similar activity may have previously occurred.

Natural Resources: Natural resources include land, soils, wetlands, floodplains, surface and ground water, topography, trees and other types of vegetative cover, subsurface strata, geologic formations, animal life, and naturally occurring substances and living

Article 2
Definitions

organisms that can be useful to people. Natural resources are of two types; renewable (e.g., plants and trees) and nonrenewable (e.g., mineral resources). Natural resources may also be referred to as “natural features” in this Ordinance.

New Construction: Structures for which the “start of construction” commenced on or after the effective date of this Ordinance.

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

Nonconforming Lot of Record: A lot lawfully existing at the effective date of this Ordinance, or amendments thereto, and which fails to meet the area and/or dimensional requirements of the district in which it is located.

Nonconforming Structure: A structure or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto and that does not conform to the provisions of the Ordinance in the district in which it is located.

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

Noxious: An element creating an impact that may interfere with the enjoyment and use of property, including smoke, odors, noise, vibration, glare or heat.

Nuisance: Any offensive, annoying, unpleasant or obnoxious object or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which prevents the free use of one’s property or renders its normal use or physical occupation uncomfortable. Nuisance commonly involves continuous or recurrent acts that give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, or endangers life and health.

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

Obscene Material: As defined in the Michigan Obscene Material Act (Public Act 343 of 1984), as amended.

Occupancy or Occupied: The purpose for which a building or part thereof is used or intended to be used. The term “occupied” includes “arranged,” “designed,” “built,” “altered,” “converted to,” “rented,” “leased” or “intended to be inhabited.”

Off-Street Parking Lot: A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering to provide access for entrance and exit for the parking of more than three (3) automobiles.

Article 2
Definitions

Ordinary High Water Mark (OHWM): 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 means that consider the characteristics of the surrounding areas.

Open Air Business: Any business that is conducted primarily out-of-doors. Unless otherwise specified by this Ordinance, “open air business” shall include:

- A. Various commercial outdoor recreation uses, including, but not limited to tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
- B. Outdoor display and sale of garages, swimming pools, playground equipment, and uses.

Open Air Farm Market: A farm market is defined as an open-air market within the Village of Port Sanilac. 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. All permitted farm markets shall comply with the Michigan Department of Agriculture and Rural Development’s Generally Accepted Agricultural and Management Practices (GAAMPS) for Farm Markets.

Outdoor Display of Goods: An outdoor display of goods may be allowed in a pre-determined area of property, so as not to interfere with entry or exit of the property. Goods displayed for sale out of doors must be offered for sale inside the premises.

Outdoor Storage Yard: An open area where including but not limited to scrap iron and other metals, paper rags, rubber tires, and bottles. The term includes automobile wrecking yards and any area of more than 200 square feet used for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings or drop-off stations for recyclables.

- A. Outdoor Motor Vehicle Storage or Dismantling Yard or Junk Yard. An open area used for any of the following purposes:
 - 1. Purchase, sales, exchange, storage, baling, packaging, disassembly or handling of used parts of motor vehicles, old iron, metal, glass, paper, cordage or other waste, used or secondhand material;
 - 2. Any business and any place of storage or deposit that includes two (2) or more motor vehicles that are unfit for reconditioning or use on the public highways or used parts of motor vehicles, but excluding vehicles in operable condition specially adapted or constructed for racing, and vehicles retained by the owner for antique collection or transportation purposes.

Out Lot: A parcel of land designated on a site plan for future development.

Owner: The owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.

Article 2
Definitions

Package Liquor Store: A retail establishment licensed by the State of Michigan where more than ten percent (10%) of the gross floor area is utilized for the storage, display, and sale of alcoholic liquor, wine, beer, and other alcoholic beverages in the original package for consumption off the premises.

Park: Any developed playground, beach, outdoor swimming pool, golf course, tennis courts or otherwise intended for active or passive recreational pursuits.

Parking Space: A visually defined area (striping, parking blocks, etc.) of not less than 180 square feet (10 x 18 ft.), exclusive of access or maneuvering area or ramps, columns, etc. to be used exclusively as a temporary space for one private motor vehicle. Truck loading and unloading space shall not be included in such area. *Amended 12-6-2022.*

Performance Guarantee: A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the Ordinance, regulations, and approved plans and specifications of the development.

Permanent Foundation: A foundation for a structure that includes all frost-free foundations as regulated by the building code as well as concrete block, poured concrete, and slabs or other materials used to support the walls of a building, even if they do not extend down below the frost-free line.

Permanent or Principal Structure: A residential, commercial, industrial or institutional building, a mobile home, accessory and related building, septic systems, tile field or other waste handling facility erected, installed or moved on a parcel of land.

Planned Unit Development: A tract of land or lot, developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space and other land uses as provided in this Ordinance.

Plat: A map of a subdivision of land recorded with the Sanilac County Register of Deeds pursuant to the Land Division Act (Public Act 288 of 1967), as amended, or a prior statute.

Porch: A stoop, terrace or similar un-enclosed (other than mesh screening and any necessary structural supports or architectural or safety features) exterior structure, with or without a roof, that serves as an entrance to a structure and a transition zone between indoor and outdoor areas.

Principal Structure: The main building on a lot or parcel, including but not limited to: residential, commercial, industrial, institutional structures and mobile homes.

Principal Use: The primary or predominant use of any lot or parcel of land.

Public Service: Public service facilities (within the context of this Ordinance) shall include such uses and services as voting booths, pumping stations, fire halls, police stations, temporary quarters for welfare agencies, public health activities and similar uses.

Article 2
Definitions

Public Utility: Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation, water or other such essentials.

Recognizable and Substantial Benefit: A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonably foreseeable detriments of the proposed development and uses. Such benefits may include long-term protection or preservation of natural resources and natural features, historical features, or architectural features; or, elimination of a nonconforming use or structure.

Recreation Establishment, Indoor: A privately-owned facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as gymnasiums and fitness centers, bowling alleys, indoor soccer facilities, racquetball and tennis clubs, ice and roller skating rinks, curling centers, and firearms ranges.

Recreation Establishment, Outdoor: A privately-owned facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee such as tennis clubs, archery ranges, golf courses, miniature golf courses, golf driving ranges, water slides, batting cages and machines, skateboarding parks, and children's amusement parks.

Recreation Area: Any public or privately owned outdoor space that is made available and maintained in a suitable condition for passive and active recreational activities, such as swimming, picnicking, hiking, nature study, hunting, boating, fishing or other recreational purposes.

Recreational Resort: A parcel on which sites are established by recreational vehicles for the general public as temporary quarters for purposes of recreation or vacation.
Added 12-6-2022.

Recreational Vehicle: A vehicle that is self-propelled or permanently towable by motor vehicle; designed primarily for use as temporary living quarters, or for recreational, camping, travel or seasonal use; and required by Michigan law to have a valid vehicle registration when traveling upon public roads. Excluding any recreational vehicle used in part or whole for commercial purpose. Recreational vehicles shall include the following:

- A. **Boats and Boat Trailers.** Motorized or floatation equipment that may be used on the water, plus the normal equipment used to transport the same on the highway. "Boats and "boat trailers" shall include jet skis and other personal watercraft, floats, rafts, and similar devices and equipment.
- B. **Folding Tent Trailer.** A folding structure, mounted on wheels and designed for travel and vacation use.
- C. **Motor Home.** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle, built on a single chassis of 400 square feet or less, and designed primarily for use as temporary living quarters for recreational, camping, travel or seasonal use.

Article 2
Definitions

- D. Pickup Camper. A portable dwelling designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation uses.
- E. Travel Trailer. A portable dwelling built on a single chassis of 400 square feet or less, constructed to be towed on its own chassis, and designed primarily for use as temporary living quarters for recreational, camping, travel or seasonal use.
- F. Horse Trailer. A structure mounted on wheels and designed primarily to be used for the transportation of horses.
- G. Snowmobiles, Motorcycles or All-Terrain Vehicles (ATV). Motorized vehicles designed primarily for recreational travel or off-road use.
- H. Utility Trailers. A vehicle used to transport boats, motorcycles, snowmobiles, go-carts, and similar devices and equipment.

(amended 12/01/2020)

Restaurant: A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute more than 80 percent of the gross sales receipts for food and beverages.

Retail Stores and Retail Sales: A showroom, sales floor, display area or similar facility for the selling, trading and exchanging of goods, wares or merchandise for direct consumption (not for resale) directly to the consumer and completely within an enclosed building. Such goods, wares or merchandise shall include appliances, bicycles, books, clothing, crafts, drugs and pharmaceutical items, dry goods, electronics, flowers, home furnishings, gifts, grocery and produce items, hardware, jewelry, musical instruments and supplies, optical goods, paint or wallpaper, pets, photographic supplies, recorded music, sporting goods, toys, and similar items.

- A. Included in this definition are convenience stores, department stores, variety stores, “big-box” stores, supermarkets, wholesale club stores, shopping centers, and shopping malls.
- B. Also, included in this definition are mail-order sales, internet sales, and similar activities, provided such activities are accessory to the principal use of retail sales to the customer in the building.
- C. This definition does not include temporary uses, outdoor display or sales areas or adult uses and sexually-oriented businesses.

Retention Basin: A pond, pool, or basin used for the long-term storage of water runoff.

Right-of-Way: A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

Room: For the purpose of determining lot area requirements and density in a multiple-family district, a living room, dining room and bedroom, equal to at least 80 square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways, and storage. Plans presented showing one (1), two (2) or three (3) bedroom units and including a “den,” “library,” or other extra room shall count such extra room as a bedroom for the purpose of computing density.

School, Nonpublic: A nonpublic school is any school other than a public school giving instruction to children below the age of 16 years and not under the exclusive supervision

Article 2
Definitions

and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.

School, Public: A public school is a public elementary or secondary educational entity or agency that has as its principal mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, public state university or by the department or state board.

Self-Storage Warehouse: A building or group of buildings in a controlled-access compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of customer's goods or wares.

Senior Housing: An institution other than a hospital or hotel, which provides room and board to non-transient persons primarily 55 years of age or older. Housing for the elderly may include:

- A. **Assisted Living Facility.** A facility providing responsible adult supervision of or assistance with routine living functions of an individual in instances where the individual's condition necessitates that supervision or assistance.
- B. **Congregate or Interim Care Housing.** A semi-independent housing facility 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.
- C. **Convalescent or Nursing Home.** A home for the care of two (2) or more children, the aged or infirm persons suffering serious or chronic bodily disorders, which may be licensed under applicable state laws.
- D. **Dependent Housing Facilities.** Facilities such as convalescent homes and nursing homes that are designed for older persons who need a wide range of health and support services, including personal nursing care.
- E. **Elderly Housing.** A building or group of buildings containing dwellings where the occupancy is restricted to persons 60 years of age or older or couples where either the husband or wife is 60 years of age or older.
- F. **Senior Apartments.** Multiple-family dwelling units intended to be occupied by persons 55 years of age or older.

Separate Ownership: Ownership of a lot wherein the owner does not own adjoining lot(s). Such ownership may include dual or multiple ownership by a partnership, corporation or other group, provided that any number of contiguous lots of record may be considered as a single lot of record, for the purpose of this Ordinance.

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.

Setback: The minimum horizontal distance required to exist between any building line and all adjacent lot boundaries or road rights-of-way.

- A. **Parking Lot Setback.** The minimum horizontal distance between the road right-of-way or lot line and the near edge of pavement in an off-road parking lot.

Article 2
Definitions

- B. **Required Setback.** The minimum horizontal distance between a front, rear or side lot line, and a foundation line to comply with required yard provisions of this Ordinance.

Sexually Oriented Businesses: Definitions for specific types of sexually-oriented businesses:

- A. Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
- B. Adult Bookstore or Adult Video Store:** A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
1. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations or media which depict or describe specified sexual activities or specified anatomical areas. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises twenty percent (20%) or more of sales volume or occupies twenty percent (20%) or more of the floor area or visible inventory within the establishment; or
 2. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises twenty percent (20%) or more of sales volume or occupies twenty percent (20%) or more of the floor area or visible inventory within the establishment.
- C. Adult Cabaret:** A nightclub, bar, restaurant, or similar commercial establishment that regularly features:
1. Persons who appear in a state of nudity;
 2. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;
 3. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
 4. Persons who engage in lewd, lascivious or erotic dancing, including but not limited to: straddle dancing or lap dancing, or performances that are intended for the sexual interests or titillation of an audience or customers.
- D. Adult Motel:** A hotel, motel or similar commercial establishment that:
1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion

Article 2
Definitions

- pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right of way that advertises the availability of any of the above; and either
2. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
 3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.
- E. **Adult Motion Picture Theater:** A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- F. **Adult Theater:** A theater, concert hall, auditorium or similar commercial establishment that regularly and primarily features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of specified anatomical areas or by specified sexual activities.
- G. **Escort:** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a strip tease for another person.
- H. **Escort Agency:** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
- I. **Massage Parlor:** A massage parlor is an establishment where individuals not specifically trained and licensed or certified in therapeutic massage by the State of Michigan under Part 179A of the Michigan Public Health Code (Public Act 368 of 1978), as amended, provide massage services.
- J. **Nude Model Studio:** Any place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.
- K. **Nudity or State of Nudity:** Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to: payment or promise of payment of an admission fee, any individual's genitals, genital area, buttocks or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:
1. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
 2. Material as defined in Section 2 of the Obscene Material Act (Public Act 343 of 1984), as amended.

Article 2
Definitions

3. Sexually explicit visual material as defined in Section 3 of the Disseminating, Exhibiting, or Displaying Sexually Explicit Matter to Minors Act (Public Act 33 of 1978), as amended.
- L. **Person:** As used in Section 17.10.31 and in the definition of “straddle dance,” an owner of a sexually oriented business, an employee, licensee, contractor, tenant, or invitee, on the premises of a sexually oriented business who entertains patrons, performs in a state of nudity, models lingerie, provides erotic dance or strip tease, or engages in other conduct intended to titillate the patrons of a sexually oriented business.
- M. **Sexual Encounter Center:** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.
- N. **Sexually-Oriented Business:** A business or commercial enterprise engaging in any of the following:
1. Adult arcade;
 2. Adult bookstore or adult video store;
 3. Adult cabaret;
 4. Adult motel;
 5. Adult motion picture theater;
 6. Adult theater;
 7. Escort agency;
 8. Massage parlor;
 9. Nude model studio; and
 10. Sexual encounter center.
- O. **Specified Anatomical Areas:** Specified anatomical areas are defined as:
1. Less than completely and opaquely covered human genitals, pubic region, buttock, anus and female breast below a point immediately above the top of the areola; and
 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- P. **Specified Sexual Activities:** Specified sexual activities means and includes any of the following:
1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 3. Masturbation, actual or simulated; or
 4. Excretory functions as part of or in connection with any of the activities set forth in 1 through 3 above.
- Q. **Straddle Dance (also known as a lap dance or friction dance):** A form of live erotic dance at a sexually-oriented business where a person offers physical contact in the form of touching, with any part of the person’s body, the genital or

Article 2
Definitions

pubic area of a patron or other person; or when a person uses his/her breast(s) to touch any part of the patron or other person's body; or allows the touching of the breast(s), genitals, pubic area or buttocks of a patron or other person, whether clothed or unclothed by a patron or other person. It shall be a "straddle dance" regardless of whether the "touch" or "touching" occurs while the person is clothed, nude, semi-nude or displaying or exposing any specified anatomical area. It shall also be a "straddle dance" regardless of whether the "touch" or "touching" is direct or through a medium.

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: A dwelling unit providing transient accommodations for periods of less than ninety (90) days. *Amended 12-6-2022.*

Sign: A name, identification, description, display, or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which directs attention to an object, product, place, activity person, institution, organization, or business. See Article 7 "Signs" for more detailed definitions and descriptions of sign types.

Site Plan: A scaled drawing illustrating existing conditions, detailing the proposed use and development of a zoning lot, and including all required elements applicable to the proposed development to ensure compliance with this Ordinance.

Solar Energy: Radiant energy (direct, diffuse, and reflected) received from the sun.

- A. **Attached System:** A Solar System in which solar panels are mounted directly on the building (typically on the roof).
- B. **Detached System:** Also known as a Ground Mounted System, a solar system that is not attached directly to a building, but is supported by a structure that is built on the ground.

Solar Energy System: A solar energy system is defined as an energy system which converts solar energy to usable thermal, mechanical, chemical, electrical, or any other form of energy, to meet all or a significant part of a structure's energy requirements.

Solar Panel: That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating, and/or for electricity.

Solar Farm: An installation or area of land in which a large number of solar panels are set up to generate electricity.

Special Land Use: A use that meets the intent and purpose of the zoning district but which requires the review and approval of the Planning Commission in order to ensure that any adverse impacts on adjacent uses, structures, or public services and facilities that may be generated by the use can be, and are, mitigated.

Special Land Use Permit: A permit issued by the Planning Commission to a person or persons intending to undertake the operation of an activity upon land or within a structure specifically permitted as a special land use pursuant to standards and

Article 2
Definitions

procedures established in Article 3 “General Provisions” and Article 17 “Special Land Use Regulations.”

State Licensed Residential Facility: A structure or facility constructed for residential purposes to provide resident services and 24-hour supervision or care for six (6) or fewer persons in need of supervision or care, or as licensed by the State of Michigan under the Adult Foster Care Facility Licensing Act (Public Act 218 of 1979), as amended, or the Child Care Organizations Act (Public Act 116 of 1973), as amended.

Steep Slopes: Slopes with a grade of twelve percent (12%) or more.

Story: That part of a building, except a basement or mezzanine as defined herein, included between the upper surface of any floor and the upper surface of the floor or roof next above it.

- A. A mezzanine shall be deemed a full story when it covers more than one-third ($\frac{1}{3}$) of the area of the story underneath, or, if the vertical distance from the floor next below the mezzanine to the floor above it is 24 feet or more.
- B. A basement shall be deemed a full story when the vertical distance from the average grade to the floor below is half than the vertical distance from the average grade to the ceiling.

Story, Half: An uppermost story lying under a sloping roof having an area of at least 200 square feet in area with a clear ceiling height of seven (7) feet six (6) inches. For the purposes of this Ordinance, the usable floor area is only that area having at least five (5) feet clear height between floor and ceiling.

Street: A public thoroughfare which has been dedicated or deeded to the public for public use and which affords principal means of access to abutting property.

Street Line: The dividing line between a street right-of-way and property line of a lot.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, mobile homes, aboveground swimming pools, radio towers, sheds, signs and storage bins, but excluding sidewalks and paving on roads, driveways, parking areas and patios.

- A. **Temporary Structure.** A structure permitted to exist during periods of construction, special events, and other limited time periods.
- B. **Tent or Carport Shelter.** A structure consisting of canvas or the like supported by poles and fastened by cords or pegs driven into the ground, and not intended for permanent use on a site.

Substandard Lot: A lot of record or a lot which is described in a land contract or deed executed and delivered before the designation of a high-risk erosion area and which does not have adequate depth to provide the minimum required setback from the bluff line for a permanent structure. The term also means those lots which are legally created after the designation of a high-risk erosion area which have sufficient depth to meet setback requirements for permanent structure, but which subsequently become substandard due to erosion.

Article 2
Definitions

Swimming Pool: A fabricated or artificially formed body of water retained within a manufactured or fabricated structure.

Tavern (Pub): An establishment licensed by the State of Michigan to sell at retail and serve alcoholic beverages on the premises where less than thirty percent (30%) of the gross floor area is made up of a bar, being a barrier or counter at which any alcoholic beverages are sold or served to and consumed by customers, and also including areas dedicated for the use of stages, dance floors, standing-room areas, pool tables, and other mechanical amusement devices.

Temporary Use or Building: A use, building or structure permitted by procedures established in this Ordinance, to exist during a specified period of time.

Tourist Home: See short-term rental.

Traffic Impact Assessment: A study that assesses the impacts of a proposed development on the existing and future multi-modal transportation network. The study must recommend mitigation measures for the anticipated impacts and must analyze the adequacy of the development's planned access points.

Truck Terminal: The use of land or buildings for the temporary parking of motor freight vehicles or trucks of common carriers, during loading and unloading and between trips, including necessary warehouse space for storage of transitory freight.

Undeveloped State: Land in a natural condition; preserving natural resources, natural features or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state shall not include a golf course, but may include passive recreational facilities; including recreational trails, picnic areas, children's play areas, greenways or linear parks. Land in an undeveloped state may be, but it not required to be, dedicated to the use of the public.

Use: The purpose, for which land, premises, or a building thereon, is designed, arranged or intended or for which it is occupied maintained, let or leased.

Variance: A modification of the literal provisions of the Zoning Ordinance, granted by the Zoning Board of Appeals, when standards established in Article 3 "General Provisions" and Article 5 "Review and Decision Making Bodies" of this Ordinance have been met. These standards seek to ensure that no variance is granted unless: (a) strict enforcement of the Zoning Ordinance would cause practical difficulty; (b) it would not be contrary to the public interest, (c) there are circumstances unique to the individual property on which the variance is granted, and (d) the variance request is not due to actions of the applicant.

Veterinary Clinic or Hospital: An office of a duly licensed veterinary professional for diagnosis, treatment, surgery and other veterinary care of domestic animals, horses, livestock and other animals.

Walls:

- A. **Decorative.** A screening structure wall of definite height and location constructed of an aesthetically pleasing masonry or rock material, such as face brick, stone or decorative block.

Article 2
Definitions

- B. **Obscuring.** An obscuring structure of definite height and location constructed of masonry, concrete or similar material.

Wetland: Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the land surface or the land is saturated with or covered by water. Some wetland areas are more commonly referred to as bogs, swamps or marshlands. Wetlands shall also have one (1) or more of the following attributes:

- A. At least periodically, the land supports predominantly hydrophytes.
- B. The substrate is predominantly un-drained hydric soil.
- C. The substrate is saturated with water or covered by shallow water at some time during the growing season of each year.

Wetlands, Regulated: Certain wetlands as regulated by the Michigan Department of Environmental Quality (MDEQ), that have any of the following characteristics:

- A. Contiguous to an inland lake, pond, river or stream;
- B. Not contiguous to an inland lake, pond, river or stream, and more than five (5) acres in size;
- C. Other wetlands where the MDEQ determines, with notification to the land owner, that protection is essential to preserve natural resources of the state from pollution, impairment or destruction.

Wind Turbine: Any of the various machines used to produce electricity by converting the kinetic energy of wind to rotational, mechanical, and electrical energy. Wind turbines consist of the turbine apparatus (motor, nacelle, tower) and any other buildings, support structures, or other related improvements necessary for the generation of electrical power.

Wind Energy System: Onsite wind energy system means a land use for generating electric power from wind and is an accessory use that is intended to primarily serve the needs of the consumer at that site.

Wireless Communication Facility: All structures, equipment and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals.

- A. **Abandoned Tower or Antenna.** An antenna that is not operated for a continuous period of twelve months or a tower constructed or maintained without an operational antenna shall be considered abandoned.
- B. **Alternative Tower Structure.** Man-made trees, clock towers, bell steeples, utility poles, flagpoles and similar decorative structures that camouflage or conceal the presence of antennas or towers.
- C. **AM Array.** One or more tower units with a supporting ground system that function as one AM broadcasting antenna shall be considered as one tower with a perimeter equaling the smallest rectangular figure that can encompass all elements associated with the array. Setbacks and other distances shall be measured from this perimeter. Additional tower units may be added within the perimeter of an approved array by right.
- D. **Amateur Radio Antenna.** An antenna and associated support structure that is owned and operated by a federally licensed amateur radio station operator for personal use.
- E. **Antenna.** Any exterior transmitting or receiving device mounted on a tower, structure and used in communications that radiates or captures electromagnetic

Article 2
Definitions

- waves, digital or analog signals, radio frequencies (except radar) or other wireless communication signals.
- F. Backhaul Network. The lines that connect a provider's towers or antennas to one or more switching offices, long-distance providers or public-switched telephone network.
 - G. Co-Location. The location of two (2) or more wireless telecommunication facilities on a common structure, tower or building.
 - H. Equipment Enclosure. A dedicated and secured area for the placement of accessory structures and equipment associated with a wireless communications facility.
 - I. Satellite Dish. An antenna structure designed to receive from or transmit to orbiting satellites.
 - J. Tower. A structure, and any support thereto, designed primarily for the purpose of supporting one or more antennas for wireless communication purposes, including, but not limited to monopoles, lattice towers, light poles, wood poles and guyed towers and other structures.

Yards: An open space of prescribed width or depth on the same zoning lot with a building or group of buildings between the building or group of buildings and the nearest lot line, and is unoccupied from the ground upward except as otherwise provided herein.

- A. Front Yard. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between any front lot line or road right-of-way and the nearest point of the principal building.
- B. Rear Yard. The yard directly opposite the designated front yard; or an open space 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.
- C. Required Yard. An open space or yard area that conforms to the requirements of this Ordinance for yard, setback or other open space requirements.
- D. Side Yard. An open space extending from the front yard to the rear yard on the side of the principal building between the building and the side lot line, the width of which is the minimum horizontal distance between the side lot line and the nearest point of the principal building.

Zoning Administrator: The person or persons designated by the Village to administer this Zoning Ordinance on a day-to-day basis, including but not limited to processing applications, providing staff support to the Planning Commission or Zoning Board of Appeals, sending notices of public hearings, and similar work.

Zoning Board of Appeals: The Zoning Board of Appeals is the Village Council for the Village of Port Sanilac, Michigan.

Zoning Permit: A document signed by the Zoning Administrator according to procedures established in this Ordinance, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, that indicates that a site plan, plot plan, and/or other zoning application or request for special zoning approval or variance for a use, structure or building has been reviewed and determined to comply with the requirements of this Ordinance or has been granted a variance there from.

Article 3
General Provisions

**ARTICLE 3
GENERAL PROVISIONS**

SECTION 3.1: PURPOSE

3.1.1 Purpose: It is the purpose of this Article to establish general regulations for lots, uses, and activities that relate to accessory uses, dimensional standards, various exceptions, and aspects of land use and design that are not addressed in other Articles of this Zoning Ordinance. These provisions will help prevent environmental degradation, poor health or safety conditions, and nuisance-like effects on abutting properties.

SECTION 3.2: THE EFFECT OF ZONING

3.2.1 The Effect of Zoning: Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance. Only uses specifically permitted by right or by special approval use permit in a particular zoning district may be established on a parcel. All other uses may be permitted only if the Ordinance has been amended to permit them or by means of approval of a Planned Unit Development (PUD) by the Village Council.

3.2.2 Zoning Runs with the Land: Zoning approval runs with the land, not with the property owner.

SECTION 3.3: ACCESSORY BUILDINGS AND STRUCTURES

3.3.1 Purpose: This section regulates buildings and structures that are incidental to principal uses and buildings to prevent them from becoming the predominant element of the site. The standards provide for necessary access around structures, help maintain privacy to abutting lots, and maintain open front setbacks. The standards of this section apply to all accessory buildings and structures unless otherwise expressly stated.

3.3.2 General Standards:

- A. No accessory structure shall be erected, constructed, or placed upon a lot without a principal structure.
- B. Accessory buildings shall be architecturally consistent with the primary structure on the lot.
- C. Where any accessory building or structure is attached to a principal building, such accessory building or structure shall be considered part of the principal building and shall be subject to and must conform to all regulations of this Ordinance applicable to the main building regardless of whether the accessory building was constructed as a detached building and then attached.

3.3.3 Placement on Lot:

- A. Location in Yards: All accessory buildings/structures shall be located in the rear or side yard of the lot except when attached to the main building in one- and two-family dwellings.
- B. Relationship to the Main Building: No detached accessory building/structure shall be located closer than six (6) feet to any main building.

Article 3
General Provisions

- C. Accessory Building/Structure Setback from Rear and Interior Side Lot Lines: No detached accessory building shall be located closer than six (6) feet to any interior side or rear lot line.
- D. Detached Accessory Building/Structure Setback – Alleys: Where the rear lot line is coterminous with an alley right-of-way, a detached accessory building shall not be closer than six (6) feet to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right-of-way.
- E. Detached Accessory Building/Structure Side Setback on Corner Lot:
 - 1. When an accessory building is located on a corner lot, the side setback for said building shall be ten (10) feet.
 - 2. When an accessory building is located on a reversed corner lot, the side lot line of which is substantially a continuation of the front lot line on the lot to its rear, the side setback for said building shall be equal to setback of the residence/building of the adjoining lot or the front yard setback of the district, whichever is less.
- F. Accessory Building/Structure on Waterfront Lots:
 - 1. Accessory buildings/structures on waterfront lots shall adhere to the requirements in Article 15.
 - 2. Detached garages are permitted in the front yard (street side) of waterfront lots and shall adhere to the setbacks of the district.
- G. Accessory Building/Structure on Through Lots: The setback of an accessory building on a through lot shall be equal to the largest setback of the principal structure of each adjoining lot along a common street or equal to the setback of the district in which it is located, whichever is less.

3.3.4 Accessory Building/Structure Size:

- A. Residential accessory buildings shall not occupy more than twenty-five (25) percent of a required rear yard.
- B. In a residential district, the combined area of all accessory buildings on a zoning lot shall not exceed the ground floor area of the principal building or a maximum square footage of twelve-hundred (1,200) square feet, whichever is less.

3.3.5 Accessory Building/Structure Height: No detached accessory building in R- 1, R-2, RMF, and A-R districts shall exceed the height of the principal building.

3.3.6 Gazebos:

- A. A gazebo must be an open (“see through”) structure with no length or width dimension exceeding fifteen (15) feet; the height must not exceed fifteen (15) feet.
- B. Gazebos are permitted in the front yard, rear, or side yards and must meet the side and rear setback requirements of the zoning district. Gazebos must meet the front yard setback requirements for a primary structure of the district in which it is located.
- C. A minimum total front yard depth of fifty (50) feet is required for a gazebo to be placed in the front yard. The gazebo shall not occupy more than ten (10) percent of a contiguous yard which is not separated by a driveway.

3.3.7 Nontraditional Storage Facilities: Truck bodies, school bus bodies, mobile homes, travel trailers, or other items built and intended for other uses shall not be used as permanent accessory buildings. Semi-trailers may be used as temporary storage for commercial and industrial uses in the commercial and industrial districts in the rear yard only. In a commercial zone, semi-trailers used as temporary storage must be screened from visibility from all public rights-of-way including streets or alleys.

Article 3
General Provisions

3.3.7 Accessory Building as a Dwelling: No detached accessory building or structure shall be used for dwelling purposes unless otherwise permitted in this Ordinance.

3.3.9 Fences, Walls or Screens: Fences, walls or screens of not more than six (6) feet in height are permitted in all yards. Fences, walls or screens made of living plant material shall not be subject to this provision.

3.3.10 Satellite Dish Antennas, Antennas and Similar Structures: Satellite dish antennas, television antennas, amateur radio antennas, and other structures similar in size, shape and function are permitted in all zoning districts subject to the following:

- A. Two satellite dish antennas shall be allowed per lot or parcel.
- B. All satellite dish antennas, amateur radio antennas, and other similar structures shall satisfy the minimum yard setback requirements.
- C. Satellite dish antennas are subject to accessory building height limitations.

SECTION 3.4: ARCHITECTURAL DESIGN AND CHARACTER

3.4.1 Architectural Design: Architectural design is a key element in establishing a sense of place for a community. Buildings of high quality contribute to the attractiveness and economic well-being of a community, making it a better place to live and work. The Village recognizes the importance of good architecture and its lasting impact. The objective of architectural design standards is to direct builders toward creating buildings of timeless character that are in harmony with the natural and built environment.

The architectural design standards of the Village are intended to customize, simplify, and streamline improvements, renovations, and future development to fit the desired character of the community, and to be consistent with the vision and goals for the Village as detailed in the Village of Port Sanilac Master Plan.

3.4.2 Design Principles and Area Character:

- A. The street, driveway, and sidewalk pattern in the community shall be designed to maximize auto, pedestrian, and bicycle connectivity.
- B. Visibility of building fronts shall be considered based upon pedestrian scale – not automotive drive-by scale.
- C. Developments shall have a unifying design. Corporate “franchise” architecture that is not compatible with the established character within the Village, in the determination of the Planning Commission, shall be modified to be compatible with the community character and theme herein.
- D. Any building erected in a commercial zoning district shall be in harmony with the exterior design and appearance of existing buildings in the surrounding area. The term “in harmony with,” as used in this section, means consistency with the existing, surrounding community character of a particular neighborhood or area. The standards herein contained are intended to prevent buildings which would adversely affect the value of buildings in the surrounding area, adversely affect the desirability of an area to existing or prospective property owners, impair the stability of the environment, prevent the most appropriate use of real estate and lessen the opportunity to realize the development pattern envisioned in the Village Master Plan and other approved Village plans.

Article 3
General Provisions

SECTION 3.5: BOAT HOUSES

3.5.1 Boat Houses: No front yard shall be required as set forth in the district in which it is located for any boat house constructed adjacent to Lake Huron, the front yard being in this case that part of the yard adjacent to the water. The boat house shall not exceed six hundred (600) square feet in area; shall have a minimum setback of five (5) feet from the side lot line and shall be set back from the harbor line as established by the United States Corps of Engineers and/or Michigan Department of Environmental Quality. A zoning compliance permit and building permit are required for a boat house.

SECTION 3.6: BOUNDARIES

3.6.1 Boundaries: No new lot boundaries of an already existing site may be established less than eight (8) feet from a building on such a building site.

SECTION 3.7: BUILDING PERMITS

3.7.1 Building Permits: No excavation for construction shall be commenced and no structure shall hereafter be erected, enlarged, altered or reconstructed until a Building Permit has been issued by the Building Official. No Building Permit shall be issued until other permits required by this Ordinance have been obtained.

SECTION 3.8: BURIAL OF DEBRIS ON PREMISES

3.8.1 Burial of Debris on Premises: Trash, debris, garbage, junk, vehicles, equipment, etc., shall not be buried on premises other than those appropriately licensed and approved. Biodegradable material generated on an owner's agriculturally zoned premises may be disposed of thereon if such disposal complies with MDNR, EPA, Department of Agriculture and Sanilac County Health Department Regulations.

SECTION 3.9: COMMUNICATION TOWERS

3.9.1 Purpose: Changing technology in the field of communication has resulted in reliance upon more versatile and convenient forms of communication. Businesses, individuals and government have developed a strong dependence upon the ability to quickly contact others. The use of radios and cellular phones has proven themselves over and over again in emergency situations.

3.9.2 Special Approval Use Permit Required: Communication towers may be permitted by the Planning Commission after a public hearing and review of the proposed site plan, and subject to the general standards to guide the actions of the Planning Commission as specified in Article 17 "Special Land Use Regulations." Applicants should follow the application and review requirements detailed in Section 17.3.

3.9.3 Minimum design and development standards: See Section 17.10.35 for special land use standards.

SECTION 3.10: CONFLICTING REGULATIONS

Article 3
General Provisions

3.10.1 Conflicting Regulations: Whenever any provisions of this Ordinance impose more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or Ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or Ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or Ordinance shall govern. Procedural and jurisdictional requirements of the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, shall always control and govern.

SECTION 3.11: ENVIRONMENTAL IMPACT STATEMENT

3.11.1 Environmental Impact Statement: The Planning Commission may require an Environmental Impact Statement (EIS), at the expense of the applicant, for any residential, commercial or industrial development before approving a required site plan or making a decision upon a request for Planned Unit Development. An EIS prepared for another public agency may be acceptable. Said statement should analyze the impact of the proposed development on utility systems, fire, police and school services, solid waste disposal, soils, air, groundwater, floodplain, wetland and similar water courses and drainage, noise levels and added traffic which might affect existing land uses or neighborhoods negatively, and other similar factors which may be unique to a specific proposal. The Planning Commission shall review the impact statement to determine if any proposed impacts would result in pollution, impairment or destruction of the environment over the threshold established in Part 17 of the Michigan Natural Resources and Environmental Protection Act (Public Act 451 of 1994), as amended, or greater than existing level of service standards applicable to services and facilities provided in the Village.

SECTION 3.12: ESSENTIAL SERVICES AND MUNICIPAL FACILITIES

3.12.1 Essential Services:

- A. The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, water towers, poles, street lighting, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in connection therewith, but not including communication towers, which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health, safety or general welfare is permitted in any zoning district.
- B. Notwithstanding the exceptions contained in the immediately preceding sentence:
 - 1. Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall six (6) feet high and adequate to obstruct passage of persons or materials.
 - 2. Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform to the general character of the architecture of the surrounding neighborhood.

3.12.2 Municipal Services: Article 9 establishes the zoning districts and authorized

Article 3
General Provisions

uses for municipal facilities in the Village of Port Sanilac. All buildings, structures and/or uses owned or operated by a local, state or federal agency require review and approval of a site plan by the Village Planning Commission prior to construction or alteration, except as provided below or when preempted by statute. Separate standards exist for many of these uses in the specific districts and in the provisions for special land uses in Article 17.

- A. Buildings, structures, facilities and/or uses owned or operated by the Village of Port Sanilac are exempt from the provisions of this Ordinance.

SECTION 3.13: GREENBELTS

3.13.1 Greenbelts: Adequate greenbelts and/or screening barriers that meet site specific needs shall be established and maintained between unlike district boundaries, between roadways and site and between developed industrial sites. The Planning Commission may, at its discretion, require such buffers between commercial sites.

SECTION 3.14: HOME OCCUPATIONS

3.14.1 Intent: Some types of work can be conducted at home with little or no effect on the surrounding neighborhood. The home occupation regulations of this subsection are intended to permit residents to engage in customary home occupations, while ensuring that such home occupations will not be a detriment to the character and livability of the surrounding area. The regulations require that home occupations (an accessory use) remain subordinate to the allowed principal use (residential) and that the residential viability of the dwelling unit is maintained.

3.14.2 Uses Allowed: The home occupation regulations of this subsection establish performance standards rather than detailed lists of allowed home occupations. Uses that comply with all of the standards of this subsection will be allowed as home occupations unless they are specifically prohibited. The home occupation must be clearly subordinate and incidental to the use of the dwelling as a residence.

3.14.3 Prohibited Uses: Prohibited home occupations include, but are not limited to, the following:

- A. Animal hospitals and animal boarding facilities are not allowed as home occupations. This includes kennels, commercial stables and all other types of animal boarding facilities.
- B. Medical or dental offices.
- C. Construction businesses which provide the storage of goods, equipment and materials to be utilized in the operation of the business or use. This does not include landscaping businesses.
- D. Warehousing.
- E. Welding or machine shops.
- F. Any use involving the distribution of firearms or the storage of firearms intended for sale or distribution.
- G. Dispatch centers, where employees come to the site to be dispatched to other locations, are not allowed as home occupations.

3.14.4 Where Allowed: Home occupations that comply with the regulations of this section will be allowed as an accessory use to any permitted residential use.

Article 3
General Provisions

3.14.5 Space Limitations: Not more than one-fourth (1/4) of the living area of the dwelling unit and less than one-half (1/2) of the living area of the main floor shall be devoted to the home occupation. No part of an accessory structure, either attached or detached shall be used. In no instance shall the occupation reduce the actual living space below that established as the current minimum requirement in the district involved.

3.14.6 Conformance with Zone District Requirements: The dwelling shall conform to all its zone district requirements.

3.14.7 Resident Operator: The operator of a home occupation must be a full-time resident of the subject dwelling unit and be on the premises during the hours of operation of the home occupation.

3.14.8 Exterior Alterations:

- A. Home occupations shall not require exterior alterations or involve construction features not customary in dwellings, or require the use of mechanical or electrical equipment which shall create a nuisance to adjacent residential dwellings.
- B. No new external entrances to the space devoted to the occupation shall be created.

3.14.9 Interior Alterations: Any permanent structural alterations to the interior of the dwelling unit for purposes of conducting a home occupation which would render it unsuitable for residential use shall be prohibited.

3.14.10 Outdoor Storage: There shall be no outdoor storage of items supportive of the home occupation.

3.14.11 Parking: The activity shall not require any additional parking.

3.14.12 Customers, Clients, Students or Patients: No more than three (3) customers, clients, students or patients shall be on the premises in which a home occupation is located at any one time.

3.14.13 Hours of Operation:

- A. Visits by customers, clients, students or patients to the premises in which a home occupation is located shall be limited to the hours of 7:00 a.m. to 8:00 p.m.
- B. Deliveries or pick-ups of supplies or products associated with home occupations are allowed only between 7:00 a.m. and 8:00 p.m. Vehicles used for delivery and pick-up are limited to those normally servicing residential neighborhoods. Tractor-trailers are expressly prohibited.

3.14.14 Operational Impacts: No home occupation or equipment used in conjunction with a home occupation may cause odor, vibration, noise, electrical interference or fluctuation in voltage that is perceptible beyond the lot line of the lot upon which the home occupation is conducted. No hazardous substances may be used or stored in conjunction with a home occupation.

3.14.15 Traffic: No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood.

3.14.16 Home Occupations-Medical Use of Marijuana and Facility Requirements:

Article 3
General Provisions

A. Findings: The Village of Port Sanilac makes the following findings in support of its determination that the regulation of registered primary caregivers as a permitted home occupation is consistent with the purposes and intent of the Michigan Medical Marijuana Act (“MMMA”):

1. The acquisition, possession, cultivation, use, delivery or distribution of marijuana to treat or alleviate a debilitating medical condition is prohibited except in compliance with the Michigan Medical Marijuana Act (“MMMA”) of 2008 and applicable provisions of the Village of Port Sanilac Zoning Ordinance.

2. A registered primary caregiver, operating in compliance with the MMMA General Rules, the MMMA and the requirements of this subsection, is appropriate as a home occupation, as regulated by this subsection.

3. This ordinance is to make a uniform process and standards to be consistent with and promote the intent and purpose of proper and lawful zoning to ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. These standards are also adopted to ensure that the land use or activity is consistent with the public health, safety, and welfare of all residents of the Village of Port Sanilac through a request for approval of a land use by application and the zoning permit process.

4. The Michigan Supreme Court has held and the MMMA does allow for the zoning of medical caregivers as a home occupation.

5. The MMMA’s protections are limited to individuals suffering from serious or debilitating medical conditions or symptoms, to the extent that the individuals’ marijuana use is carried out in compliance with the provisions of the MMMA, including the provisions related to the operations of registered primary caregivers.

6. The MMMA’s definition of “medical use” of marijuana includes the “transfer” of marijuana “to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating medical condition,” but only if such “transfer” is performed by a registered primary caregiver who is connected with the same qualifying patient through the registration process established by the Department of Licensing and Regulatory Affairs, and who is otherwise operating in strict compliance with the MMMA and the MMMA General Rules.

7. The MMMA provides that a registered primary caregiver may assist no more than five qualifying patients with their medical use of marijuana.

8. The MMMA does not, therefore, create a new vocation for entrepreneurs or others who wish to engage in the sale of marijuana to more than five persons in a commercial setting. Instead, the MMMA is directed at improving the health and welfare of qualifying patients through caregivers licensed by the State of Michigan.

9. The health and welfare of qualifying patients is improved by permitting the operations of registered primary caregivers as a home occupation, because this allows qualifying patients who suffer from serious or debilitating medical conditions or symptoms to obtain

Article 3
General Provisions

the benefits of the medical use of marijuana in a residential setting, without having to unnecessarily travel into commercial areas.

10. By permitting the operations of registered primary caregivers as a home occupation, rather than in a commercial or other zoned setting, promotes the MMMA's purpose of ensuring that (i) a registered primary caregiver is not assisting more than five qualifying patients with their medical use of marijuana, and (ii) a registered primary caregiver does not unlawfully expand its operations beyond five qualifying patients, so as to become an illegal commercial operation, in the nature of a marijuana collective, cooperative or dispensary.

11. The MMMA does not foreclose all local regulation of marijuana or zoning and the Village has authority to regulate land use under the Michigan Zoning Enabling Act (MZEA), Public Act 110 of 2006 as long as (1) the municipality does not prohibit or penalize the cultivation of medical marijuana and (2) the municipality does not impose regulations that are unreasonable and inconsistent with regulations established by state law.

12. An enclosed locked growing facility may be found in various locations on various types of property, and vary in size, structure, type and have an impact on neighboring property owners unless regulated through limiting where medical marijuana must be cultivated within a locality, which does not conflict with the statutory requirement that marijuana plants be kept in an enclosed, locked facility.

13. A local unit of government may provide by zoning ordinance for the regulation of land development which regulate the use of land and structures to meet the needs of the state's citizens for compatibility of places of including residential land uses to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land, and eliminate nuisances in order to promote public health, safety, and welfare.

14. The Village Council has been made aware and find there are complaints of land use, noise, smell, and dangerous structures related to growing marijuana, and this land use regulation is consistent with the MMMA's purposes to allow caregivers to grow in enclosed facilities in a residential setting, balanced with local government's responsibility and authority to regulate the compatible use of land under the Michigan Zoning Enabling Acts and State Building Codes.

15. In adopting reasonable standards, the Village of Port Sanilac is using its long-held authority to zone property and land uses now codified under the MZEA to craft an ordinance that does not directly conflict with the MMMA's provision requiring that marijuana be cultivated in an enclosed, locked facility while requiring zoning and building permits for the use of buildings and structures within its jurisdiction in order to ensure that the land use or activity is consistent with the public health, safety, and welfare of all residents including adjacent property owners in the Village of Port Sanilac.

16. For purposes of this Ordinance, the term dwelling is a building or portion of a building designed or used for residential living and sleeping. A dwelling does not include a vehicle, tent, or other transient residential uses.

B. Permitted Zones and Standards: The following standards and requirements shall

Article 3
General Provisions

apply to the location at which the medical use of marijuana is conducted by a primary caregiver:

1. The medical use of marijuana through caregivers must comply with this section and the standards set forth under section 3.14.

2. It is unlawful to establish or operate a for-profit or nonprofit marijuana dispensary, Collective, Commercial Use or Cooperative or Provisioning Center within the Village of Port Sanilac.

3. Any and all types of a “marihuana establishment,” as that term is defined and used in Michigan Initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marihuana Act, are completely prohibited in the Village, and may not be established or operated in any zoning district, by any means, including by way of a variance. Any and all types of “marihuana facilities” as described in Act 281 of 2016, the Medical Marihuana Facilities Licensing Act are completely prohibited in the Village and may not be established, licensed or operated in any zoning district, by any means, including by way of a variance.

4. The use of the dwelling or other permitted facility of a qualifying patient to cultivate medical marijuana in accordance with the MMMA, solely for personal use, does not require a permit under this subsection; however, all applicable State of Michigan requirements must be met. The provisions of this section do not apply to the personal use and/or internal possession of marijuana by a qualifying patient in accordance with the MMMA, for which a permit is not required.

5. Home occupations by caregivers under the Michigan Medical Marijuana Act (“MMMA”) of 2008 shall be allowed in all residential zones (zoning districts).

6. This section regulates land use as home occupation and allows for the medical use of marijuana by a registered primary caregiver with limitations on where the caregiver may cultivate marijuana within the Village of Port Sanilac including geographical and facility requirements, thereby complementing the limitations imposed by the MMMA; and is not intended to directly conflict with the MMMA nor does this ordinance contribute to a blanket prohibition on the medical use of marijuana with respect to time, place, and manner of such use.

7. Under this section, Home Occupation is defined as an occupation or profession conducted entirely within a dwelling, except for an enclosed locked facility in compliance with this ordinance and the MMMA which is clearly incidental and secondary to the residential use of the lot, does not change the character of the dwelling, and meets all applicable provisions of this ordinance.

8. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference which interferes with neighboring parcels use and quiet enjoyment of land. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises or interferes with neighboring parcels use and quiet enjoyment of land.

9. A registered primary caregiver may only receive compensation for costs associated

Article 3
General Provisions

with assisting a registered qualifying patient in the medical use of marihuana to the extent allowed by MMMA. Any such compensation does not constitute the sale of controlled substances.

10. The home occupation shall not have more than 1 primary caregiver per dwelling; however, an owner of a dwelling may apply for a special exception for one (1) additional primary caregiver per parcel who also occupies the residential dwelling. The applicant shall apply to the Village Planning Commission. All requirements of this section for the additional primary caregiver shall apply. Not more than two (2) registered primary caregivers, who shall also be full-time residents of the dwelling, shall be permitted to operate at any one property.

11. A primary caregiver may assist no more than 5 qualifying patients with their medical use of marihuana or as otherwise allowed under the MMMA.

12. A primary caregiver shall not transfer a marihuana-infused product to any individual who is not a qualifying patient to whom he or she is connected through the State of Michigan's registration process.

13. No outdoor storage or display of marijuana shall be permitted.

14. There shall be no change in the exterior appearance of the dwelling, or other visible evidence of the conduct of such home occupation other than a locked enclosed facility allowed under the MMMA.

15. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard, although motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created.

16. No articles used for smoking marijuana shall be sold or offered for sale on the premises. Related merchandise or products shall not be sold or distributed from the dwelling or property of the primary caregiver.

17. The home occupation shall not entail the use or storage of explosive, flammable, or otherwise hazardous waste.

18. The medical use of marijuana shall comply at all times with the MMMA and the MMMA General Rules, as amended.

19. The medical use of marijuana shall be conducted entirely within a dwelling occupied by the care giver, or attached garage, except that a registered primary caregiver may keep and cultivate, in an "enclosed, locked facility" (as that phrase is defined by the MMMA), up to 12 marijuana plants for each registered qualifying patient with whom the registered primary caregiver is connected through the registration process established by the Department of Licensing and Regulatory Affairs, and up to 12 additional marijuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA.

Article 3
General Provisions

20. A sign identifying the home occupation by word, image or otherwise, or indicating that the medical use of marijuana is taking place on the premises, shall not be permitted; nor shall any vehicle having such a sign be parked anywhere on the premises.

21. Except for lighting, heating, watering, drying or other equipment, or fertilizers, herbicides or other chemicals directly related to the medical use of marijuana, no other materials or equipment not generally associated with normal ownership, use, and maintenance of a dwelling shall be permitted.

22. Distribution of marijuana or use of items in the administration of marijuana shall not occur at or on the premises of the primary caregiver. A qualifying patient shall purchase, smoke, consume, obtain or receive possession of any marijuana on the property.

23. Except for the primary caregiver, no other person shall deliver marijuana to the qualifying patient.

24. No one under the age of 18 years shall have access to medical marijuana.

25. No on-site consumption or smoking of marijuana shall be permitted within the dwelling (or on the property) of a primary caregiver, except for lawful medical marijuana consumption by the primary caregiver if registered as a qualifying patient under the MMMA.

26. Medical marijuana shall not be grown, processed, handled or possessed at the dwelling of the primary caregiver beyond that which is permitted by law.

27. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a building, structure or facility in which equipment and devices that support the cultivation, growing or harvesting of marijuana are constructed, located or used.

28. If marijuana is grown or located in a room with windows or exterior structure, all lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.

29. The applicant shall provide on a form a zoning permit application approved by Village the following information:

a. Zoning Site Plan: Prior to construction, the property owner, agent or designee shall provide the zoning official an application and site plan which will include the location of the enclosed locked facility or any structure used to grow marijuana, the size of the structure, and the type of materials to be used in construction. The site plan shall include a plan for odor control.

b. Plumbing, mechanical, and energy plans: The property owner, agent or designee shall provide the zoning official, a plumbing, mechanical, and energy plan details of any building, facility or structure used for the growth of marijuana. The site plan shall also include the type, amount and location of stored chemicals.

Article 3
General Provisions

c. Electrical Plans and specifications. An applicant shall submit a detailed set of electrical plans and specifications with the application for an electrical permit for any wiring or alteration to an electrical system if the system requires installation of electrical equipment that has an ampacity of more than 200 amperes for the service. The electrical drawings shall include all of the following details:

- (a) Lighting layout.
- (b) Circuiting.
- (c) Switching.
- (d) Conductor and raceway sizes.
- (e) Wattage schedule.
- (f) Service location and riser diagram.
- (g) Load calculations and available fault current calculations.
- (h) A proposed method of construction that is drawn with symbols of a standard form.
- (i) The plans shall include the selection of suitable disconnect and overcurrent devices to provide proper coordination and interrupting capacity for a wiring system is the responsibility of the designer. The Village when approving electrical plans, does not assume responsibility for the design or for any deviations from any electrical drawings. The permit holder shall ensure that the plans and specifications approved by the enforcing agency, or a certified copy of the plans and specifications, where required, are available on the site for the use of the enforcing agency.
- (j) Excluded from requirements in the plans are fences, sidewalks, and paving on streets, driveways, parking areas and patios.

30. The property, dwelling and all enclosed, locked facilities shall be available for inspection upon request by the zoning administrator, building official, Fire Chief or designee or other law enforcement official.

31. Setbacks-Any portion of a building, facility or other structure, such as a cultivation room, or facility including a "Enclosed, locked facility" as defined by the MMMA, shall meet the setback requirements from adjacent property lines as defined and stated for in the residential zoning district.

32. There shall be no open burning of marijuana. Other debris burn requires a burn permit to the extent allowed by Ordinance.

33. The operations of a registered primary caregiver, as a home occupation, shall be permitted only with the prior issuance of a Village zoning permit and payment of a permit fee established by resolution of the Village Council.

34. A complete and accurate application shall be submitted on a form provided by the Village and a uniform application fee in an amount determined by resolution of the Village shall be paid:

- (a)The permit application shall include the name and address of the applicant; the address of the property; proof, such as a driver's license, voter registration card or similar record showing that the dwelling is the applicant's full-time residence; a current state registration card issued to the primary caregiver; a full description of the nature and types of equipment which will be used in marijuana cultivation and processing; the number of patients served, and a description of the location at which the use will take

Article 3
General Provisions

place.

(b) The zoning administrator may require additional information necessary to demonstrate compliance with all requirements. The zoning administrator shall review the application to determine compliance with this ordinance, the MMMA and the MMMA General Rules.

(c) A permit shall be granted by the zoning official if the application demonstrates compliance with this ordinance, the MMMA and the MMMA General Rules, which may include a site visit to review for compliance of any structure or facility built or to be built for the growth or storage of marijuana.

(d) The use shall be maintained in compliance with the requirements of this ordinance the MMMA and the MMMA General Rules. Any departure shall be grounds to revoke the permit and take other lawful action. If a permit is revoked, the applicant shall not engage in the activity unless and until a new permit is granted.

(e) Information treated as confidential under the MMMA, including the primary caregiver registry identification card and any information about qualifying patients associated with the primary caregiver, which is received by the Village, shall be maintained separately from public information submitted in support of the application be distributed or otherwise made available to the public and shall not be subject to disclosure.

35. Violations as nuisance per se. Except as otherwise provided by law, a use of land or a dwelling, building, or structure, including a facility used to grow or store marijuana in violation of this ordinance is a nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se.

36. Violation of this Article shall be enforced as a nuisance pursuant to MCL 125.3407 and other applicable law in a court of competent jurisdiction. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se including the assessment of costs and fees as allowed by law or Michigan Rules of Court.

37. Appeals: Any decision of the zoning official may be appealed to the zoning board of appeals.

38. Variance. The zoning board of appeals may grant a non-use variance in the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done, consistent with the Michigan Zoning Enabling Act 110 of 2006 as amended.

41. Nothing in this Section shall limit any privileges, rights, immunities or defenses of a person as provided in the Michigan Medical Marijuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq other State of Michigan law.

42. Severability. Any section of this act being held invalid as to any person or circumstances shall not affect the application of any other section of this act that can be given full effect without the invalid section or application. (effective 1/30/2021)

Article 3
General Provisions

SECTION 3.15: LAKEFRONT PROPERTY

3.15.1 Lakefront Property: For purposes of this ordinance, the open space between the road right-of-way and the principal structure on lakefront property, shall be considered as the "rear yard" and subject to all the rear yard provisions and/or restrictions.

SECTION 3.16: LAND USE LIMITATIONS

3.16.1 Land Use Limitations: No more than one use of a parcel of land and no more than one dwelling on a parcel of land shall be permitted without the approval of the Planning Commission or a variance as the circumstances may require.

SECTION 3.17: LOADING, OFF-STREET

3.17.1 Loading, Off-Street: On the same premises with every building devoted to retail trade, retail, and wholesale food markets, warehouses, supply houses, wholesale or manufacturing trade, hotels, hospitals, laundry, dry cleaning establishments or other buildings where goods are received or shipped, erected in any district after the date of adoption of this Ordinance loading and unloading space shall be provided as follows:
A. Such businesses shall provide not less than 500 sq. ft. (10 feet x 50 feet) x 16 ft. height of off-street loading space for the first 750 sq. ft. of building floor area, plus one additional off-street loading and unloading space for each additional 1000 sq. ft. (or portion thereof) of floor area.

SECTION 3.18: LOTS OF RECORD, DIVISION OF LOTS, MERGER OF LOTS, COMBINATION OF LOTS

3.18.1 Existing Lots of Record: A lot, which is platted or otherwise of record as of the effective date of this Ordinance, may be used as specified in the zoning district in which it is located. The structure shall be located on the lot as nearly as feasible to assure compliance with all yard and setback requirements for the zoning district in which the lot is located, as determined by the Zoning Administrator.

3.18.2 Notification of the Village: The Assessor shall be notified of all property divisions. The owner of any parcel of property proposed for a split shall file a site plan and request for approval with the Assessor. If approved by the Assessor, the division must then be submitted to the Village Planning Commission for final approval.

3.18.3 Division of Lots: Neither an existing lot of record nor any lot created after the effective date of this Ordinance shall be divided except in conformance with the requirements of the Land Division Act (Public Act 288 of 1967), as amended. No land use permit or building permit shall be issued for split lots, or any construction commenced unless the suitability of the land for building sites has been approved by the Assessor.

Article 3
General Provisions

3.18.4 Splitting of Platted Property Prohibited: The division of a lot in a recorded plat is prohibited unless an application (with reasons) for splitting the platted parcel has been filed with the Assessor and the division has been approved by the Village Planning Commission.

3.18.5 Merger of the Lots: Any person seeking or required to use two or more abutting lots or one lot and a portion of an abutting lot to meet the minimum requirements of the Land Division Act (Public Act 288 of 1967), as amended, or this Ordinance for a use permitted in the zoning district where the lots are located, shall prior to any such use, enter into an agreement with the Village of Port Sanilac by which the lots or lot and portion of an abutting lot are merged and shall not be subsequently divided or used separately. The person requesting the merger shall be the owner of record of all lots or portions of lots involved. The merger agreement shall be on a form provided by the Assessor and shall be recorded with the Sanilac County Register of Deeds Office, as applicable. Any merger involving a portion of an abutting lot shall require approval of the division of such abutting lot in compliance with the preceding subsection.

3.18.6 Combination of Lots: Within any zoning district, where two or more contiguous lots each fail to comply with the area, depth and width requirements of the zoning district in which they are located and are under common ownership, such lots shall be merged for any development to the extent necessary to obtain a conforming lot or lots in such district and shall not be separated for use or development otherwise.

SECTION 3.19: MOBILE HOMES

3.19.1 Mobile Homes: Mobile homes shall not be erected, placed, moved or otherwise located in any district other than Mobile Home Subdivision or Park (MHS).

SECTION 3.20: OFF-STREET PARKING REQUIREMENTS

3.20.1 Off-Street Parking Requirements:

A. For each dwelling, business, commercial, industrial or similar building hereafter erected or altered, and located adjacent to a public highway in the Village and including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the public right-of-way that is in general adequate for the parking, loading and unloading of vehicles in proportions no less than shown on Table 3-1.

B. Such space shall be provided with safe exit to and entrance from the public thoroughfare.

C. Such exit and entrance may be combined or provided separately.

D. Approval of the location of such exit and entrance shall be obtained in writing from the County Road Commission, the Michigan Department of Transportation (MDOT) or other State of Michigan authority, and/or the Village Department of Public Works, which approval shall include the design and construction thereof in the interest of safety, adequate drainage and other public requirements.

E. A minimum of one hundred eighty (180) square feet, exclusive of drives, entrances and exits shall comprise one (1) automobile space.

F. Commercial, Agricultural-Residential and Industrial uses shall provide adequate

Article 3
General Provisions

space in the off-street parking area for turning a vehicle so that when a vehicle re- enters a public highway it shall be driven in a forward manner and not backed into said highway.

G. For those uses not specifically mentioned, the requirements of off-street parking facilities shall be in accord with a use which the Planning Commission considers is similar in type.

3.20.2 Off-Street Parking Schedule:

The minimum number of off-street parking spaces by type of use shall be determined in accordance with Table 3-1.

**Article 3
General Provisions**

**TABLE 3-1: VILLAGE OF PORT SANILAC
OFF-STREET PARKING REQUIREMENTS SCHEDULE**

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
RESIDENTIAL	
a) Residential, One-Family and Two-Family	Two (2) for each dwelling
b) Residential, Multiple family	Two (2) for each dwelling unit
c) Housing for the elderly	One (1) for each two (2) units, and one (1) for each employee. Should units revert to general occupancy, then two (2) spaces per unit shall be provided.
d) Trailer Court	Two (2) for each trailer site.
INSTITUTIONAL	
a) Places of worship	One (1) for each four (4) seats or six (6) feet of pews in the main unit of worship.
b) Hospitals	One (1) for each one (1) bed.
c) Homes for the aged & convalescent homes	One (1) for each two (2) beds.
d) Elementary & Junior high schools	One (1) for each one (1) teacher, employee, or administrator and one (1) for each ten (10) students, in addition to the requirements of the auditorium.
e) Senior high schools	One (1) for each (1) teacher, employee, or administrator and one (1) for each ten (10) students, in addition to the requirements of the auditorium.
f) Private clubs or lodge halls	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county or state fire, building, or health codes.
g) Private golf clubs, tennis clubs, or other similar uses	One (1) for each two (2) member families or individuals.
h) Golf courses open to the general public, except miniature or "par-3" courses	Six (6) for each one (1) golf hole and one (1) for each one (1) employee.
i) Stadium, sports arena, or similar place of outdoor assembly	One (1) for each three (3) seats or six (6) feet of benches.
j) Theater & auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees.
BUSINESS & COMMERCIAL	
<i>Onsite and available Municipal Parking Lots within a reasonable walking distance</i>	
a) Planned commercial or shopping center	One (1) for each three hundred (300) sq. ft. of usable floor area.
b) Auto wash	One (1) for each one (1) employee. In addition, adequate waiting space for autos shall be provided on the premises.

Article 3
General Provisions

Article 3
General Provisions

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
c) Beauty parlor or barber shop	Three (3) spaces for each of the first two (2) beauty or barber chairs and one and one-half (1 1/2) spaces for each additional chair.
d) Bowling Alleys	Five (5) for each one (1) bowling lane.
e) Dance halls, pool, or billiard parlors, roller or skating rinks, exhibition halls, & assembly halls without fixed seats.	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county or state fire building or health codes, plus one (1) per employee based upon maximum employment shift.
f) Establishments for sale & consumption on the premises of beverages, food, or refreshments.	One (1) for each three hundred (300) sq. ft. of usable floor space.
g) Furniture & appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician or similar trade, shoe repair & other similar uses.	One (1) for each eight hundred (800) sq. ft. of usable floor area. (For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein.)
h) Automobile service stations	Two (2) for each lubrication stall, rack or pit; and one (1) for each gasoline pump.
i) Laundromats & coin operated dry cleaners	One (1) for each two (2) machines.
j) Miniature or "Par-3" golf course.	Three (3) for each one (1) hole plus one (1) for each one (1) employee.
k) Mortuary establishments	One (1) for each fifty (50) sq. ft. of usable floor space.
l) Motel, hotel, or other commercial lodging establishments	One (1) for each one (1) occupancy unit plus one (1) for each one employee
m) Motor vehicle sales & service establishments	One (1) for each three hundred (300) sq. ft. of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room
n) Retail stores except as otherwise specified therein.	One (1) for each one hundred & fifty (150) sq. ft. of usable floor space.
OFFICE	<i>Onsite and available Municipal Parking Lots within a reasonable walking distance</i>
a) Banks	One (1) for each one hundred (100) sq. ft. of usable floor space.
b) Business offices or professional offices	One (1) for each three hundred (300) sq. ft. of usable floor space.

Article 3
General Provisions

c) Professional offices of doctors or similar professions	One (1) for each one hundred (100) sq. ft. of usable floor area in waiting rooms, and one (1) for each examining room, dental chair, or similar use area.
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**Article 3
General Provisions**

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
INDUSTRIAL	
a) Industrial or research establishments	Five (5) plus one (1) for every one and one-half (1-1/2) employees in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction.
b) Wholesale establishments	Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every seventeen hundred (1,700) sq. ft. of usable floor space, whichever is greater.
c) Public and Public Utility Buildings	One (1) for each employee or three hundred (300) sq. ft. of usable floor area, whichever is greater.

3.20.3 Parking Lots in Residential Districts: When in its opinion, the best interests of the community will be served thereby, the Village Council may permit temporarily or permanently the use of land in a Residential District for a parking lot where the land abuts or is across the street from a district other than a residential district, PROVIDED THAT:

- A. The lot is to be used only for parking of passenger automobiles of employees, customers, or guests of the person or firm controlling and operating the lot, who shall be responsible for its maintenance.
- B. No charge is to be made for parking in the lot.
- C. The lot is not to be used for sales, repair, work, or servicing of any kind.
- D. Entrance to and exit from the lot are to be located so as to do the least harm to the residence district.
- E. No advertising sign or material is to be located on the lot.
- F. All parking is to be kept back of the setback building line by barrier unless otherwise specifically authorized by the Village Council.
- G. The parking lot and that portion of the driveway back of the building line is to be adequately screened from the street and from adjoining property in a residence district by a hedge, fence or wall not less than four (4) feet high and not more than eight (8) feet high located back of the setback building line; all lighting is to be arranged so that there will be no glare therefrom annoying to the occupants of adjoining property in a residence district, and the surface of the parking lot is to be smoothly graded, hard surfaced and adequately drained.
- H. Such other conditions as may be deemed necessary by the Village Council to protect the character of the residential district.

SECTION 3.21: OPERATIONAL PERFORMANCE STANDARDS

3.21.1 Operational Performance Standards: All structures, uses, and activities in all zoning districts shall be used or occupied so as to avoid creating any dangerous, injurious, noxious or otherwise objectionable condition that would create adverse impacts on the residents, employees, or visitors on the property itself or on neighboring properties.

Article 3
General Provisions

3.21.2 Smoke and/or Air Pollution Control: The emission of gases, smoke, dust, dirt, and fly ash should in no manner be unclean, destructive, unhealthful, hazardous or deleterious to the general welfare. Such emission shall be in strict conformance with all applicable federal, state and county health laws pertaining to air pollution and smoke abatement.

3.21.3 Glare: Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line. 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.

3.21.4 Nuclear Radiation: Research operations shall cause no dangerous radiation at any property line as specified by the regulations of the United States Nuclear Regulatory Commission.

3.21.5 Electromagnetic Radiation: It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes that does not comply with the then current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation, except that for all governmental communications facilities, governmental agencies and government owned plants, the regulations of the interdepartmental Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission, regarding such sources of electromagnetic radiation.

3.21.6 Vibration: Operations shall cause no inherent and recurring generated vibration perceptible without instruments at any point along the property line. Temporary construction is excluded from this restriction.

3.21.7 Fire and Explosive Materials: The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with the state rules and regulations as established by the Michigan Fire Prevention Code (Public Act 207 of 1941), as amended. Any explosive as defined the Explosives Act of 1970 (Public Act 202 of 1970), as amended, shall be prohibited on site.

3.21.8 Hazardous Materials: All applicable federal, state, and local statutes, rules, regulations, and Ordinances (including, without limitation, those promulgated and/or enforced by the U.S. Environmental Protection Agency, the Michigan Department of Natural Resources and Environment, the National Institute of Health, or the Food and Drug Administration) shall apply to the treatment, storage, transportation, and disposal of any hazardous materials, hazardous wastes, or solid wastes (as such terms are defined by any of the applicable statutes, rules, regulations, or Ordinances referenced above).

3.21.9 Waste and Rubbish Dumping:

- A. No garbage, sewage, filth, refuse, waste, trash, debris, or rubbish, including cans, bottles, waste paper, cartons, boxes and crates, or other offensive or obnoxious matter shall be kept in open containers, or piled, placed, stored or dumped on any

Article 3
General Provisions

land within the district in such a manner as to constitute a nuisance or create a hazard to health, safety, morals, and general welfare of the citizens of Port Sanilac.

- B. No person shall cause or permit any materials to be handled, transported, or stored in a manner that allows particulate matter to become airborne or liquid matter to drain onto or into the ground. All materials or wastes that might cause fumes or dust or that constitute a fire hazard or that may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed, impermeable trash containers that are screened in accordance with the requirements of this Ordinance. Toxic and hazardous materials and chemicals shall be stored, secured and maintained so that there is no contamination of ground, air, or water sources at or adjacent to the site. Provisions shall be provided so that all lubrication and fuel substances shall be prevented from leaking and/or draining onto the property.

3.21.10 Noise: Emitted noise shall be so muffled or otherwise controlled, as not to become objectionable, due to intermittence, beat frequency, impulsive character (hammering, etc.), periodic character (humming, screeching, etc.) or shrillness. Sirens, bells, whistles, etc., which are maintained and utilized solely to serve a public purpose (such as fire, ambulance, police, civil warning alarms) shall be excluded from this regulation.

3.21.11 Drainage and Erosion: Every property owner in the Village shall provide adequate means for the conveyance and drainage of surface water along the street or road in front of his/her property. No land or structures may be erected or altered in such a fashion as to increase the deposit of surface water on neighboring properties. Plans for management of surface water shall be reviewed, evaluated and approved by the Zoning Administrator and the County Soil Erosion Inspector. No use or alteration of land may result in the increase or diversion of surface water to adjacent property.

3.21.12 Traffic: Traffic access and control patterns and devices shall be reviewed, evaluated and approved by the State or County Road Engineer and the Village DPW.

3.21.13 Lighting: Exterior and/or interior lighting shall be so installed that the surface of the source of light shall not be visible from any bedroom window, and shall be so arranged to reflect light away from any residential use. In no case, shall more than one foot candle power of light cross a property line five feet above the ground in a residential district.

SECTION 3.22: OPAQUE BARRIER

3.22.1 Opaque Barrier:

- A. An opaque barrier may be constructed of any of the following materials:
1. Chain link fence laced with opaque strips;
 2. Wooden fence;
 3. Natural barrier such as dense tree line or dense shrubbery;
 4. Masonry materials.
- B. *Height:* The height of the opaque barrier shall be no less than six (6) feet. When the height of a man-made barrier exceeds eight (8) feet a set back from the lot line equal to that required for a structure will be maintained.

Article 3
General Provisions

SECTION 3.23: PRINCIPAL USE

3.23.1 Principal Use: No lot zoned for residential purposes shall contain more than one (1) principal use or more than one principal structure. Commercial and industrial zoned land may contain more than one building and/or principal use provided all uses are permitted uses, and the buildings and uses meet the parking and other zoning district requirements. All business activity shall take place within an enclosed building, unless specifically authorized to be conducted outside as part of the use regulations of the district, or via special approval use standards of this Ordinance.

SECTION 3.24: PROJECTIONS IN YARDS

3.24.1 Projections in Yards:

- A. Existing buildings or structures shall be permitted to encroach upon the minimum yard area and setback requirements of this Ordinance with architectural elements that are necessary to the integrity of the structure of the building, or health or safety of the occupants such as cornices, sills, belt courses, eaves, gutters, chimneys, pilasters, balconies, outside stairways, fire escapes, and similar features, provided projections into a required yard area are no more than three (3) feet.
- B. Ramps to accommodate wheelchairs and related devices to assist the handicapped are permitted to encroach on the yard requirements of any district, provided an application for a Zoning Compliance Permit is filed with the Zoning Administrator, who shall find as a condition of issuing the requested permit that the location selected minimizes the yard encroachment while still meeting the ramp needs of the applicant. Ramps may not be covered in the portion of the front yard within the setback for the principal building.
- C. Awnings in residential districts may project into a required setback area no more than three (3) feet and in the C, CBD, and I districts no more than five (5) feet. Awnings shall be at least eight (8) feet in height. No awning shall be erected over public right-of-way.

SECTION 3.25: RAZING OF BUILDINGS

3.25.1 Razing of Buildings: No building shall be razed until a permit has been obtained from the Building Inspector who shall be authorized to require a performance bond by requiring a bid and setting the performance bond as the bid price. Said bond shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Building Inspector may, from time to time, prescribe, including filling of excavations and proper termination of utility connections. If the building is safely razed and the site cleaned as specified in the permit, then the bond shall be returned within thirty (30) days of completion of the razing. If razing is not accomplished according to the terms of the approval, then the Village shall cash the performance bond and use the money to restore the site to a safe condition. Costs in excess of the bond shall be charged back to the property owner and placed as a lien on the property if not paid in a timely fashion (see Section 4.8).

SECTION 3.26: REQUIRED YARD OR LOT

3.26.1 Required Yard or Lot: All lots, yards, parking areas, or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of

Article 3
General Provisions

the zoning district in which they are located.

SECTION 3.27: REQUIREMENTS FOR RESTORATION IN HIGH-RISK EROSION AREAS

3.27.1 Restoration in High-Risk Erosion Areas: The Village Council may allow the restoration of structures when in compliance with the terms of this Section and when restoration would not violate the spirit and intent of this ordinance. As a condition for approval of restoration plans, the Village may require:

- A. Measures which will aid in stabilizing the bluff other than the construction of erosion control devices.
- B. The use of runoff or soil erosion control techniques to prevent any acceleration erosion which may occur during restoration of the structure.
- C. The relocation of a restored principal structure further back from the eroding bluff when the Village Council determines that the structure is likely to suffer erosion damage within three years based on average annual recession rates calculated in the shore land erosion studies conducted pursuant to Part 323 (Shorelands Protection and Management) of the Natural Resources and Environmental Protection Act (Public Act 451 of 1994), as amended. The lawful disposal of all debris resulting from the damage or from the restoration of a principal structure in a manner such that the debris poses no safety or health hazard.
- D. The Zoning Board of Appeals may impose other conditions on the restoration of nonconforming principal structures, provided these conditions are consistent with the intent of this Ordinance and consistent with the promotion of the public health, safety and welfare.

SECTION 3.28: SITE CONDOMINIUMS

3.28.1 Purpose: Condominiums permitted in the State of Michigan by the Condominium Act (Public Act 59 of 1978), as amended, are subject to state and federal regulations and the requirements of this section. The following specific requirements provide regulatory standards for site condominiums similar to those required for projects developed under other forms of ownership. This section is not intended to prohibit or treat a proposed or existing condominium project different from a project developed under another form of ownership.

3.28.2 Applicability of District and Other Zoning Regulations: Site condominium projects in any residential district shall comply with all setback, height, coverage and area restrictions in Article 8 "Schedule of Regulations," in the same manner as those standards would be applied to platted lots in a subdivision. All landscaping, parking, sign and similar standards and requirements of this Zoning Ordinance shall apply to site condominium projects.

3.28.3 Applicability of Private Road Requirements: Private roads and access points within site condominiums must meet the road design, construction and maintenance requirements of the Village DPW and the Sanilac County Road Commission. Site condominium projects with public streets shall meet the standards of the Village DPW and the Sanilac County Road Commission.

3.28.4 Site Condominium Project Approval Procedures: Prior to recording the master deed as required by Section 72 of the Condominium Act (Public Act 59 of 1978),

Article 3
General Provisions

as amended, all projects shall undergo condominium subdivision plan review and approval pursuant to this Ordinance. Processing will be in accordance with the review and approval procedures for the processing of Special Land Use Permits detailed in Article 17. Prior to approval of the condominium subdivision plan, the Planning Commission shall consult with the following persons and/or organizations regarding the adequacy of the master deed, deed restrictions, utility systems, roads and streets, site layout and design, and other pertinent requirements of the Condominium Act (Public Act 59 of 1978), as amended, and this Ordinance:

- A. Village Legal Counsel;
- B. The Sanilac County Health Department;
- C. The Sanilac County Road Commission;
- D. Michigan Department of Environmental Quality; and
- E. Other governmental entities as appropriate.

3.28.5 General Requirements:

- A. A letter of application shall be submitted in conjunction with any proposals for approval of site condominiums. The applicant shall pay a reasonable fee to be determined by the Village Council based upon the scope and complexity of the project. The fee shall approximate the costs incurred by the Village in the project review process including the cost of associated legal review. The fee so determined shall be in addition to the standard special land use permit application fee that shall have application to all site condominium proposals and which shall be paid prior to commencement of any Village action on the application.
- B. No construction or other development work shall be done upon the land intended to be used for a site condominium until a final site plan has been approved in accordance with Article 16 except with the express permission of the Planning Commission. This requirement shall include contractible, conversion, and expandable site condominiums.
- C. All zoning and special approval land use permit requirements of this Ordinance have application to buildings and structures on and uses of site condominium units.
- D. The Planning Commission shall have the authority to approve, approve with conditions, or deny approval of preliminary and final site plans for site condominiums based upon requirements of this Ordinance and the Michigan Condominium Act (Public Act 59 of 1978), as amended.
- E. Each condominium unit shall be located in a zoning district that permits the proposed use.
- F. Each site condominium unit shall comply with all requirements of the zoning district in which the unit is located. In the case of site condominiums containing single-family detached condominium units, no more than one (1) single-family dwelling unit shall be located on a condominium unit, nor shall a dwelling unit be located on a condominium unit with any other principal structure or use. Required setbacks shall be measured from the boundaries of the condominium unit. Any established ground floor coverage and floor area ratio shall be calculated using the area of the condominium unit. These requirements shall be made a part of the bylaws and recorded as part of the master deed.
- G. Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents as provided in Section 48 of the Condominium Act (Public Act 59 of 1978), as amended, shall comply with all requirements of the zoning district in which located and shall be approved by the Planning Commission. These requirements shall be made a part of the bylaws and recorded as part of the master deed.

Article 3
General Provisions

3.28.6 Site Plan Requirements:

- A. Every application involving a site condominium shall be accompanied by a minimum of two (2) paper copies and a digital copy of a site plan prepared pursuant to Article 16 "Site Plan Requirements." The Zoning Administrator may require additional copies of a site plan.
- B. The applicant shall consult with the Sanilac County Health Department (water and sewer issues), the Sanilac County Road Commission (road and street design, drainage, and access issues), and the Michigan Department of Environmental Quality (floodplain issues) during the project development process. Documentation of such consultation and any comments received shall be provided to the Planning Commission for their review and consideration. The Planning Commission shall not approve a final site plan until it is satisfied that any issues raised by these organizations have been adequately addressed.

3.28.7 Revision of Condominium Subdivision Plan: Should the applicant wish to revise the condominium subdivision plan, the final site plans shall be revised accordingly and submitted for Planning Commission review and approval before any necessary permits will be issued.

3.28.8 Amendment to Master Deed or Bylaws: Any amendment to a master deed or bylaws that affect the approved site plan shall be reviewed and approved by the Planning Commission before any necessary permits will be issued. The Planning Commission shall also review any amended site plan if, in the judgment of the Planning Commission, such changes in the master deed or bylaws require corresponding changes in the approved site plan.

3.28.9 Relationship to Subdivision Requirements: All site condominiums shall conform to any plan preparation requirements; design, layout, and improvement standards; and any financial guarantees that are required by this Ordinance or that may become requirements of this or other Ordinances prior to submission of a formal site condominium application. The standards and requirements of these Ordinances that have application to lots in a subdivision shall also apply to site condominium units. Nothing in this section shall be construed as requiring a site condominium to obtain plat approval under the Land Division Act (Public Act 288 of 1967), as amended.

3.28.10 Development Agreement: The Planning Commission may require, as a condition of approval, that the applicant enter into a development agreement with the Village of Port Sanilac incorporating the terms and conditions of final site plan approval and record the same with the Register of Deeds for Sanilac County.

3.28.11 Construction Located in a General Common Element: Any application for a permit for construction in a general common element shall include written authorization by the Condominium Association for the application.

3.28.12 Monuments and Lot Irons: Monuments shall be set in accordance with the Michigan Condominium Act (Public Act 59 of 1978), as amended, and all other state rules and regulations. The Planning Commission may grant a delay in the setting of required monuments for a reasonable time not to exceed one (1) year on condition that the applicant deposit with the Village Clerk cash, a certified check, or any irrevocable bank letter of credit endorsed to the Village of Port Sanilac, whichever the applicant

Article 3
General Provisions

selects, in an amount determined by resolution of the Village Council to be sufficient to cover the cost of setting the required monuments. Such deposit shall be returned to the applicant 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. Should the applicant default, the Village Council shall promptly retain the services of a registered surveyor to set the monuments and irons using the funds available in the applicant's security deposit.

3.28.13 Rights-of-Way and Utility Easements: All rights-of-way and utility easements shall be described separately from individual condominium units and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The rights-of-way and utility easements shall be separately designed for their individual purposes such as access and installation, maintenance, and replacement of facilities. Placement of water, sewer, and electrical power easements in street and road rights-of-way shall be consistent with any established Village requirements and consistent with Sanilac County Road Commission practice on facilities under their jurisdiction.

3.28.14 Conflicts with Federal and State Requirements: Should any requirements of this Section 3.29 conflict with federal and/or State of Michigan requirements, such federal and state requirements shall prevail.

SECTION 3.29: SUBSTANDARD DWELLINGS

3.29.1 Substandard Dwellings: For the express purpose of promoting the health, safety, morals and general welfare of the inhabitants of the Village, and reducing hazards to health, life and property, no fixed or movable substandard building or structure shall hereafter be occupied or erected or moved upon any premises and used for dwelling purposes.

3.29.2 Restoration of Unsafe Buildings: Notwithstanding the provisions of Article 6 "Nonconforming Use Regulations," nothing in this section shall prevent any structure or building, declared unsafe by the Building Inspector, from being restored to a safe condition, provided that structures have been destroyed shall be restored in conformity with the provisions of this Ordinance.

SECTION 3.30: SWIMMING POOLS

3.30.1 Defined: The term "swimming pool," for the purpose of this Ordinance, shall mean any structure, container or pool, portable or non-portable, having a depth of one (1) foot or more at any point and designed or used for swimming, wading or bathing. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs and spas. All pools shall be regulated by this Ordinance, unless said pool is completely contained within a building that at least complies with the minimum provisions of district in which it is located.

3.30.2 Requirements:

- A. A zoning compliance permit shall be required for those swimming pools utilizing electrical service or requiring more than three (3) feet of excavation
- B. Any property owner installing a swimming pool shall comply with all State of Michigan Building Code Requirements.

Article 3
General Provisions

- C. All swimming pools and man-made ponds shall be located in the rear or side yard, not less than five (5) feet from the rear and side lot lines, enclosed by a four (4) foot fence with latched gate. All electrical installations or wiring in connection with swimming pools shall conform to the provisions of the National Electrical Code. If service drop conductors or other utility *wires* cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation thereof before a permit shall be issued for the construction of a swimming pool. No portion of a swimming pool or associated structure shall be permitted to encroach upon any easement or right-of-way which has been granted for public utility use. See also Section 3.15 "Lakefront Property."

SECTION 3.31: TEMPORARY BUILDINGS, STRUCTURES, AND USES

3.31.1 General: Temporary buildings, structures, and uses are permitted in all districts unless otherwise provided. Temporary buildings and structures not greater than four hundred (400) square feet in area and not to be used for dwelling purposes, may be placed on a lot or parcel of record and occupied only under the following conditions as authorized by a temporary zoning permit issued by the Zoning Administrator:

3.31.2 Fire Damage: During renovation of a permanent building damaged by fire. The temporary building or structure must be removed when repair of fire damage is complete, but in no case shall it be located on the lot or parcel for more than six (6) months. The Zoning Administrator may issue a three (3) month extension upon determining there is good cause for such an extension.

3.31.3 New Construction: Temporary buildings and structures incidental to construction work, except single-family residences are permitted. Said temporary buildings shall be removed within thirty (30) days after construction is complete, but in no case shall the building or structure be allowed more than twelve (12) months, unless expressly authorized after petition to the Zoning Board of Appeals.

3.31.4 Habitation of Accessory Structures and Travel Trailers: No garage, barn, or accessory buildings, or cellar, whether fixed or portable, shall be used or occupied as a dwelling, except as authorized under Section 3.33 below.

SECTION 3.32: TEMPORARY DWELLINGS/RECREATIONAL VEHICLES

3.32.1 Temporary Dwellings: No person shall erect or occupy a temporary dwelling on any lot except as hereinafter provided:

- A. A building, including a basement home, which does not comply with the area requirements of its district may be occupied as a temporary dwelling for a period of not more than six (6) months if construction of a permanent dwelling is actually under way and in active progress during occupancy of such temporary dwelling. One consecutive additional six (6) month period of occupancy may be granted at the discretion of the Village Council.
- B. The Village Council may permit the use of a house trailer or mobile home as a temporary accessory dwelling to a permanent dwelling. No more than one trailer may be used and occupied as such accessory dwelling and then only if the occupants of such trailer have access to and the unlimited use of sanitary facilities of the permanent dwelling.
- C. The use of tents as a temporary dwelling in connection with recreational activities

Article 3
General Provisions

may be permitted upon application to the Village Council showing that the necessary and proper health, sanitation, plumbing and fresh water facilities are provided.

- D. The Village Council may permit on application the use of a trailer as a temporary dwelling with dimensions less than 12 feet x 50 feet for a period of six (6) months when the occupant of said trailer is definitely engaged in the erection of a permanent dwelling on said lot and when necessary and proper health, sanitation, plumbing and fresh water facilities are provided. If substantial progress has been made toward completion of the building, the Village Council may grant an extension for six months.
(Removed letter E amended 11/17/2020)

3.32.2 Recreational Vehicles:

- A. The owner of a parcel of land may park or store no more than 2 recreational vehicles upon residential premises and shall comply with all setback requirements as outlined in these zoning ordinances. For property abutting on Lake Huron, no recreational vehicle shall be parked or stored in the front yard space of the parcel of land or premises. (amended 12/01/2020)
- B. A recreational vehicle that is parked or stored by the owner on a parcel of land attached to the primary residence or premises owned or occupied by the same owner, shall not be occupied as a dwelling. (amended 11/17/2020)
- C. A recreational vehicle that is not owned by the owner of the parcel of land attached to the primary residence shall not be parked, stored or occupied upon said parcel of land or premises for more than 14 accumulative days in any 120-day period.
(amended 11/17/2020)
- D. One recreational vehicle brought by visitors for traveling purposes may be occupied and allowed for 14 accumulative days out of a calendar year if the visitors occupying said trailer use the sanitary facilities of the dwelling of the property owner or occupants they are visiting or make other suitable provisions for sanitary facilities. Such vehicle shall comply with all setbacks requirements as outlined in these zoning ordinances and shall not be parked on any easement. (amended 11/17/2020)

SECTION 3.33: TRAFFIC IMPACT ASSESSMENT

3.33.1 General:

- A. The Planning Commission may require a Traffic Impact Assessment (TIA), at the expense of the applicant, for any residential, office, commercial, industrial or mixed use development, which includes a land area of five acres or more or a building over 50,000 square feet, or when permitted uses could generate either a thirty percent (30%) increase in average daily traffic, or at least one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day, before approving a required site plan or making a decision upon a request for Planned Unit Development approval.
- B. At its discretion, the Planning Commission may accept a TIA prepared for another public agency.

SECTION 3.34: TRANSITION ZONING

3.34.1 Transition Zoning:

- A. Lots in Two Districts: Where a district boundary line as established in this Ordinance

Article 3
General Provisions

or as shown on the Zoning Map divides a lot which was in single ownership and of record at the time of this Ordinance, the use thereon and the other district requirements applying to the least restricted portion of such lot under this Ordinance shall be considered as extending to the entire lot, provided the more restricted portion of such lot is entirely within ten (10) feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.

- B. Lots in Commercial or Industrial Districts Adjacent to a Residential Zone: Where a lot in a commercial or industrial district abuts a lot in a residential district there shall be provided along such abutting lines a yard equal in width or depth to that required in the residential district.
- C. Front Yard Transition: Where the frontage on one side of a street between two intersecting streets is zoned partly as residential and partly as commercial or industrial, the front yard depth in the commercial or industrial district shall be equal to the required front depth of the residential district.
- D. Corner Lot Transition: On every corner lot in residential subdivisions created after the enactment of this ordinance, there shall be provided on the side street a side yard equal in depth to the required front yard depth on said side street.
- E. Garage Entrances: No public or private garage for more than five motor vehicles or boats shall have an entrance or exit for motor vehicles or boats within forty (40) feet of a residential district.
- F. Parking Lots and Driveways Abutting Residential Zones: Whenever a parking lot or a driveway to a parking lot is hereafter established in other than a residential district so as to abut the side or rear line of a lot in a residential district a solid masonry wall, or a substantial view obstructing fence not less than three (3) feet high and not more than eight (8) feet high, shall be constructed and maintained along said side or rear lot line up to, but not beyond, the setback building line. In addition, in all use districts, the lighting, including any permitted illuminated sign, on any parking lot or driveway shall be arranged so that there will be no annoying glare directed or reflected toward residence buildings or residence districts.

SECTION 3.35: UNUSED AUTOMOBILES, VEHICLES, AND BOATS

3.35.1 Unused Automobiles, Vehicles, and Boats:

- A. If any outdoor premises contain unused, nonfunctional or dismantled automobiles, trucks, other self-propelled vehicles, trailers, boats, etc., for a period of thirty (30) days consecutively, the owner shall remove said vehicle on request of the Zoning Administrator. Automobiles, trailer, other vehicles or boats that do not bear current state registration shall be presumed to be unused.
- B. No nonfunctional, dismantled automobile, truck, van, trailer or other vehicle shall be used for purposes (housing livestock, storage, etc.) other than that originally intended (for transportation).

SECTION 3.36: VESTED RIGHT

3.36.1 Vested Right: Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein and they are hereby declared to be subject to subsequent amendments, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

SECTION 3.37: WATER SUPPLY AND SEWAGE DISPOSAL

Article 3
General Provisions

3.37.1 Water Supply and Sewage Disposal: A land use permit shall be contingent upon the approval of the water supply and sewage disposal systems by Sanilac County Department of Health, the Village DPW and other appropriate official governmental authority.

SECTION 3.38: SOLAR ENERGY SYSTEM REQUIREMENTS

3.38.1 Intent: The Village of Port Sanilac encourages the effective and efficient use of solar energy systems. It is the intent of the Village to permit these systems by regulating their siting, design, and installation to protect public health, safety, and welfare, and to ensure their compatibility with adjacent land uses. Solar energy systems shall comply with the provisions of this Section and are only permitted as authorized by this Section.

3.38.2 Allowed Uses:

- A. Accessory Use - a Solar Energy System (SES) designed and installed to capture solar energy and convert it to electrical energy for on-site use primarily to reduce on-site consumption of utility power or fuels related to the property.
- B. Direct Use - a Solar Energy System (SES) designed and installed to capture solar energy and convert it to electrical energy as the primary source of on-site consumption of utility power or fuels related to the property.
- C. Primary Use - a Solar Energy System (SES) that uses over 50% of the Parcel(s) and is devoted to solar electric power generation primarily for use off-site.
- D. Secondary Use - a Solar Energy System (SES) that is not the Primary Use of the property and uses less than 50% of Parcel(s) land area.

3.38.3 General Requirements:

- A. All Solar Energy Systems must conform to the provisions of this Ordinance and all County, State, and Federal regulations and safety requirements as well as applicable industry standards.
- B. A ground mounted Solar Energy System shall be located in the rear yard and shall meet the rear yard setback requirements applicable in the zoning district in which the Solar Energy System will be located.
- C. A site plan shall be provided with ground mounted Solar Energy Systems showing compliance with required setbacks.
- D. All power transmission or other lines, wires or conduits from a ground mounted Solar Energy System to any building or other structure shall be located underground.
- E. Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment and structures. All electrical control devices associated with the SES shall be locked to prevent unauthorized access or entry.
- F. Solar Energy Systems shall be located or placed so that concentrated solar glare shall not be directed toward or onto nearby properties or roadways at any time of the day.

3.38.4 Permit Required: The type of permit required for SES's shall be as shown in Table 3-2 "Permit Requirements."

Table 3-2: Permit Requirements

**Article 3
General Provisions**

	Accessory Use	Direct Use	Primary Use	Secondary Use
Agricultural/Residential	P	P	SLU	SLU
Commercial/Office	P	P	SLU	SLU
Industrial	P	P	SLU	P

P = Permitted Use SLU = Special Land Use

3.38.5 Setbacks: The following setbacks from the parcel line to the closest part of the SEF shall be established as shown in Table 3-3. Fencing, roads, and landscaping may occur within the setback.

	Accessory Use	Direct Use	Primary Use	Secondary Use
Setback from All Property Lines	Per Zoning for that District with Standard Accessory Structure Setbacks		75 feet	Per Zoning for that District with Standard Accessory Structure Setbacks

3.38.6 Height Limits: For ground mounted systems, height restrictions will be measured from natural grade below each module in the event the site has topographic changes.

Zoning District	Accessory Use/ Direct Use	Primary Use	Secondary Use
Agricultural or Residential	Roof Mount - below the ridge & less than 2 ft above the surface	Roof Mount - below the ridge & less than 2 ft above the surface	Roof Mount - below the ridge & less than 2 ft above the surface
	Ground Mounted -21 ft	Ground Mounted - 21 ft	Ground Mounted -21 ft
Commercial, Office, Or Industrial	Roof Mount - below the ridge & less than 3 ft above the surface	Roof Mount - below the ridge & less than 3 ft above the surface	Roof Mount - below the ridge & less than 3 ft above the surface
	Ground Mounted - 21 ft	Ground Mounted -21 ft	Ground Mounted - 21 ft

Article 3
General Provisions

**ARTICLE 4
ADMINISTRATION AND ENFORCEMENT**

SECTION 4.1: PURPOSE

4.1.1 Purpose: The purpose of this Article is to establish specific regulations and guidelines for the administration and enforcement of the Village of Port Sanilac Zoning Ordinance.

4.1.2 Enabling Authority: This Zoning Ordinance has been prepared for and adopted by the Village Council of the Village of Port Sanilac under the authority of the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended), following compliance with all procedures required by this Act.

SECTION 4.2: ENFORCEMENT

4.2.1 Enforcement: The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or by such deputies of his/her department as the Zoning Administrator may delegate to enforce the provisions of this Ordinance.

SECTION 4.3: DUTIES OF THE ZONING ADMINISTRATOR

4.3.1 The Port Sanilac Zoning Administrator shall be appointed by, and serve at the pleasure of, the Village President upon the approval of the Village Council. It shall be the responsibility of the Zoning Administrator or his/her deputies, or such other official or officials as may be designated by the Village Council to be thoroughly versed in the provisions of this Ordinance and to enforce the provisions of this Ordinance, and in so doing shall perform the following duties:

4.3.2 Official Copies: The Zoning Administrator shall be responsible for the maintenance and revision of the official Zoning Map kept at the Village Hall.

A. The Zoning Administrator shall ensure there is a procedure in place that results in the publication of a map showing the location of each property for which a public hearing is to be held under this Ordinance along with the official public hearing notice for that property in a newspaper of general circulation in the Village. The map shall serve as a substitute for publishing a legal description of the property.

4.3.3 Issue Permits: All applications for land use permits, temporary land use permits, Special Land Use Permits, Planned Unit Development permits, variances, appeals, requests for Ordinance interpretation and requests for changes to a nonconforming use shall be submitted to the Village Clerk. The Zoning Administrator shall issue such permits when all applicable provisions of this Ordinance have been met and approval has been granted by the proper body or official.

A. The Zoning Administrator shall investigate all applications for zoning compliance permits and land removal and filing permits and prepare a written report of findings for his/her issuance or denial of such permit applications.

4.3.4 File of Applications: The Zoning Administrator shall maintain files of all permit applications, and shall keep a record of all permits issued. These shall be filed in the office of the Zoning Administrator and shall be open for public review.

Article 4
Administration and Enforcement

4.3.5 Inspections: The Zoning Administrator shall not approve any plans or issue any permits for any excavation or construction until he/she has reviewed such plans in detail and found them to conform to this Ordinance. The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to carry out the enforcement of this Ordinance. The Zoning Administrator shall seek a search warrant through the Village Attorney any time a property owner refuses access to a property in order to make an inspection to determine compliance with this Ordinance.

4.3.6 Record Keeping:

- A. The Zoning Administrator shall keep a record of every complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each complaint; such records shall be open for public review.
- B. The Zoning Administrator shall investigate, record, and report in writing every instance of non-compliance, non-conforming or apparent illegal use of any land or structure in the Village.
- C. Such reports shall be reviewed by the Planning Commission with a determination made in each instance. The results of each determination shall be forwarded by the Zoning Administrator to the owners of property which is the subject of the investigation and determination.
- D. The Zoning Administrator shall maintain a log of all special exceptions requested under this Ordinance. The log shall include the request, the applicable section of the Ordinance under which authority for the special exception is found, the decision, and the rationale for the decision. A list of special exceptions granted shall be transmitted once each month to the Village President and Village Planning Commission for the first three (3) months of the tenure of a new Zoning Administrator, and for as long thereafter as requested by either the Village President or Village Planning Commission.
- E. The Zoning Administrator shall establish notebooks or other records for listing each decision, special exception, interpretation, or enforcement action made under this Ordinance. This record shall be organized for easy reference by date and decision to help ensure consistency of future decisions.
- F. The Zoning Administrator shall record all known nonconforming uses existing at the effective date of this Ordinance.

4.3.7 Violations and Enforcement: Enforcement actions may be initiated by a complaint, or by the Zoning Administrator independently anytime he/she identifies a violation.

- A. The Zoning Administrator shall be the principal Ordinance enforcement officer. He/she shall ensure conformance with issued permits, investigate alleged Ordinance violations, issue tickets and violation notices, appear in court or other judicial proceedings, and undertake such other enforcement activities as may be delegated by the Village Council or Planning Commission. Other individuals may be hired for this purpose, or the task may be delegated to others who work under the supervision of the Zoning Administrator.
- B. The Zoning Administrator shall assist the Village Attorney in the investigation, preparation and presentation of evidence for Ordinance enforcement or other litigations.

4.3.8 Assist Review and Decision Making Bodies: The Zoning Administrator shall assist the Planning Commission or the Board of Appeals by investigating and reporting

Article 4
Administration and Enforcement

on all applications for rezoning, special land uses and variances.

- A. The Zoning Administrator and/or Building Inspector shall submit each month a written summary of the preceding month's activities to the Planning Commission.
- B. The Zoning Administrator shall periodically prepare, maintain and/or update forms, procedure manuals and guidelines for the smooth administration of the Zoning Ordinance. All such forms, manuals and guidelines shall be reviewed and approved by the Planning Commission.

4.3.9 Limit on Zoning Administrator Authority:

- A. Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein.
- B. The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit, unless such contracts, covenants or private agreements are with the Village, County, State of Michigan, or federal government, or one of their agencies.
- C. Appeals: Any decision of the Zoning Administrator may be appealed to the Zoning Board of Appeals (see Section 5.4). All written records of the Zoning Administrator related to an appeal shall be provided to the Zoning Board of Appeals. The Board shall review the decision in light of the applicable procedures and standards in the Ordinance and overturn the decision of the Zoning Administrator only where the facts do not support the decision made.
- D. Notification of Michigan Department of Environmental Quality (MDEQ): The Zoning Administrator shall inform the Michigan Department of Environmental Quality (MDEQ) if the appeal involves a 100-year floodplain issue at the time an appeal is filed.

4.3.10 Relief from Personal Responsibility: The Zoning Administrator, officer or employee charged with the enforcement of this Ordinance, while lawfully acting within the scope of the Zoning Administrator's duties for the Village of Port Sanilac, shall not thereby render himself/herself liable personally, and he/she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any lawful act required or permitted in the discharge of his/her official duties. Any suit instituted against the Zoning Administrator or any officer or employee acting on behalf of the office of the Zoning Administrator, because of a lawful act performed by the employee in the lawful discharge of his/her duties and under the provisions of the Ordinance shall be defended by the Village Attorney, or other legal representative of the Village, until the final termination of the proceedings. In no case shall the Zoning Administrator or any of his/her subordinates be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of the Ordinance.

SECTION 4.4: DUTIES OF THE PLANNING COMMISSION

4.4.1 Duties of the Planning Commission: The Planning Commission shall perform the following duties:

- A. Adopt forms, rules, procedures and guidelines for the proper administration and enforcement of the Ordinance;
- B. Act as a policy board on matters of enforcement and administration of the Ordinance not covered by adopted rules or guidelines;
- C. Conduct public hearings;

Article 4
Administration and Enforcement

- D. Make comprehensive review and recommend changes to the Zoning Ordinance as deemed necessary, but not less than once every five (5) years.
- E. Review all proposed requests for Special Land Use Permits and/or amendments to the Zoning Ordinance for compliance with requirements of the Ordinance based Articles 16 and 17, and thence recommend appropriate action to the Village Council for approval, disapproval, or modification;
- F. Those duties prescribed in the Michigan Planning Enabling Act (Public Act 33 of 2008), as amended, and the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.

SECTION 4.5: PERMITS REQUIRED

4.5.1 Intent and Purpose: It is the intent and purpose of this Section to create a review and approval process for the issuance of zoning compliance permits (also identified as a Land Use Permit) and building permits. No land clearing, filling, nor excavation for any building or structure shall be commenced; nor erection of, addition to, alteration of, or moving of any building or structure shall be undertaken; nor any land used; nor any existing land use changed to a different type or class; nor the use or occupancy of any building or premises, or part thereof, shall be undertaken without the issuance of the proper and appropriate certificates and permits pursuant to the requirements of Sections 4.6 and 4.7 of this Ordinance. Except upon written order of the Zoning Board of Appeals, no zoning compliance permit shall be issued for any building or use of land where the construction, addition, alteration, or use thereof would be in violation of this Ordinance.

4.5.2 Zoning Compliance Permits:

- A. *When Required:* No land filling or excavation shall be initiated, no building shall be erected, altered, moved or structural alterations initiated until a zoning compliance permit has been issued, except as otherwise permitted in this Ordinance.
- B. *Expiration of Permit:* Any permit granted under this Section shall become null and void after twelve (12) months from the date of granting such permit unless the development proposed or activity authorized shall have passed its first building inspection. Before voidance is actually declared, the Zoning Administrator shall notify the applicant of the pending voiding action by sending a notice to the applicant at the address indicated on the permit application at least ten (10) days before such voidance is effective. The permit may be renewed for not more than two (2) additional months upon reapplication but without payment of the original fee, subject to the provisions of all Ordinances in effect at the time of renewal.
- C. *Revocation:* The Zoning Administrator shall have the power to revoke or cancel any zoning compliance permit in case of failure or neglect to comply with any provisions of this Ordinance, or in the case of any false statement or misrepresentation made in the application. The owner or his/her agent shall be notified of such revocation in writing. Upon such revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation. Cancellation of a permit issued for a special approval land use, planned unit development or variance shall not occur before a hearing by the body which granted the permit. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on revocation of said permit.
- D. *Issuance:* Whenever the buildings, structures, and uses as set forth in any application are in conformity with the provisions of this Ordinance, or a variance granted by the Zoning Board of Appeals, the Zoning Administrator shall issue a

Article 4
Administration and Enforcement

zoning compliance permit. In any case where a permit is denied, the reasons shall be stated in writing to the applicant to the extent required by law.

- E. *Relation to Nonconforming Uses:* It shall not be necessary for an owner of a legal nonconforming structure or use existing on the effective date of this Ordinance to obtain a Zoning Permit in order to maintain its legal, nonconforming status. However, no nonconforming building, structure, or use shall be renewed, changed, or extended pursuant to Article 6 "Nonconforming Use Regulations" until a zoning compliance permit has been issued by the Zoning Administrator. In such cases, the permit shall state specifically how the nonconforming building, structure, or use differs from the provisions of this Ordinance.
- F. *Withholding Permit:* The Zoning Administrator may withhold any zoning compliance permit pending verification that an applicant has received required Village, County, State or Federal permits including, but not limited to: sanitary sewer and water tap-in permits, septic and water well permits, soil erosion and sedimentation control permits, wetlands permits, floodplain, culvert, driveway or building permits. Likewise, wherever this Ordinance authorizes permit approval by the Village Planning Commission or Village Council, the Village Planning Commission or Village Council may condition final approval of the requested development activity upon the receipt of any of the above mentioned Village, County, State or Federal approvals and/or direct the Zoning Administrator not to issue a zoning compliance permit until said permits from other agencies have been obtained.
- G. *Performance Guarantee:* A performance guarantee may be required as a condition to the issuance of any zoning compliance permit in order to ensure compliance with the requirements of this Ordinance. See Section 4.8.
- H. *Relationship to Building Permits:* No building permit shall be issued for a new building or structure, one moved, altered, or repaired, or for the expansion of an existing building or structure before a determination of zoning compliance has been made by the Zoning Administrator. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, class, type, or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by any part of this Ordinance or the Code of Ordinances of the Village of Port Sanilac, except for minor repairs or changes not involving any of the aforesaid features. No building permit shall be issued for the erection, alteration, or use of any building or structure or part thereof, or for the use of any land which is not in accordance with all provisions of this Ordinance. All Building Code requirements shall have been met as determined by the Building Inspector.

4.5.3 Land Use Permit Forms: Application forms shall be available at the office of the Village Clerk. The Land Use Permit form shall include the following:

- A. Show the name and address of the owner (and of the applicant if other than the owner).
- B. Be accompanied by plans and specifications including a scaled site plan and, where applicable (See Section 3.22), an Environmental Impact Statement.
- C. Delineate existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- D. Whether the present use is conforming or non-conforming and whether the proposed use is a permitted or special approval use.
- E. The approval and authorized signature of the Zoning Administrator or another authorized agent.
- F. Such other information concerning the lot or adjoining lots and structures as may be

Article 4
Administration and Enforcement

essential to establish compliance with the provisions of this Ordinance are being observed (e.g. elevations describing nautical and historical community motif).

- G. No land use permit shall be required for any construction which does not increase the area of the buildings in question or for sidewalk construction.
- H. Request for outdoor assembly, concerts, revival meetings, circuses and carnivals, special approval shall be accompanied by a statement of the time period requested and shall give detailed information on the type of activity and anticipated size of audience. Provisions for public safety and sanitary facilities and site cleanup shall also be included and when deemed necessary a performance bond may be required as a condition of approval.

4.5.4 Temporary Land Use Permits:

- A. *Application:* An application may be approved, modified, conditioned, or denied by the Zoning Administrator. The Zoning Administrator may refer the application to the Village Planning Commission.
- B. *Permits:* A written permit will be issued for all temporary uses and shall contain the following information:
 - 1. The applicant's name;
 - 2. The location and effective dates of the temporary use;
 - 3. Conditions specified by which the permit was issued, such as:
 - a. Use and placement of signs;
 - b. Provision for security and safety measures;
 - c. Control of nuisance factors;
 - d. Submission of performance guarantee, if required.
- C. *Conditions of Approval:*
 - 1. The nature and intensity of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary use or structure will be compatible with existing development.
 - 2. The use shall not be typically located within a permanent building or structure.
 - 3. The parcel shall be of sufficient size to adequately accommodate the temporary use or structure.
 - 4. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or structure.
 - 5. Off-street parking areas are of adequate size for the particular temporary use or structure and properly located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
 - 6. Signs shall conform to the provisions of Article 7 "Sign Regulations."
 - 7. Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.
 - 8. The Zoning Administrator may impose conditions with the issuance of the permit which is designed to ensure compliance with the requirements of this Ordinance. The Zoning Administrator may revoke a permit at any time for nonconformance with the requirements of this section and a permit issued hereunder.
 - 9. Permits which are renewable shall have an application filed for renewal at least fifteen (15) days prior to the expiration date of the current permit, except that applications for renewal or extension of a permit for less than fifteen (15) days may be applied for no later than three (3) Village business days prior to the expiration date of the current permit.
- D. *Revocation:* Upon expiration or revocation of a permit for a temporary land use, the

Article 4
Administration and Enforcement

temporary land use shall cease and all temporary structures, dwellings or buildings shall be removed from the parcel of land. Cancellation of a permit issued for a temporary land use shall not occur before a hearing by the body which granted the permit. A permit may be revoked or modified by the Zoning Administrator if any one of the following findings can be made:

1. That circumstances have changed;
 2. The permit was obtained by misrepresentation or fraud;
 3. One (1) or more of the conditions of the have not been met; and
 4. The use is in violation of any statute, Ordinance, law, or regulation.
- E. *Appeal*: An appeal of a decision by the Zoning Administrator relative to denial of a for a temporary use or renewal thereof may be taken to the Zoning Board of Appeals pursuant to Section 5.4.6 of this Ordinance.
- F. *Performance Guarantee*: The Zoning Administrator may require a performance guarantee pursuant to the standards of Section 4.8.

4.5.5 Building Construction Permit: Any structure or building constructed, altered, moved, or demolished shall require a building permit in accordance with the provisions of the State Building Code, issued by the Sanilac County building and Land Use department. While residences must comply with the residential building code requirements, all other structures shall comply with the State Building Code requirements for the district in which they are located.

4.5.6 Building Occupancy Permit: No buildings, structures, or additions thereto shall be occupied until an occupancy permit has been issued by the County Buildings Inspector.

- A. The occupancy permit shall indicate that all required building code inspections have been made.
- B. In certain cases, the County Inspector may approve a temporary certificate of occupancy for a period not to exceed six months, if approved by the Village Council, who may require a cash bond to be posted to insure compliance with the reasons for the time extension.

4.5.7 Land Removable and/or Land Fill Permit: Before any land in the Village is stripped, excavated, quarried, removed or stockpiled or before any land filling operations are conducted a permit shall be obtained from the Zoning Administrator in accordance with procedures hereinafter provided. Permits will not be required or agricultural practices or operations incidental thereto, nor will a land removal or filling permit be required when such operations are incidental to a construction project covered by a Building Permit. It is the intent of this provision to regulate any filling or excavating in the public right of way or on any private lands where the results of such filling or excavating will cause unsafe conditions, soil erosion or drainage problems. An application for a Land Removal or a Land Fill Permit shall be made to the Zoning Administrator containing the following information:

- A. Names and addresses of parties of interest in the property effected, with a statement of each party's interest.
- B. A description of the property.
- C. Detailed statement of the type of operation, equipment to be used and estimated period of time operation will be in effect.
- D. A statement of the proposed method of restoring the property when the operation is completed.
- E. A site plan scaled at no more than 200 feet to the inch of the area of operation

Article 4
Administration and Enforcement

(maximum 10 acres) with existing contour lines at not more than five (5) foot intervals, additionally, a drawing shall be submitted showing the proposed contours for the property upon completion.

- F. A soil erosion permit, where required by Part 91 (Soil Erosion and Sedimentation Control) of the Natural Resources and Environmental Protection Act (Public Act 451 of 1994), as amended, shall be obtained from Sanilac County Soil Erosion and Sedimentation Control Agency and a copy thereof filed with the Zoning Administrator before final approval of any land removal or filling permit.
- G. Such additional information as may be required by the Zoning Administrator.
- H. A permit fee deposit in the amount set annually by resolution, half of which will be used to cover the cost of interim and final inspections when the operation has been completed and the balance of which will be used to cover Village expenses for administrative and engineering review. Any portion of the deposit, except the inspection fee, that is unused will be returned to the applicant. Should expenses exceed the deposit the outstanding balance shall be paid by the Applicant.
- I. In cases where certain operations are to be conducted in the public right of way and a Village Ordinance has been adopted for the purposes of regulation, all provisions of said Ordinance not in conflict with those provisions, shall also apply.

SECTION 4.6 FINAL INSPECTION

4.6.1 Final Inspection: The holder of every building permit for the construction, erection, alteration or moving of any building, structure or part thereof, shall notify the Zoning Administrator immediately upon the completion of the work authorized by such permit, for a final inspection.

SECTION 4.7: FEES

4.7.1 Fees: Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Ordinance may be collected by the Zoning Administrator in advance of issuance, the amount of such fees shall be established by resolution of the Village Council and shall cover the costs of inspection and supervision resulting from enforcement of this Ordinance.

- A. A fee is required for any application for approval of a Site Plan, Special Land Use, Planned Unit Development, variance, or other use or activity requiring a permit under this Ordinance, except for projects proposed by the Village of Port Sanilac or one of its agencies, or by any other public agency if the fee is waived by the Village Planning Commission. Either the Zoning Administrator or the Village Planning Commission may require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee shall be required for any project with more than ten (10) dwelling units, or more than ten thousand (10,000) square feet of enclosed space, or which requires any more than twenty (20) parking spaces, or is within three hundred (300) feet of Lake Huron. An escrow fee may be requested for any other project which may, in the discretion of the Zoning Administrator or Village Planning Commission, create an identifiable and potentially negative impact on public infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.
- B. The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the Village values to review the proposed application and/or site plan of an applicant. Professional

Article 4
Administration and Enforcement

review shall result in a report to the Village indicating the extent of conformance or nonconformance to this Ordinance and to identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review hired by the Village and a copy of the statement of expenses for the professional services rendered.

- C. No application for approval for which an escrow fee is requested will be processed until the escrow fee is deposited with the Village Treasurer. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.
- D. If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any Zoning Permit or other permit issued by a representative of the Village in response to the applicant's request. Failure of the applicant to make timely payment of any balance due will entitle the Village to place a lien or a stop work order or both on the subject property.

**SECTION 4.8: PERFORMANCE GUARANTEES AND PERFORMANCE BONDING
FOR COMPLIANCE**

4.8.1 Requirements: In authorizing any Zoning Compliance Permit, Temporary Zoning Compliance Permit, Special Land Use Permit, Planned Unit Development, site plan approval or variance, the body or official which approves the respective request, as designated by this Ordinance, may require that a performance guarantee or bond be furnished: (1) to ensure compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance; (2) to ensure the discontinuance of a temporary use by a stipulated time; and (3) to provide sufficient resources for the Village to complete required improvements or conditions in the event the permit holder does not.

4.8.2 Improvements Covered: Improvements that shall be covered by the performance guarantee or bond include, but are not necessarily limited to: streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The performance guarantee shall meet the following requirements:

- A. *Form:* The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the Village Treasurer, which names the property owner as the obligor and the Village as the obligee.
- B. *Time when Required:* The performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity of the project. If appropriate, based on the type of performance guarantee submitted, the Village shall deposit the funds in an interest bearing account in a financial institution with which the Village regularly conducts business.
- C. *Amount:* The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of the improvements or conditions. Additional guidelines for establishing the amount of a performance guarantee or bond may be prescribed by resolution of the Village Council. If none are specified or applicable to the particular use or development, the Village Council shall, by resolution, establish a guideline

Article 4
Administration and Enforcement

which it deems adequate to deal with the particular problem, while ensuring the protection of the Village and its residents.

4.8.3 Return of Performance Guarantee or Bond: The Zoning Administrator, upon the written request of the obligor, and pursuant to the procedure in the next subsection, shall rebate portions of the performance guarantee, plus any accrued interest, 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 or condition, plus any accrued interest.

4.8.4 Withholding and Partial Withholding of Performance Bond: As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall transmit recommendation to the Village Planning Commission and Village Council indicating approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.

A. The Village Planning Commission, or on a planned unit development the Village Council, shall either approve, partially approve or reject the improvements or conditions with the recommendation of the Zoning Administrator's written statement and shall notify the obligor in writing of the action of the Village Planning Commission within thirty (30) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.

B. Should installation of improvements begin and fail to meet full completion based on the approved Site Plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the Village may complete the necessary improvements or conditions itself or by contract to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee or bond. Any unused balance remaining would be returned to the applicant, any excess expense would be recorded as a lien on the property.

4.8.5 Record of Performance Guarantees: A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

SECTION 4.9: ZONING APPROVAL AND INTERPRETATION

4.9.1 Zoning Approval Runs with the Land: The approval to engage in any land use activity or to construct a building or structure that is bestowed by a zoning compliance permit or other permit issued under the authority of this Ordinance, or any variance granted by the Zoning Board of Appeals, runs with the land, just like a nonconforming use right, and not with the owner. Thus, any person who relies on a valid permit or approval granted under the terms of this Ordinance may sell the property to another person who will enjoy the same rights, privileges and restrictions as the seller, provided that the sellers use of the property was not in violation of the Ordinance prior to the sale.

Article 4
Administration and Enforcement

4.9.2 Interpretation: In interpreting and applying this Ordinance, the provisions of this Ordinance shall be held to be the minimum requirements adopted for the protection of the public health, morals, safety, comfort, convenience or general welfare, It is not intended by this Ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any existing provisions of law or Ordinance other than the above-described zoning Ordinance, or with any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than is required by existing Ordinance or by rules, regulations or permits, the provisions of this Ordinance shall control.

4.9.3 Conditional Approvals:

- A. As provided in the Section 504 of the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, site plans for special land uses, Planned Unit Developments or other discretionary approvals may be approved with reasonable conditions.
- B. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
- C. A site plan shall be approved if it contains the information required and is in compliance with this Zoning Ordinance and with the conditions imposed pursuant to this Ordinance, other applicable Ordinances, and State and Federal statutes.
- D. Decisions rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in this Zoning Ordinance, other applicable Ordinances, and State and Federal statutes.
- E. Once the site plan is approved and properly signed, any necessary special land use permit, Planned Unit Development permit, zoning compliance permit, or building permit may be issued.
- F. Recording Conditions with Register of Deeds: At the direction of the body or official making the final decision to approve or approve with conditions a Planned Unit Development, special approval land use, variance or other discretionary approval authorized by this Ordinance, or as otherwise may be specified by this Ordinance, or at the discretion of the Zoning Administrator, the approval or approval with conditions may be recorded with the Sanilac County Register of Deeds. The following requirements shall be met with each set recording:
 - 1. The applicant shall record an affidavit with the Sanilac County Register of Deeds containing the full legal description of the project site, specifying the date of final Village approval, and declaring that all improvements will be carried out in accordance with the approved site plan or variance unless an amendment thereto is adopted by the Village. In addition, all deed restrictions and easements associated with the property shall be duly filed with the Register of Deeds and copies of all recorded documents shall be presented to the Zoning Administrator.
 - 2. All documents to be recorded with the Sanilac County Register of Deeds shall be first reviewed and approved as to form and content by the Village Attorney.

SECTION 4.10: PUBLIC HEARINGS AND PUBLIC NOTIFICATION

4.10.1 Public Notification: All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act (Public Act 110 of 2006), as

Article 4
Administration and Enforcement

amended, and the other provisions of this Section with regard to public notification.

- A. Responsibility: When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the Village of Port Sanilac and mailed or delivered as provided in this Section.
- B. Content: All mail, personal and newspaper notices for public hearings shall:
1. *Describe the nature of the request*: Identify whether the request is for a rezoning, text amendment, special approval use, planned unit development, variance, appeal, Ordinance interpretation or other purpose.
 2. *Location*: Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an Ordinance interpretation not involving a specific property.
 3. *When and where the request will be considered*: Indicate the date, time and place of the public hearing(s).
 4. *Written comments*: Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
 5. *Handicap access*: Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.
- C. Personal and Mailed Notice:
1. *General*: When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
 - a. The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property;
 - b. Except for rezoning requests involving eleven (11) or more adjacent properties or an Ordinance interpretation request that does not involve a specific property, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the Village of Port Sanilac. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure;
 - c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to Section 4.10.2.
 2. *Notice by mail/affidavit*: Notice shall be deemed mailed by its deposit in the

Article 4
Administration and Enforcement

- United States mail, first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.
- D. Timing of Notice: Unless otherwise provided in the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:
1. *For a public hearing on an application for a rezoning, text amendment, special approval land use, planned unit development, variance, appeal, or Ordinance interpretation*: Not less than fifteen (15) days before the date the application will be considered for approval.

4.10.2 Registration to Receive Notice by Mail:

- A. *General*: Any neighborhood organization, public utility company, railroad or any other person may register with the Zoning Administrator to receive written notice of all applications for development approval pursuant to Section 4.10.1(C)1.c above, or written notice of all applications for development approval within the zoning district in which they are located. The Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the Village Council.
- B. *Requirements*: The requesting party must provide the Zoning Administrator information on an official form to ensure notification can be made. All registered persons must re-register bi-annually to continue to receive notification pursuant to this Section.

Article 5
Review and Decision Making Bodies

ARTICLE 5
REVIEW AND DECISION MAKING BODIES

SECTION 5.1: PURPOSE

5.1.1 Purpose: It is the purpose of this Article to clarify the roles of the different boards and governing bodies responsible for review and decision making on applications for development approvals under the Port Sanilac Zoning Ordinance. The decision making entities included in this Article are the Village Council, the Village Planning Commission, and the Zoning Board of Appeals.

Each section in this Article identifies what responsibilities each review and/or decision making body has in the development review process. Where relevant and appropriate, the section also outlines the procedural rules governing the review body (e.g. rules about membership, composition, terms of office, filling vacancies, meetings and compensation).

SECTION 5.2: VILLAGE COUNCIL

5.2.1 Powers and Duties: In addition to any authority granted to the Village Council by charter, Ordinance, or state law (this provision is not intended to in any way limit the Village Council's power and authority), the Council shall have the following powers and duties under this Ordinance:

- A. Amendments to Ordinance Text and Zoning Map: To review, hear, consider and approve or disapprove:
 - 1. Text amendments: Petitions to amend the text of this Ordinance. See Article 18 "Amendments."
 - 2. Zoning Map amendments (Rezoning): Petitions to amend the Official Village of Port Sanilac Zoning Map.
- B. Initiate Amendments to Text and Zoning Map: To initiate petitions to the text of this Ordinance and the Zoning Map.
- C. Planned Unit Development Classification: To review, hear, consider and approve, approve with conditions or disapprove applications for Special Land Use permits for PUD classification.
- D. Special Land Use Permit: To review, hear, consider and approve, approve with conditions or disapprove Special Approval Use Permits.
- E. To take any other action not delegated to the Village Planning Commission, Zoning Board of Appeals or heads of Village departments, as the Village Council may deem desirable and necessary to implement the provisions of this Ordinance.

SECTION 5.3: VILLAGE PLANNING COMMISSION

5.3.1 Establishment: There is hereby established the Village Planning Commission pursuant to Section 301 of the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.

5.3.2 Powers and Duties: The Village Planning Commission shall have the following powers and duties under this Ordinance:

- A. Those duties described in the Michigan Planning Enabling Act (Public Act of 33 of

Article 5
Review and Decision Making Bodies

2008), as amended, and the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.

- B. Amendments to Ordinance Text and Zoning Map: To review, hear, consider and make recommendations to the Village Council to approve or disapprove:
 - 1. Text amendments: Petitions to amend the text of this Ordinance. See Article XII.
 - 2. Zoning Map amendments (Rezoning): Petitions to amend the Official Village of Port Sanilac Zoning Map.
- C. Planned Unit Development Classification: To review, hear, consider and make recommendations to the Village Council to approve, approve with conditions or disapprove applications for Special Land Use permits for PUD classification.
- D. Special Land Use Permit: To review, hear, consider and approve, approve with conditions or disapprove Special Land Use Permits.
- E. Site Plan: To review, hear, consider and approve, approve with conditions or disapprove site plans.
- F. Initiate Amendments to the Text and Zoning Map: To initiate petitions to amend the text of this Ordinance or the Official Village of Port Sanilac Zoning Map.
- G. Make Special Knowledge and Expertise Available: To make its special knowledge and expertise available upon written request and authorization of the Village Council to any official, department, board, commission or agency of the Village.
- H. Studies: To conduct studies of the resources, possibilities and needs of the Village upon the authorization of the Village Council, and report its findings and recommendations, with reference thereto, to the Village Council.
- I. Issue written opinions to applicants.
- J. Review and decide on uses purported to be similar in nature to permitted uses where so provided in this Ordinance.
- K. Maintain a Village map defining Village of Port Sanilac owned properties and beach access areas.
- L. Maintain a Village zoning map defining such use districts.
- M. Review and decide upon architectural theme plans.
- N. Maintain a Master Plan for potential growth, expansion or other change to the community.
- O. Planning Experts:
 - 1. With the approval of the Village Council, the Planning Commission may engage the services of a planning expert. Compensation for the planning expert shall be paid by the Village Council.
 - 2. The Planning Commission shall consider any information and recommendations furnished by appropriate public officials, departments or agencies.

5.3.3 Expenses and Compensation: Pursuant to Section 302 of the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, members of the Village Planning Commission may be reimbursed for reasonable expenses actually incurred in the discharge of their duties and may receive compensation as fixed by the Village Council.

5.3.4 Membership: Members shall be appointed to the Village Planning Commission by the Village Council in accordance with the Planning Commission by-laws.

5.3.5 Quorum: No meeting of the Village Planning Commission shall be called to order, nor may any business be transacted without a quorum of members being present. If at any time during a public hearing a quorum is lost, it

Article 5
Review and Decision Making Bodies

shall be stated in the minutes and no final action on a matter shall be taken by the Village Planning Commission.

5.3.6 Rules of Procedure: The Village Planning Commission shall, by a majority vote of the entire membership, adopt rules of procedure governing its procedures on such matters as officers, voting, meetings, compensation and related matters as it may consider necessary or advisable.

SECTION 5.4: ZONING BOARD OF APPEALS

5.4.1 Establishment: Pursuant to the provisions of the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, the Port Sanilac Village Council shall perform the duties and exercise the powers of the Zoning Board of Appeals in order to ensure that the objectives of this Ordinance are observed, that public safety, morals and general welfare are protected and that substantial justice is provided.

5.4.2 Procedures:

- A. The Village President shall be the Chairperson of the Board of Appeals. Meetings of the Board of Appeals shall be held at the call of the Chairperson and at such times as the Board may determine as necessary and may be conducted as part of the agenda of any regular or special meeting of the Village Council.
- B. Meetings shall be subject to the provisions of the Open Meetings Act, open to the general public and conducted pursuant to and consistent with such rules of order as have been adopted by the Board of Appeals.
- C. A majority of the total membership of the Zoning Board of Appeals shall vote on every matter (no abstentions) unless a member has a conflict of interest. A member of the ZBA shall request to be disqualified from a vote in which the member has a conflict of interest. The member shall state the nature of the conflict of interest and the ZBA shall vote whether to excuse the member from participation because of a conflict of interest.
- D. Conflict of interest may include, but is not limited to: considering property a ZBA member owns or has a legal or financial interest in or adjacent property; considering a request by a party a ZBA member has close ties with, such as a relative, friend, boss, co-worker or neighbor. A fundamental issue is whether the member of ZBA believes he or she can objectively consider the request before the ZBA.
- E. The ZBA shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files, and other evidence pertinent to the matters before it, to the extent allowed by law.
- F. In addition to its regular minutes, the Council shall keep an independent record of these proceedings while acting as the Board of Appeals. All findings of the Zoning Board of Appeals shall be in writing, with a record of its proceedings showing the action of the ZBA and the vote of each member of each question considered.
- G. Determinations and findings of the ZBA shall be made in a reasonable time period.
- H. The ZBA shall file a record of its proceedings with the Village Clerk. The record of proceedings shall be a public record.
- I. The Zoning Board of Appeals may not conduct any business unless a majority of its membership is present.
- J. A majority vote of the total membership is necessary to reverse any administrative decision or grant a dimensional (non-use) variance or make a decision in favor of an applicant.

Article 5
Review and Decision Making Bodies

5.4.3 Powers and Duties: The Village Council, in its capacity serving as the Zoning Board of Appeals, shall have the following powers and duties under this Ordinance:

- A. Those duties described in Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended;
- B. To review, hear, consider and approve, approve with conditions or disapprove variances;
- C. To hear, review, consider, and affirm, modify or reverse any order, decision, determination or interpretation of the Zoning Administrator or any other administrative official made under the terms of this Ordinance;
- D. To review, hear, consider and approve, approve with conditions or disapprove a change of one nonconforming use to another nonconforming use.

5.4.4 Jurisdiction: When acting as the Board of Appeals, the Village Council has the following jurisdiction:

- A. The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, exception or special approval permit and to authorize a variance as defined in this section and laws of the State of Michigan.
- B. The Zoning Board of Appeals, in conformity with the provisions of the this Ordinance and the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, may reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination appealed from and shall make such an order, requirements, decision, or determination as, in its opinion, ought to be made and to that end, shall have all the powers to hear and decide all matters referred to it or upon which it is required to pass under this Ordinance.

5.4.5 Fees: The required fees for a hearing before the Zoning Board of Appeals are a part of the cost of any zoning compliance permit and are in addition to other building permit fees. The required fees for any hearing before the Zoning Board of Appeals shall be paid as specified in Section 4.8 and certain additional expenses may be recovered if there are any over and above the amount of the required fee. Said costs shall include, but are not limited to: any additional hearings, the attendance of the Village Attorney at the hearing(s), engineering fees, and professional planner consulting fees, if applicable. An escrow may be collected to pay for these costs per the procedure in Section 4.8.

5.4.6 Appeals, Interpretations, and Variances: Subject to the provisions of Section 5.5, the Board, after public hearing, shall have the power to decide applications for appeals, interpretations, and variances filed as hereafter provided:

- A. Where it is alleged by the appellant that there is an error or misinterpretation in any order, requirement, decision, grant, or refusal made by the Zoning Administrator or other administrative office in the carrying out or enforcement of the provisions of this Ordinance, then an appeal or request for Ordinance interpretation shall be filed with the Zoning Board of Appeals on forms established for that purpose. In deciding a request for Ordinance interpretation, the ZBA shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained, and all other relevant provisions of the Ordinance. All Zoning Map interpretation questions shall be guided by the standards in Section 9.2.3.
- B. Where, by reason of the exceptional narrowness, shallowness or shape of a specific

Article 5
Review and Decision Making Bodies

piece of property which existed on the effective date of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary situation or condition of the land, building, or structure, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this Ordinance would involve practical difficulties, provided that the Board shall not grant a variance on a lot of less area than the requirements of its zoning district, even though such lot existed at the time of the adoption of this Ordinance if the owner or members of the owner's immediate family owned adjacent land which could, without practical difficulty, be included as part of the lot.

- C. Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance relating to the construction, structural changes in equipment, or alterations of buildings or structures, or the use of land, buildings, or structures so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.
- D. All appeals shall be submitted in writing to the Village Clerk and accompanied by a non-refundable filing fee set annually by Council resolution.
- E. Upon receipt of a proper application, the Council, as Board of Appeals, shall set a reasonable time and place for a hearing on the appeal and give proper notice thereof to the public and all affected parties, and render a decision without unreasonable delay.
- F. Appeals made from a determination of the Building Inspector or Zoning Administrator shall be made within thirty (30) days following such determination. Appeals from any other determination shall be made within sixty (60) days of such determination.

5.4.7 Public Hearing and Notification Requirement: Upon receipt of an application for an appeal, interpretation, or variance, the Zoning Board of Appeals shall hold at least one (1) public hearing, in accordance with the public hearing and public notice requirements set forth in the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.

SECTION 5.5: VARIANCES

5.5.1 Dimensional or Non-Use Variance Standards: No variance in the provisions of this Ordinance shall be authorized unless the Zoning Board of Appeals finds, from reasonable evidence, that all of the following standards demonstrating practical difficulties have been met:

- A. Such variance will not be detrimental to adjacent property and the surrounding neighborhood;
- B. Such variance will not impair the intent and purpose of this Ordinance;
- C. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property. See Section 5.4.6(B);
- D. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance;
- E. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as

Article 5
Review and Decision Making Bodies

to make reasonably practicable the formulation of a general regulation for such conditions or situation;

- F. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created;
- G. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;
- H. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship;
- I. That the variance will relate only to property under the control of the applicant.

5.5.2 Use Variances Prohibited:

- A. The Zoning Board of Appeals is hereby prohibited from granting a use variance for a use not permitted within a particular Zoning District. A use variance would allow a landowner to use the land for a purpose which is otherwise not permitted or is prohibited by the applicable zoning district regulations.
- B. The Zoning Board of Appeals shall only be authorized to issue dimensional or non-use variances in strict accordance with Section 5.5.1 above.

5.5.3 Conditions of Approval:

- A. In authorizing a variance, the Zoning Board of Appeals may impose specific conditions regarding the location, character, fencing, buffering or landscaping, or such other design changes as are reasonably necessary for the furtherance of the intent and spirit of this Ordinance and to ensure the protection of the public interest and abutting properties. To ensure compliance with such conditions, the ZBA may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond per the requirements of Section 4.8.

5.5.4 Lapse of Approval: Approval determinations made by the Village Council as the Board of Appeals shall become null and void one year after being filed with the Village Clerk if a building permit has not been issued and construction is not being actively pursued or if other applicable action has not been taken by the applicant. Determinations once voided, shall become the subject of a new appeal, and an application subject to all the requirements of the original applications, including a new filing fee, must be resubmitted.

5.5.5 Rejected Appeals: No appeal rejected by the Village Council as the Board of Appeals may be resubmitted for a period of six (6) months following such rejection, unless it can be demonstrated that new evidence bearing on the matter can be presented.

Article 6
Nonconforming Use Regulations

ARTICLE 6
NONCONFORMING USE REGULATIONS

SECTION 6.1: PURPOSE

6.1.1 Purpose: It is the purpose of this Article to provide for the regulation of legally nonconforming structures, lots of record and uses, and also to specify circumstances and conditions under which nonconformities shall be permitted to continue. It is necessary and consistent with the regulations prescribed by this Ordinance that nonconformities, which adversely affect orderly development and the value of nearby property, not be permitted to continue without restriction. The zoning regulations established by this Ordinance are designed to guide the future use of land located in Port Sanilac by encouraging appropriate groupings of compatible and related uses and to promote and protect the public health, safety, and general welfare.

The continued existence of nonconformities is frequently inconsistent with the purposes for which regulations are established; therefore, the gradual elimination of nonconformities is generally desirable. The regulations of this Article permit nonconformities to continue, but are intended to restrict further investments which would make them more permanent. This Article distinguishes major nonconforming uses, minor nonconforming uses, major nonconforming structures, minor nonconforming structures, and nonconforming lots of records. The degree of restriction made applicable to each separate category is a function of the degree to which that category of nonconformity is a nuisance or incompatible with the purposes and regulations of this Ordinance.

SECTION 6.2: DEFINITIONS

6.2.1 Definitions of Classification System:

- A. A legal nonconformity is any land use, structure, lot of record, or sign legally established prior to the effective date of this Ordinance or subsequent amendment to it which would not be permitted by, or be in full compliance with, the regulations of this Ordinance.
- B. A nonconforming use is an activity using land, buildings, signs, and/or structures for purposes which were legally established prior to the effective date of this Ordinance or subsequent amendment to it and which would not be permitted to be established as a new use in a zoning district in which it is located by the regulations of this Ordinance.
 - 1. A major nonconforming use is any principal use not permitted by right (P) or by special land use approval (S), as designated Articles 10 through 14.
 - 2. A minor nonconforming use is any existing nonconforming use which is not classified as a major nonconforming use. If an existing nonconforming use is designated as requiring a special land use permit (S), then the existing nonconforming use is considered to be a minor nonconforming use.
- C. A nonconforming structure is any building or structure, other than a sign, legally established prior to the effective date of this Ordinance or subsequent amendment which does not fully comply with the standards set forth in this Ordinance.
 - 1. A major nonconforming structure is any nonresidential building or structure located on a parcel which at any point borders a residential use and which exceeds either the maximum building height for the district in which it is located

Article 6
Nonconforming Use Regulations

or which does not fully comply with the buffer yard requirements of this Ordinance.

2. A minor nonconforming structure is any nonconforming building or structure which is not classified as a major nonconforming building or structure.

A nonconforming lot of record is any validly recorded lot which at the time it was recorded fully complied with all applicable laws and Ordinances but which does not fully comply with the lot requirements of this Ordinance concerning minimum area or minimum lot width.

SECTION 6.3: CONTINUATION OF NONCONFORMITIES

6.3.1 Continuation of Nonconformities: Except as otherwise provided in this Article, any nonconforming lot, use, sign, or structure lawfully existing on the effective date of this Ordinance or subsequent amendment thereto may be continued so long as it remains otherwise lawful. All nonconformities shall be encouraged to convert to conformity wherever possible and shall be required to convert to conforming status as required by this Article.

- A. A nonconformity shall not be enlarged, expanded, or extended, including extension of hours of operation, unless the alteration is in compliance with all requirements of this Ordinance. Normal maintenance and incidental repair of a legal nonconformity shall be permitted, provided that this does not violate any other section of this Article.
 1. Nothing in this Article shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares the structure to be unsafe and orders its restoration to a safe condition, provided that the restoration is not otherwise in violation of the various provisions of this Section prohibiting the repair or restoration of partially damaged or destroyed structures.
 2. Nothing in this Article shall be deemed to prevent an extension for the exclusive purpose of providing required off-street parking or loading spaces, and involving no structural alteration or enlargement or such structure, subject to the restrictions of Article 3 "General Provisions."
- B. A nonconformity shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is relocated.
- C. No use, structure, or sign which is accessory to a principal nonconforming use or structure shall continue after the principal use or structure has ceased or terminated, unless it shall thereafter conform to all regulations of this Ordinance.
- D. The burden of establishing that any nonconformity is a legal nonconformity as defined by this Article shall, in all cases, be upon the owner of such nonconformity and not upon the Village of Port Sanilac.

SECTION 6.4: MAJOR NONCONFORMITIES

6.4.1 Major Nonconformities:

- A. A major nonconforming use shall not be changed to any use other than a use permitted in the zoning district in which it is located.
- B. Major nonconforming uses or structures shall not be re-established in their nonconforming conditions in any zoning district after damage or destruction if the estimated expense of reconstruction exceeds fifty (50) percent of the appraised replacement cost of the structure or use.

Article 6
Nonconforming Use Regulations

6.4.2 Discontinuance of Major Nonconformities: If a major nonconforming use ceases for any reason for a period of more than twelve (12) consecutive months, such discontinuance shall be considered conclusive evidence of an intention to abandon the existing nonconforming use. At the end of the twelve (12) month period, the nonconforming use shall not be re-established and any future use shall be in conformity with the provisions of this Ordinance.

SECTION 6.5: MINOR NONCONFORMITIES

6.5.1 Minor Nonconforming Uses: On the effective date of adoption or amendment of this Ordinance, where a lawful use of land exists that is no longer permissible under the terms of this Ordinance as enacted or amended, the use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. A minor nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- B. A minor nonconforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied such use at the effective date of adoption or amendment of this Ordinance.
- C. If a minor nonconforming use of land ceases for any reason for a period of more than one (1) year, such discontinuance shall be considered conclusive evidence of an intention to abandon the existing nonconforming use. The time limit on discontinuance may be extended beyond the one (1) year, for a period of time not to exceed one (1) year upon proper application to the Zoning Board of Appeals within the one (1) year period and upon presentation of evidence that practical difficulty would exist should the one (1) year limitation be strictly enforced. At the end of one (1) year period of abandonment, the nonconforming use shall not be re-established and any future use shall be in conformity with the provisions of this Ordinance.
- D. A nonconforming use shall not be extended to displace a permitted or conforming use.

6.5.2 Minor Nonconformities – 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:

- A. Nonconforming structures shall not be altered or expanded without the prior approval of the Planning Commission, with the exception of structural alterations which do not increase the bulk of the structure or the intensity of use of the structure.
- B. Nonconforming buildings or structures may be structurally altered so as to prolong the life of the building or structure.
- C. Nonconforming structures may be re-established in their nonconforming condition in any zoning district after damage or destruction of the nonconforming structure, only if approved by the Zoning Board of Appeals.

6.5.3 Minor Nonconformities – 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 zoning district under the terms of this Ordinance, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

Article 6
Nonconforming Use Regulations

- A. 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.
- B. A nonconforming use may be extended throughout any part of a building which was arranged or designed for that use, and which existed at the time of adoption or amendment of this Ordinance, but the use shall not be extended to occupy any land outside the building.
- C. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded or changed to a permitted use, shall thereafter conform to the regulations for the zoning district in which the structure is located and shall not revert back to a nonconforming use.
- D. Where a nonconforming use of a structure, or structure and premises in combination, is discontinued for twelve (12) consecutive months, the discontinuance shall be considered conclusive evidence of an intention to abandon the existing nonconforming use.
- E. The time limit of discontinuance may be extended beyond the twelve (12) months for a period of time not to exceed one (1) year upon proper application to the Zoning Board of Appeals within the (12) month period and upon presentation of evidence that an unnecessary hardship or practical difficulty would exist should the twelve (12) month limitation be strictly enforced. At the end of this period of abandonment, the structure, or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the zoning district in which it is located.

SECTION 6.6: REPAIRS AND MAINTENANCE

6.6.1 Repairs and Maintenance: Repairs and maintenance may be performed on any building devoted in whole or in part to a nonconforming use, including ordinary repairs or repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty (50%) percent of the market value of the building during any period of twelve (12) consecutive months. However, the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by order of any official charged with protecting the public health, safety, and welfare.

SECTION 6.7 PRIOR CONSTRUCTION APPROVAL

6.7.1 Prior Construction Approval: Nothing in this Article shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of this Ordinance, provided that construction is commenced within ninety (90) days after the date of issuance of the permit; that construction is carried on diligently without interruption, as weather permits, for a continuous period; and that the entire building shall have been completed according to the plans filed with the permit application within two (2) years after the issuance of the building permit. To avoid undue hardship, nothing in this Article shall be deemed to require a change in the plans, construction, or designated use of any building on which construction was lawfully begun prior to the effective date of adoption or amendment of this Article, and upon which actual construction has been diligently carried on. Actual construction is defined to include the placing of construction materials in permanent position and fastened in a permanent manner, except where demolition or removal of an

Article 6
Nonconforming Use Regulations

existing building has been substantially begun preparatory to rebuilding. The demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

SECTION 6.8: CHANGE OF TENANCY OR OWNERSHIP

6.8.1 Change of Tenancy or Ownership: There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, structures, and premises provided there is no change in the nature or character of the nonconforming uses.

SECTION 6.9: ELIMINATION OF NONCONFORMITIES – USES OR STRUCTURES

6.9.1 Elimination of Nonconformities – Uses or Structures: The Village Council may acquire private property or an interest in private property for the removal of any nonconforming use or structure by purchase, condemnation, or other means. The cost, expense, or a portion thereof may be paid from general funds or assessed to a special district in accordance with applicable statutory provisions.

ARTICLE 7 SIGN REGULATIONS

SECTION 7.1: INTENT

7.1.1 Intent: The primary function of signage, as it relates to this Ordinance, is to identify a particular use of a parcel of property. It is not the intent of this Ordinance that open spaces and lines of vision created by public right-of-way be used for unrestricted advertising through the use of signage. Signs will be allowed in such a manner as to provide those similar uses in similar zones the opportunity for identification exposure regardless of parcel size, although the location and size of buildings will influence the amount of signage permitted. This consistent approach is necessary to remove the need for the types of signs which compete for attention of the motorist, thereby creating traffic hazards as well as creating visual blight. It is, therefore, within the health, safety and welfare responsibility of the Village that this article is promulgated.

SECTION 7.2: DESCRIPTION AND PURPOSE

7.2.1 Description and Purpose: This chapter is intended to regulate the size, number, location, and manner of display of signs in the Village of Port Sanilac in a manner consistent with the following purposes:

- A. To protect and further the health, safety and welfare of Port Sanilac residents;
- B. To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision, distract or confuse drivers, or are improperly secured or constructed;
- C. To conserve and enhance community character;
- D. To promote uniformity in the size, number or placement of signs within districts;
- E. To promote the economic viability of commercial areas by minimizing visual clutter and allowing for proper placement of signs to safely direct motorists to their destination;
- F. To balance the public's right to be informed and its desire to avoid visual pollution and hazardous conditions with the rights of businesses and other non-business uses to communication;

SECTION 7.3: DEFINITIONS

Agricultural Sign: A sign which identifies items, products, breeds of animals, poultry or fish, materials, variety of crops or farming methods used on a farm; includes signs for farm organizations.

Awning: A retractable or fixed shelter constructed of non-rigid materials on a supporting framework projecting from the exterior wall of a building. An awning is the same as a canopy.

Awning Sign: A sign affixed to the surface of an awning.

Balloon Sign: A sign composed of a non-porous bag of material filled with air or gas.

Banner Sign: A portable sign of fabric, plastic, or other non-rigid material without an enclosing structural framework.

Article 7
Sign Regulations

Billboard: A sign, which advertises an establishment, product, service or activity available on the lot on which the sign is located.

Changeable Copy Sign: “Changeable Copy Sign” means one of the following:

- A. ***Manual:*** A sign on which a copy is changed manually, such as reader boards with changeable letters or pictorials.
- B. ***Automatic:*** An electrically controlled sign, where different copy changes are shown on the same unexposed lamp bank or rotating portion of the face of the sign, used as a message center reader board.

Commercial Establishment: A business operating independent of any other business located within a freestanding building.

Community Service Group Sign: A sign which displays the name or logo of an agency, organization or group whose primary purpose is to promote or provide community or public service, such as the Rotary Club, Jaycee’s, Lions, or a church club.

Community Special Event Sign: A portable sign which is erected for a limited time to call attention to special events of interest to the general public which are sponsored by governmental agencies, schools or other groups which are non-profit and whose purpose is charitable, philanthropic, religious or benevolence.

Construction Sign: A sign which identifies the owners, financiers, contractors, architects, and engineers of a project under construction.

Directional Sign: A sign which gives directions, instructions, or facility information for the use of the lot on which the sign is located, such as parking or exit and entrance signs.

Election Sign: A sign used to advertise a candidate or an issue.

Essential Services Signs: Signs strictly for the use of public utilities.

Exempt Sign: A sign for which a sign permit is not required.

Farm Identification Sign: A sign located at the physical site of a farm which identifies the name of a farm, or the family or person operating the farm.

Flag Sign: A flag which is attached to a pole and which contains the name, logo, or other symbol of a business, company, corporation, or agency of a commercial nature.

Freestanding Sign: A sign not attached to a building or wall which is supported by one or more poles or braces or which rests on the ground or on a foundation resting on the ground.

Government Sign: A sign erected or required to be erected by the Village of Port Sanilac, Sanilac County, or the state or federal government.

Ground Sign: A freestanding sign supported by a base which rests directly on the ground. The width of the base shall be at least 50 percent of the width of the sign in order to be a ground sign.

Article 7
Sign Regulations

Incidental Sign: A small sign, emblem or decal informing the public of goods, facilities or services available on the premises (e.g., a credit card sign or restroom sign or sign indicating hours of businesses, or signs on gas pumps).

Memorial Sign: A sign, tablet, or plaque memorializing a person, event, structure or site.

Marquee: A permanent structure constructed of rigid materials that project from the exterior wall of a building.

Marquee Sign: A sign affixed flat against the surface of a marquee.

Mural: A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.

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

Non-Commercial Sign: A portable or non-portable sign that does not advertise commerce, trade, or location and otherwise not defined herein.

Off-Premises Sign Cluster: A sign used for the advertisement of a business at the corner of a street or road. These types of signs allow collocation.

Placard: A sign not exceeding two (2) square feet which provides notices of a public nature, such as "No Trespassing," "No Hunting," or "Gas Main" signs.

Pole Sign: A freestanding sign which is supported by a structure, or poles or braces which are less than fifty percent (50%) of the width of the sign.

Portable Sign: A sign that is not permanent or affixed to a building or structure and by its nature may be or is intended to be moved from one location to another such as A-Frame signs or signs on movable trailers whether rented or owned.

Projecting Sign: A double-faced sign attached to a building or wall that extends more than twelve (12) inches but not more than thirty-six (36) inches from the face of the building or wall.

Reader Board: A portion of a sign on which copy is changed manually.

Real Estate Sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.

Residential Subdivision Sign: A sign identifying or recognizing a platted subdivision, site condominium, multi-family or other residential development.

Roof Line: The top of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.

Roof Sign: A sign erected above the roof line of a building.

Article 7
Sign Regulations

Sign: A device, structure, fixture, or placard which may or may not use graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity.

Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than twelve (12) inches from the exterior face of a wall to which it is attached.

Window Sign: A sign installed inside a window and intended to be viewed from the outside.

Vehicle Sign: A vehicle which is primarily located or used to serve as a sign rather than as transportation. This includes semi-trailers either attached or detached from a truck tractor.

SECTION 7.4: PROHIBITED SIGNS

7.4.1 Prohibited Signs: A sign not permitted by this Ordinance is prohibited. The following types of signs are expressly prohibited:

- A. Billboards;
- B. Roof signs;
- C. Signs larger than thirty-two (32) square feet;
- D. Searchlights, laser lights, strobe lights, and other methods of illuminating the sky with the intent to advertise;
- E. Vehicle signs;
- F. Illuminated signs in residential zones;
- G. Permanent free standing signs;
- H. All signs on utility poles.

(amended 12/15/2020)

SECTION 7.5: EXEMPT SIGNS

7.5.1 Exempt Signs: The following signs shall be exempt from the provisions of this Ordinance:

- A. Government signs two (2) square feet or less;
- B. Election signs – One (1) per candidate or issue with each sign not to exceed six (6) square feet in area and six (6) feet in height. All election signs shall be setback a minimum of ten (10) feet from all lot lines. Signs must be removed within one (1) week after the election.
- C. Window signs;
- D. Memorial signs;
- E. Murals;
- F. Signs not visible from any street;
- G. Signs for essential services which are two (2) square feet or less;
- H. Placards;
- I. Community service group or agency signs two (2) square feet or less;
- J. Nameplates two (2) square feet or less;
- K. Newspaper box signs;

Article 7
Sign Regulations

- L. Farm identification signs;
- M. Incidental signs two (2) square feet or less;
- N. Flags or insignia of any nation, state, Village, community organization, educational institution, or flags of a non-commercial nature;
- O. Non-commercial signs.

SECTION 7.6: SIGNS NOT NEEDING A PERMIT

7.6.1 Signs Not Needing a Permit: The following signs shall not require a permit but shall be subject to all other applicable regulations of this Ordinance.

- A. Government signs;
- B. Non-commercial signs;
- C. Directional signs;
- D. Construction signs;
- E. Signs for residential yard and garage sales;
- F. Real estate signs advertising the premises (on which the sign is located) for sale, rent or lease, if such signs are not more than six (6) square feet in area for residential property or thirty-two (32) square feet in area for non-residential property;
- G. Help wanted signs of a temporary nature not to exceed six (6) square feet.

SECTION 7.7: SIGN PERMITS AND APPLICATIONS

7.7.1 Permits Required: A sign permit shall be required for the erection, use, construction or alteration of all signs except those exempted herein. For purposes of this section, alteration shall mean any change to an existing sign including changing the copy to promote, advertise, or identify another use. Alteration shall not mean normal maintenance of a sign.

7.7.2 Application: An application for a sign permit shall be made to the Zoning Administrator along with a fee as required by Village Council resolution. The application, at a minimum, shall include the following:

- A. Name, address, and telephone number of applicant and the person, firm or corporation erecting the sign;
- B. Address or permanent parcel number of the property where the sign will be located;
- C. A sketch showing the location of the building, structure, or lot upon which the sign is to be attached or erected, and showing the proposed sign in relation to buildings and structures, along with the setback, from lot lines;
- D. Blueprints or drawings of the plans and specifications, method of construction and attachment to structures or ground;
- E. Any required electrical permit shall be attached to the application;
- F. The zoning district in which the sign is to be located;
- G. For a pole sign which is to be ten (10) feet or higher, design plans sealed by a professional engineer shall be submitted with the application;
- H. Any other information which the Building Inspector/Zoning Administrator may require in order to demonstrate compliance with this Ordinance;
- I. Signature of applicant or person, firm or corporation erecting the sign.

Article 7
Sign Regulations

7.7.3 Issuance of Sign Permit: The Zoning Administrator shall issue a sign permit if all provisions of this Article and other applicable Village Ordinances are met. A sign authorized by a permit shall be installed or under construction within six (6) months of the date of issuance of the sign permit or the permit shall expire. A new permit may be issued upon the filing of a new application and fee.

- A. Cost of the permit is listed in the fee schedule.
- B. Enforcement shall be by the Village of Port Sanilac Zoning Administrator.

SECTION 7.8: DESIGN, CONSTRUCTION, AND LOCATION STANDARDS

7.8.1 Design, Construction, and Location Standards:

- A. All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or as a result of weather.
- B. Sign support, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
- C. Signs shall be constructed to withstand all wind and vibration forces which can normally be expected to occur in the vicinity.
- D. Signs may be internally or externally illuminated. The source of the light shall be enclosed and directed to prevent the source of light shining directly onto traffic or residential property.
- E. Signs shall not be placed in, upon or over any public right-of-way, alley, private road or other place, except as may be otherwise permitted by the Sanilac County Road Commission or the Michigan Department of Transportation (MDOT).
- F. A light pole or other supporting member shall not be used for placement of any sign unless specifically designed and approved for such use.
- G. A sign shall not extend beyond the edge of a wall to which it is affixed, and no wall sign shall extend above a roof line of a building.
- H. A sign and its supporting mechanism shall not extend beyond any lot lines of the property on which it is located.

7.8.2 Off-Premises Sign Clusters:

- A. The erector of the sign shall obtain written permission from the property owner where the sign is to be erected. The proper form can be obtained from the Village of Port Sanilac Zoning Administrator.
- B. Off-premises sign clusters shall be located as close as possible to the intersection of the right-of-way lines at the intersection of two (2) roads, but shall not be located in the right-of-way.
- C. Off-premises sign clusters must be erected of two (2) treated six (6) inch x six (6) inch posts set four (4) feet in the ground, three (3) feet apart embedded in concrete sixteen (16) inches in diameter. The post shall extend twelve (12) feet above the ground to facilitate collocation of multiple signs. They shall be erected perpendicular to the main roads direction of travel.
- D. Each sign shall be on two (2) plastic laminate sign boards – no larger than thirty (30) inches – attached to opposite sides of the 6 x 6 posts at a uniform height. The background color shall be Safety Blue with white lettering no more than ten (10) inches high and shall contain only the business name, company logo, type of business, hours of operation, a directional arrow, and distance (in miles or fraction thereof) to the business location.
- E. Each sign cluster shall be erected to facilitate the collocation of multiple signs. No additional sign clusters shall be erected at a given intersection until all slots for additional signage have been utilized on the original cluster and no more than two (2)

Article 7
Sign Regulations

clusters shall be erected at any intersection. The fees assessed for additional signs on a cluster shall be established as follows. The original sign erector shall pay all costs associated with the erection of the sign cluster (material and erection costs, rent to property owner permit costs, etc.) and costs for their own signage. Each subsequent sign erector that collocates on the sign cluster shall pay all costs for their own signage and one quarter (¼) of the costs of the original erection of the sign cluster to be paid to the original erector of the cluster. The original erector of the cluster shall not be allowed to discriminate on who is allowed to collocate.

7.8.3 Maintenance: A sign shall be maintained to a like-new condition. Signs must be level and perpendicular to the ground, not have paint that is peeling, and any broken boards. If the Zoning Administrator determines that any sign defined in this Ordinance needs maintenance to restore the sign to its like-new appearance, he/she shall notify the owners of the sign that maintenance must be performed. If the needed maintenance is not performed, the owner is in violation of this Ordinance and is subject to the penalties of Article 23 of this Ordinance.

SECTION 7.9: SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS

7.9.1 Sign Regulations Applicable to All Districts: The following sign regulations are applicable to all zoning districts:

- A. All signs shall be stationary and shall pertain only to the business or activity conducted on the premises.
- B. All wall and freestanding signs may include non-electric reader boards.
- C. Any pole sign, including awnings to which signs are affixed or displayed shall maintain a minimum clear space of eight (8) feet from the bottom of the sign to the ground.
- D. Licensed commercial vehicles which bear signs may be parked on site provided they are located in such a manner that they do not function as signs.
- E. Real estate signs are permitted in any zoning district but shall be removed within thirty (30) days after completion of the sale or lease of the property.
- F. Construction signs are permitted within any district, subject to the following restrictions:
 1. Construction signs shall be no larger than thirty-two (32) square feet and not exceed eight (8) feet in height.
 2. Construction signs shall not be erected until a building permit has been issued for the project that is the subject of proposed sign and construction activity has begun.
 3. Construction signs shall be removed immediately upon the issuance of any Occupancy Permit for the building or structure, which is the subject of the construction sign.
- G. Community special event signs, including banner signs, are permitted in any zoning district, subject to the following restrictions:
 1. Signs may be located either on or off the lot on which the special event is held.
 2. The display of such signs shall be limited to the thirty (30) days immediately preceding the special event that is being advertised.
 3. Such signs shall have a maximum size of thirty-two (32) square feet in area, and a maximum height above ground level of six (6) feet and shall be set back from any side or rear property line a minimum of fifteen (15) feet. The front setback shall be as required for signs in the zoning district in which the sign is to be located.

Article 7
Sign Regulations

4. Such signs shall be removed within ten (10) days of the conclusion of the special event that is being advertised.
- H. Directional signs are permitted in any zoning district, subject to the following restrictions:
1. A directional sign may contain a logo of an on-premises establishment, but no advertising copy.
 2. Directional signs shall not exceed three (3) square feet in area or three (3) feet in height, and shall be set back a minimum of five (5) feet from any lot line.
 3. Directional signs shall be limited to traffic control functions only.
- I. Garage or estate sales, auctions, roadside stand signs and signs for graduation, birthday, or anniversary parties are permitted in any zoning district, subject to the following restrictions:
1. One (1) sign located on the premises at which the event is to be held is permitted. Such sign shall not exceed six (6) square feet in area or three (3) feet in height.
 2. Additionally, one (1) directional sign is permitted at each end of the street of the location at which the event is taking place. Such signs shall be set back a minimum of five (5) feet from any side or rear property line and shall conform to the area and height requirements for directional signs, as detailed in subsection H(2) above.
 3. The signs described in subsections I(1) and I(2) above shall be erected no more than three (3) days prior to the day(s) of the sale or event and shall be removed within three (3) days after the completion of the sale or event.
- J. Signs advertising the sale of farm products or farm operations which are not located on the property that contains the farm are permitted in any zoning district, subject to the following restrictions:
1. No more than three (3) such signs shall be displayed within the Village.
 2. Such signs shall be no larger than thirty-two (32) square feet and no higher than six (6) feet above grade.
 3. The minimum front setback shall be as required for signs in the zoning district in which the sign is to be located.
 4. Such signs shall not be placed on land where another sign is located or which contains a principal use except for a single-family dwelling or farm operation.

**SECTION 7.10: NONCONFORMING SIGNS, ILLEGAL SIGNS, AND SIGN
ACCESSORY TO NONCONFORMING USES**

**7.10.1 Nonconforming Signs, Illegal Signs, & Signs Accessory
to Nonconforming Uses:**

- A. Every legal permanent sign which does not conform to the height, size, area or location requirement of this Ordinance as of the date of the adoption of this Ordinance, is hereby deemed to be nonconforming.
- B. Nonconforming signs may not be altered, expanded, enlarged, or extended; however, nonconforming signs may be maintained and repaired so as to continue the useful life of the sign.
- C. For the purposes of this Ordinance, a nonconforming sign may be diminished in size or dimension and the copy of the sign amended or changed without jeopardizing the privilege of nonconforming use.
- D. A sign accessory to a nonconforming use may be erected in the Village in accordance with the sign regulations for the zoning district in which the property is located.

Article 7
Sign Regulations

- E. Signs in existence in 2019 that do not conform to the provisions of this Ordinance shall be allowed to continue for a period of five (5) years after adoption of this Ordinance, at which time all nonconforming signs shall be removed or altered to conform to the provisions of this Ordinance.
- F. All existing signs must apply for a free permit at the time the Sign Ordinance is adopted.

SECTION 7.11: MEASUREMENT OF SIGNS

7.11.1 Measurement of Signs:

- A. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
- B. The area of a freestanding or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) such faces are placed back-to-back and are of equal size, and are no more than two (2) feet apart at any point the area of the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as the one (1) face.
- C. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.

SECTION 7.12: PERMITTED SIGNS BY ZONING DISTRICT

7.12.1 Agricultural-Residential (A-R): The following signs are permitted in the Agricultural-Residential Zoning District on the property on which the business is located:

- A. Wall Sign – For permitted uses other than dwellings.
 - 1. One (1) sign per street frontage to be placed on that side of the building which directly faces the street.
 - 2. A wall sign shall not exceed six (6) square feet.
- B. Ground Sign – For permitted uses other than dwellings.
 - 1. One (1) sign per parcel not to exceed six (6) square feet in area.
 - 2. The height of a ground sign shall not exceed six (6) feet above grade.
 - 3. Ground signs shall be setback a minimum of ten (10) feet from the front lot line and a minimum of fifty (50) feet from all other lot lines.
- C. Pole Sign
 - 1. Pole signs shall not exceed six (6) square feet in area.
 - 2. Pole signs shall be setback a minimum of twenty (20) feet from the front lot line and a minimum of one hundred (100) feet from all other lot lines.
- D. Election Sign – One sign per candidate or issue with each sign not to exceed six (6) square feet in area and six (6) feet in height. Such signs shall be setback a minimum of ten (10) feet from the front lot line and fifty (50) feet from all other lot lines. Election signs can be displayed starting sixty (60) days before the election and must be removed within one (1) week after the election.
- E. Agricultural Sign – Such signs shall not exceed thirty two (32) square feet per sign. Such signs shall not be limited in number or placement except that they shall not be placed to create a hazard or visibility problem for motorists, pedestrians or cyclists.

Article 7
Sign Regulations

- F. Off-Premises Sign Clusters – Off-premises sign clusters shall comply with the provisions in Section 7.8.2 above.

7.12.2 Residential Zoning District: The following signs are permitted in the R-1 and R-2 Residential Zoning Districts:

- A. Wall Sign – For non-residential uses only.
1. One (1) sign per street frontage to be placed on that side of the building which directly faces the street.
 2. A wall sign shall not exceed six (6) square feet.
- B. Ground Sign – For residential subdivisions or site condominiums, multiple family developments, elderly housing, manufactured homes or manufactured home parks, schools, churches or other permitted non-residential uses.
1. One (1) per parcel not to exceed six (6) square feet in area.
 2. The height of a ground sign shall not exceed six (6) feet above grade.
 3. Ground signs shall be setback a minimum of twenty (20) feet from all lot lines.
 4. For residential subdivisions the following regulations shall apply:
 - a. A ground sign identifying the development is permitted only if a subdivision or homeowners' association is established and provisions are made for such an association to maintain the sign.
 - b. Ground signs shall be constructed primarily with carved wood, brick, stone wrought iron, terra cotta, glazed tile or similar decorative material in order to reflect and enhance the residential character of the area.
- C. Election Sign – One sign per candidate or issue with each sign not to exceed six (6) square feet in area and six (6) feet in height. Such signs shall be setback a minimum of ten (10) feet from the front lot line and fifty (50) feet from all other lot lines. Election signs can be displayed starting sixty (60) days before the election and must be removed within one (1) week after the election.
- D. Real Estate Sign – For single and two-family dwellings, one (1) sign per parcel is permitted. Such signs shall not exceed six (6) square feet in area and six (6) feet in height and shall be set back a minimum of ten (10) feet from all lot lines.
1. For new subdivisions, site condominiums, and mobile or manufactured home parks, one (1) sign advertising the project is permitted at the main entrance. Such sign shall not exceed thirty-two (32) square feet in area or six (6) feet in height and shall be set back a minimum of twenty (20) feet from all lot lines.
 2. For non-residential uses, a real estate sign not to exceed fourteen (14) square feet in area is permitted. Such sign shall not exceed six (6) feet in height and shall be set back a minimum of twenty (20) feet from all lot lines.
- E. Off-Premises Sign Clusters – Off-premises sign clusters shall comply with the provisions in Section 14.8.2 above.

7.12.3 Commercial, Central Business District, and Industrial Zoning Districts: The following signs are permitted in the Commercial (C), Central Business District (CBD), and Industrial (I) Zoning Districts:

- A. Wall Signs –
1. Each commercial establishment shall be permitted to have one (1) wall sign. For each commercial establishment on a corner lot, one (1) wall sign per public or private street frontage is permitted. Each commercial establishment shall have no more than one (1) sign per wall. These wall signs shall be subject to the following regulations:

Article 7
Sign Regulations

- a. Wall signs shall not face a residential zoning district unless the district and the building are separated by a public or private street or other non-residential zoning district.
- B. Freestanding Sign – One (1) ground sign or pole sign per lot subject to the following regulations:
 - 1. Pole Sign – A pole sign at a maximum of thirty-two (32) square feet shall be permitted for each lot and shall also be subject to the following:
 - a. The support structure or poles for a pole sign shall be set back a minimum of twenty (20) feet from the front lot line and fifteen (15) feet from the front lot line and fifteen (15) feet from the side lot line. In no case shall a sign support or pole be placed closer than ten (10) feet from the front lot line.
 - b. Pole signs shall not exceed twenty (20) feet in height and shall have a minimum height between the bottom of the sign and the ground of eight (8) feet. The support structure(s) for a pole sign shall not be more than three (3) feet wide on any one (1) side.
 - c. The design plans for any pole sign which is ten (10) feet or higher, shall be sealed by a professional engineer to ensure the structure integrity of such signs for the safety of the public.
 - 2. Ground Sign – A ground sign at a maximum of thirty-two (32) square feet shall be permitted for each lot and shall be subject to the following:
 - a. The height of a ground sign shall not exceed six (6) feet above the ground.
 - b. Ground signs shall be set back a minimum of fifteen (15) feet from the front lot line and fifteen (15) feet from the side lot lines.
- C. Election or Non-Commercial Sign – One (1) per candidate or issue with each sign not to exceed sixteen (16) square feet in area and six (6) feet in height. Such signs shall be set back a minimum of fifteen (15) feet from the front lot line and at least fifteen (15) feet from all other lot lines. Election signs can be displayed starting sixty (60) days before the election and must be removed within one (1) week after the election.
- D. Real Estate Sign – One (1) real estate sign per lot not to exceed thirty-two (32) square feet in area and six (6) feet in height shall be permitted. Such signs shall be set back a minimum of fifteen (15) feet from the front lot line and fifteen (15) feet from all other lot lines.
- E. Vehicle Service Station Signs – Establishments that provide repair services and/or gasoline for vehicles either as a principal or accessory use may display directional signs over individual doors or bays. The size of such signs shall not exceed three (3) square feet in area. Customary lettering, insignias or symbols which are a permanent or structural part of the gasoline pump shall also be permitted.
- F. Industrial Park Identification Sign – One (1) sign may be erected at each industrial park entrance in accordance with the requirements for ground signs to identify the park and the industries within. Such signs may be ground signs or attached to a wall and shall be constructed primarily with carved wood, brick, stone wrought iron, terra cotta, glazed tile or other similar decorative material. Such signs shall be appropriately landscaped with low level lighting.
- G. Flag Signs – One (1) per lot not to exceed twenty-four (24) square feet. The flag sign shall be displayed on a pole. When displayed in the presence of the United State Flag, the United States Flag shall be displayed higher.
- H. Off-Premises Sign Clusters – Off-premises sign clusters shall comply with the provisions in Section 7.8.2 above.
- I. Video Screens, LED Signs and Electronic Reader Boards
 - 1. The intensity of lights shall not interfere with traffic control devices, nor

Article 7
Sign Regulations

shall they distract motorists or otherwise create a traffic hazard.

2. A digital sign must have installed an ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the terms of this section.

3. The maximum brightness levels for digital signs shall not exceed .02 (two tenths) foot-candles over ambient light levels measured within 150 feet of the source.

4. The frequency of message change shall not be more frequent than once every 5 seconds. (amended 7/23/2019)

SECTION 7.13: VIOLATIONS AND PENALTIES

7.13.1 Violations and Penalties:

- A. The Zoning Administrator, together with officers of the Village of Port Sanilac Police Department, is authorized to issue municipal civil infraction citations and municipal civil infraction violation notices for any violations of this Ordinance.
- B. It shall be unlawful for any person to erect, construct, maintain, enlarge, alter, move, or convert any sign in the Village, or cause or permit the same to be done on his/her property contrary to or in violation of any of the provisions of this Ordinance.
- C. Any sign which is erected, constructed, enlarged, altered, moved, or converted in violation of any of the provisions of this Ordinance is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.
- D. In addition to the remedies otherwise provided, the Village may remove and dispose of any unlawful sign on public property, in accordance with a court order.

Article 8
Schedule of District Regulations

ARTICLE 8

SCHEDULE OF DISTRICT REGULATIONS

SECTION 8.1: PURPOSE

8.1.1 Purpose: The purpose of this Article is to present most of the density and dimensional standards applicable to lots subject to regulation under the Village of Port Sanilac Zoning Ordinance. These include minimum lot sizes, minimum lot width, minimum yard setbacks, minimum floor area, maximum total lot area coverage, maximum height of buildings and special notes related to some of these standards. Other exceptions and special situation standards can be found in the zoning district regulations of Articles 10 through 15, the General Provisions of Article 3, and the Special Land Use Regulations of Article 17. The standards of this Article are presented as minimums and maximums to provide clear guidance as well as flexibility to landowners while still ensuring the long-term character of the individual districts is being maintained. The zoning districts are listed on each of the Schedules by their abbreviated names as defined in Article 9.

SECTION 8.2: SCHEDULE OF DISTRICT REGULATIONS

8.2.1 Schedule of District Regulations: Table 8-1 details the density, lot, and building dimension requirements for each zoning district in the Village of Port Sanilac.

Article 8
Schedule of District Regulations

TABLE 8-1: PORT SANILAC
SCHEDULE OF DISTRICT REGULATIONS

Zoning District	Minimum Lot Area Per Dwelling		Maximum Height of Building	Minimum Yard Setbacks in Feet			Minimum Floor Area Per Unit	Maximum % of Building Coverage
	Square feet	Width	Feet	Front	Side	Rear	Square Feet	% of Lot
R-1	7,200	60 ft	35 ^A	30 ^B	10	35	1,000	30%
R-2	12,000	80 ft	35 ^A	30 ^B	10	35	1,200	40%
MFR	20,000	100 ft	35 ^A	30	10	35	C	30%
A-R	20,000	100 ft	35 ^A	30 ^B	10	35	750	-
MHS	9,000	60 ft (150 length)	35 ^A	30	10	10	720	-
C	5,000	50 ft	35 ^A	D	E	F	G	
CBD	500	20 ft	35 ^A	D	E	F	250	-
I	5 acres	500 ft	-	150 ^H	50 ^{I,J}	50	-	-

SECTION 8.3: FOOTNOTES TO SCHEDULE OF REGULATIONS

- A. A church (not stories steeple), silo, barn, public and semi-public buildings may be erected to a greater height if the building is set back from each yard line at least one (1) more foot for each foot of additional height above thirty-five (35) feet.
- B. Front yards shall be equal to the average depth of existing front yards in the block in which the parcel is located.
- C. Minimum Floor Area Per Dwelling Unit type is as follows:
 - a. Efficiency: 650 square feet
 - b. 1 Bedroom: 650 square feet
 - c. 2 Bedroom: 650 square feet
 - d. 3 Bedroom: 800 square feet
 - e. 4 Bedroom: 950 square feet
- D. Commercial structures in commercial districts shall be erected with not more than a five (5) foot setback from the existing or prospective sidewalk at the front of the building. Front yards for residential structures in commercial districts shall be not less than the average depth of existing front yards in the block in which parcel is located.
- E. Commercial structures may be built up to the side property line, with no side yard. However, residential structures must comply with the side yard requirements of residential districts.

Article 8
Schedule of District Regulations

- F. In the C Commercial district and CBD Central Business District, rear yards shall contain sufficient area for off-street parking, loading and unloading as defined in Article 3, but not less than 25% of the total lot depth. The depth of a rear yard abutting upon a street shall not be less than the depth of a front yard required for a building of the same size and kind, on the adjoining lot fronting on such rear street.
- G. Every building hereafter erected, altered or moved upon commercial premises shall contain not less than seven hundred and fifty (750) square feet of ground floor area. The total floor area of Commercial district Special Land Uses shall not exceed 7,500 square feet.
- H. In Industrial districts, where there are existing buildings within fifty (50) feet of the sidelines of the parcel of land upon which the building is to be located, the front yard space may be reduced to the average of such buildings.
- I. There shall be two (2) side yards, each of which shall not be less than fifty (50) feet in width except where a side property line adjoins a railroad right-of-way, in which case no side yard will be required along such lot line.
- J. Where industrial property abuts any other use district, the side yard shall be at least seventy five (75) feet in width and shall include a green strip at least fifteen (15) feet wide and an isolation barrier at least eight (8) feet high. Such barrier shall consist of coniferous trees and may be supplemented by additional ornamental foliage. The total height of the isolation barrier may include a berm.

ARTICLE 9
OFFICIAL ZONING MAP AND ZONING DISTRICTS

SECTION 9.1: PURPOSE

9.1.1 Purpose: The purpose of this Article is to establish zoning districts within the Village of Port Sanilac, to establish and define the Official Zoning Map that shows the location of zoning districts, and to create a framework for the interpretation of the Official Zoning Map and related district boundaries. Furthermore, this Article delineates permitted uses and uses permitted by Special Use Permit within each zoning district.

SECTION 9.2: ZONING DISTRICTS & MAP

9.2.1 Establishment of Districts: To achieve the purposes of this Ordinance, the Village of Port Sanilac is hereby divided into the following zoning districts:

	Zoning District	Article Reference
A-R	Agricultural-Residential	Article 10
R-1	Residential	Article 11
R-2	Residential	Article 11
MFR	Multiple Family Residential	Article 11
MHS	Mobile Home Subdivision	Article 12
C	Commercial	Article 13
CBD	Central Business District	Article 13
I	Industrial	Article 14
HRE	Flood Hazard and High Risk Erosion Overlay	Article 15

9.2.2 Official Zoning Map: The boundaries of the respective zoning districts are defined and established as depicted on the map entitled "Village of Port Sanilac Zoning Map," which is an integral part of this Ordinance, and which, with the accompanying explanatory notes, shall be published as part of this Section and is incorporated by reference.

- A. If in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matters portrayed on the official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Village Council. No amendment to this Ordinance which involves matters portrayed on the Official Zoning Map shall become effective until such change and entry has been made on the map.
- B. Regardless of the existence of copies of the Official Zoning Map which may be made or published, the Official Zoning Map shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Village.

9.2.3 Interpretation of District Boundaries: Where a question arises with respect to the boundary of any district the following shall govern:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow the center lines.
- B. Where boundaries follow the shore line of a stream, lake or other body of water, the boundaries shall follow such shoreline, and in the event of change in the shoreline, the boundaries shall be the actual shoreline. Where boundaries follow the centerline

Article 9
Official Zoning Map, Zoning Districts, and Permitted Uses

of streams, rivers, canals or other bodies of water, such shall follow the centerlines thereof.

- C. A boundary indicated as approximately following a recorded lot line or the line bounding a parcel shall be construed as following the lot line.
- D. A boundary indicated as following the municipal boundary line of a City, Village, or Township shall be construed as following the boundary line.
- E. A boundary indicated as following a railroad line shall be construed to be midway between the main tracks or in the center of the right-of-way if the tracks have been removed.
- F. Boundaries indicated as parallel to, or extensions of features indicated in subsections A-E above, shall be so construed. A distance not specifically indicated in the Official Zoning Map shall be determined by the scale of the map to the nearest foot.
- G. The Village Council shall, upon application or upon its own motion, determine the location of boundaries in cases where uncertainty exists.

Should the above rules not fully explain a question of boundaries, the Zoning Board of Appeals shall have the authority to make an interpretation on appeal based upon the aforementioned standards.

9.2.4 Land Uses, Buildings, Structures, and Premises Subject to Regulation:

- A. Every building or structure erected, any use of land, building, structure or premises, any structural alteration or relocation of an existing building or structure and any enlargement of, or addition to, an existing use of land, building, structure or premises occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance which are applicable within the zoning district in which such land use, building, structure or premises shall be located.
- B. Only uses permitted in particular districts per the provisions of this Article may be established on a parcel. All other uses may be permitted only if the Ordinance has been amended to permit them.
- C. All zoning approvals granted under this Ordinance run with the land. All future owners are subject to the terms and conditions of any permit issued under this Ordinance prior to their ownership, unless such a permit is no longer valid as determined by the Zoning Administrator.
- D. Uses for enterprises or purposes that are contrary to federal, state, or local laws or Ordinances are prohibited.

9.2.5 Unlisted Uses: A use of land, buildings, or structures not specifically mentioned in the provisions of this Ordinance, or in the Zoning Administrator's opinion, is not nearly enough similar to a listed use per the standards in Section 9.2.6, shall be classified upon appeal or by request of the Zoning Administrator by the Zoning Board of Appeals pursuant to Article 5 of this Ordinance.

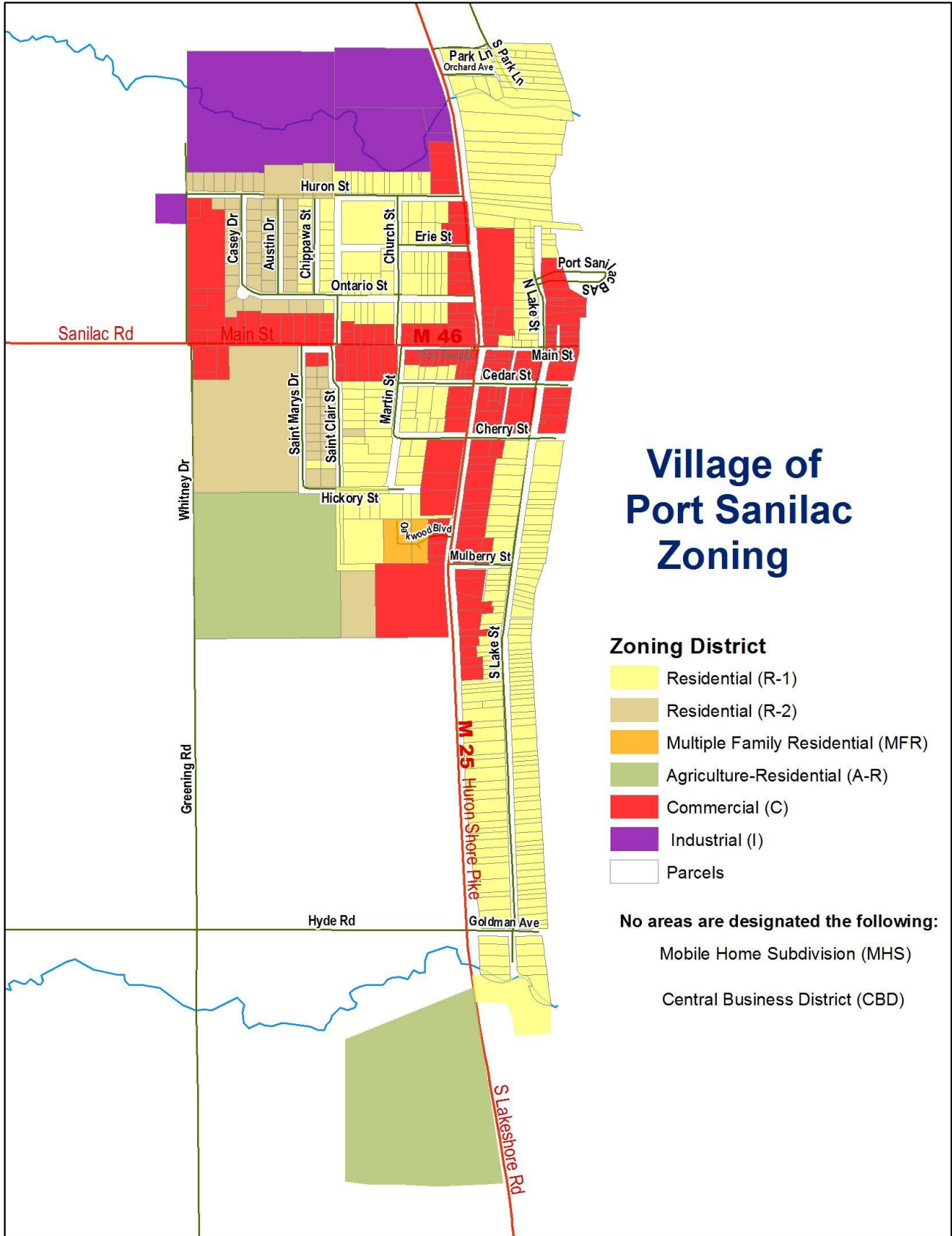
9.2.6 Similar Use Interpretations:

- A. The following considerations are examples of the factors that may be evaluated by the Zoning Administrator in making similar use interpretations (see also Section 5.4.6, on an appeal).
 - 1. The actual or projected characteristics of the activity in relationship to the stated characteristics of a use.
 - 2. The relative amount of site area or floor space and equipment devoted to the activity.

Article 9
Official Zoning Map, Zoning Districts, and Permitted Uses

3. Relative amounts of sales from each activity.
 4. Hours of operation.
 5. Building and site arrangement.
 6. Vehicles used with the activity.
 7. The relative number of vehicle trips generated by the use.
 8. How the use advertises itself.
 9. Any other relevant considerations.
- B. The Zoning Administrator shall keep a log of all use interpretations indicating the use, the options considered, and the selection made, along with the reasons for that decision.

**Article 9
Official Zoning Map, Zoning Districts, and Permitted Uses**



Article 10
Agricultural-Residential (A-R) Zoning District

**ARTICLE 10
AGRICULTURAL-RESIDENTIAL (A-R) ZONING DISTRICT**

SECTION 10.1: AGRICULTURAL-RESIDENTIAL (A-R) DISTRICT (amended 2/16/2021)

10.1.1 Intent: The intent of the Agricultural-Residential District is to provide a transition between agricultural and the more urban residential areas; and to create a rural residential environmental wherein natural constraints applicable to development can be recognized and protected in a manner compatible with the needs of the resident.

10.1.2 Uses Permitted by Right and Special Land Uses:

Section 10.5.2	
LAND USES: PRINCIPAL USE	
P = Permitted by Right S = Special Approval Use Permit Required	
AR	
Residential Uses	
Accessory building	P
Home occupation in a dwelling	P
Migrant worker camps	S
Multi-family dwellings (more than two living units)	S
Single family dwellings	P
Two family dwellings	P
Recreational Resorts (Added 12-6-2022)	P
Accommodation and Food Services	
Boarding homes	S
Rooming homes	S
Tourist homes	S
Human Care and Social Assistance	
Clinics	S
Convalescent home	S
Hospitals	S
Nursing home	S
Arts, Entertainment, and Recreation	
Campgrounds	S
Outdoor activity and recreation grounds	S
Parks	S
Recreational and community center buildings	S
Educational Services/Religion	
Churches	S
Schools	S
Public Facilities	
Funeral homes	S
Libraries	S
General Commercial/Business/Service	
Agricultural enterprises and related structures	P
Cemeteries	S
Roadside stands where at least 50% of the produce/goods sold there are grown upon the premises where the stand is situated	P

Article 10
Agricultural-Residential (A-R) Zoning District

Roadside stands which do not comply with permitted use requirements	S
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Article 10
Agricultural-Residential (A-R) Zoning District

Transportation Services/Warehousing/Storage	
Airplane landing strips	S
Helicopter landing pads	S
Motor vehicle and/or boat storage shops	S
Motor vehicle and/or boat repair shops	S

10.1.4 Minimum Lot Area: Minimum lot area shall be twenty thousand (20,000) square feet with a minimum frontage of one hundred (100) feet in all new subdivisions or newly created parcels of land.

10.1.5 Corner Lot: On any corner lot, no walls, fences, hedges or accessory structures or shrubbery shall rise over three (3) feet in height above the level of the road grade within twenty (20) feet of any corner so as to interfere with traffic visibility.

10.1.6 Driveways and Parking: Driveways shall be not less than ten (10) feet wide and at least three (3) feet from the lot line. No driveway common to two (2) residences shall be permitted unless an easement providing for same is recorded with the Sanilac County Register of Deeds. Off-street vehicle parking, access and egress shall be provided as shown in Section 3.20.

10.1.7 Yards: Every dwelling hereafter erected, altered or moved upon a premise shall be provided with yards having no less than the following minimum sizes:

A. Front Yards:

1. Front yards shall be equal to the average depth of existing front yards in the block in which parcel is located.
2. In event that there are no pre-existing dwellings on the block or in a new subdivision, then the front yard shall be not less than thirty (30) feet as measured from the street or road right-of-way.

B. Side Yards:

1. Shall be at least ten (10) feet in width on each side. No garage or accessory structure shall be located closer to the right-of-way of an abutting side street than twenty-five (25) feet. In all cases shall be far enough from each line as not to obstruct a view of traffic on the intersecting street.
2. See "Lakefront Property" Section 3.15 and "Transition Zoning" Section 3.34.

C. Rear Yards:

1. Shall be at least thirty-five (35) feet in depth. The depth of the rear yard abutting upon a street shall be no less than the depth of a front yard required for a building of the same size and kind, on the adjoining lot fronting on such rear street.
2. See "Lakefront Property" Section 3.15 and "Transition Zoning" Section 3.34.

10.1.8 Fences and Buffers: Fences, walls or shrubs of more than three (3) feet in height above the road grade level is not allowed on any interior (i.e. not on a corner) lot within (10) feet of the front property line, where they will interfere with traffic visibility from a driveway.

10.1.9 Signs: Signs shall be in conformance with Article 7.

10.1.10 Building Floor Area: Every one-family, one story dwelling hereafter erected, or moved upon premises shall contain not less than seven hundred and fifty (750) square feet of floor area. However, every one family, two story dwelling, hereafter erected,

Article 10
Agricultural-Residential (A-R) Zoning District

altered or moved upon a premise shall contain not less than 750 square feet of total floor area and not less than six hundred (600) square feet of ground floor area. Multiple dwellings, if permitted, shall contain an equivalent minimum floor area per unit as required in two- family dwellings. In no case shall minimum area include floor space in an attached garage, open porch or other attached structure.

10.1.11 Building Height: Buildings may be erected or structurally altered to a maximum height of thirty-five (35) feet at its highest point. However, a church (not steeple), silo, barn, public and semi- public buildings may be erected to a greater height if the building is set back from each yard line at least one (1) more foot for each foot of additional height above thirty-five (35) feet.

10.1.12 Accessory Buildings:

- A. Private Garages. In any agricultural-residential district no garage shall be erected closer to the side lot line than the permitted distance for the dwelling, unless said garage shall be completely to the rear of the dwelling in which event the building may be erected ten (10) feet from the side lot line.
- B. Other Accessory Buildings. Accessory buildings shall not be located closer than ten (10) feet to any lot line. Accessory buildings housing livestock (e.g. cattle, horses, poultry, pigs, sheep, goats, etc.) shall be located not less than 200 feet from the nearest neighboring dwelling.
- C. Setbacks. Farm buildings or structures (except open fences) shall be not less than ten (10) feet from the side or rear line of the premises, nor shall they be exempt from erosion hazard criteria. No such building or structure shall be erected less than one hundred fifty (150) feet from the right-of- way of all Federal and State roads and one hundred eight (108) feet from the highway right-of-way on other roads.
- D. Permits and fees. A land use permit shall be required for all accessory structures customarily erected and used on bona fide farms operated in the Village.

**ARTICLE 11
RESIDENTIAL ZONING DISTRICTS**

SECTION 11.1: RESIDENTIAL (R) DISTRICTS

11.1.1 Intent: To establish and preserve single-family neighborhoods free from other uses except those which are both compatible with and convenient to the residents of such Districts, and to maintain the character and integrity of existing residential areas predominantly comprised of single-family dwellings.

11.1.2 Zoning Codes: Residential districts shall be defined on the Official Zoning Map as R-1 or R-2.

11.1.3 Property Divisions: Divisions of parcels of property shall comply with the regulations applicable to the district or sub-district in which they are located.

11.1.4 Uses Permitted by Right and Special Land Uses:

Section 11.1.4 LAND USES: PRINCIPAL USE	R-1	R-2	R-3
<small>P = Permitted by Right S = Special Approval Use Permit Required</small>			
Residential Uses /Accessory Buildings			
Accessory building	P	P	
Home occupation in a dwelling	S	S	
Multi-family dwellings (more than two living units)	S	S	
Single family dwellings	P	P	
Two family dwellings	P	P	
Long-term Rental	P	P	
Micro-Units	P	P	S
Accommodation and Food Services			
Bed and Breakfasts	S	S	
Rooming and boarding homes	S	S	
Short-term rentals	S	S	
Arts, Entertainment, and Recreation			
Playgrounds	S	S	
Educational Services/Religion			
Churches	S	S	
Schools	S	S	
Public Facilities			
Public or community assembly buildings	S	S	

11.1.5 Prohibited Uses:

- A. More than one dwelling on a parcel of land, unless a variance is granted by the Village Council after a public hearing.
- B. Parking on or adjacent to any premises of a commercial truck or vehicle having a gross vehicle weight of 10,000 pounds or more.

11.1.6 Minimum Residential Lot Area:

- A. Parcels of land in R-1 districts shall have a minimum lot area of 7,200 square feet and a minimum street frontage of 60 feet.

Article 11
Residential Zoning Districts

- B. Parcels of land in R-2 districts shall have a minimum of 12,000 square feet with a minimum street frontage of 80 feet.
- C. Parcels of land created prior to the establishment of these minimum standards may not be developed unless compliant with regulations in effect at the time of division or unless granted by a variance.

11.1.7 Residential Corner Lot: On any corner lot, walls, fences, hedges or accessory structures or plantings shall not rise over three (3) feet in height above the level of the road grade within twenty (20) feet of any corner so as to interfere with traffic visibility. Side yards on corner lots shall not be less than the ratio of the setback on adjacent streets.

11.1.8 Residential Driveways and Parking: Driveways shall be not less than ten (10) feet wide and at least three (3) feet from the lot line. No driveway common to two residences shall be permitted unless an easement providing for same is recorded with the Sanilac County Register of Deeds. Off street vehicle parking, access and egress shall be provided as shown in Section 3.20.

11.1.9 Residential Yards: Every dwelling hereafter erected, altered or moved upon a premise shall be provided with yards complying with the following minimum requirements:

- A. Front Yards:
 - 1. Front yards shall be equal to the average depth of existing front yards in the block in which parcel is located.
 - 2. In the event that there are no pre-existing dwellings on the block or in a new subdivision, then the front yard shall be not less than 30 feet as measured from the street or road right-of-way.
- B. Side Yards (other than corner lots):
 - 1. For parcels with 60 feet of street frontage or more, the minimum side yard setback shall be 10 feet.
 - 2. No garage or accessory structure shall be located closer to the right-of-way of an abutting side street than the average setback on abutting side street. In all cases, structures shall be far enough from each line so as not to obstruct a view of traffic on the intersecting streets.
- C. Rear Yards: Rear yards in all residential districts shall be at least thirty-five (35) feet. The depth of a rear yard abutting upon a street shall not be less than the depth of a front yard required for a building of the same size and kind, on the adjoining lot fronting on such street. (See "Lakefront Property" Section 3.15 and "Transition Zoning" Section 3.34)

11.1.10 Residential Signs: Signs shall be in conformance with Article 7.

11.1.11 Residential Floor Area: In no case shall minimum floor area include floor space in an attached garage, open porch, unheated closed porch, or other attached structure.

- A. R-1 *established plats or subdivisions:*
 - 1. Every one family, one story dwelling hereafter erected, altered or moved upon premises (located in an R-1 District shall contain not less than one thousand (1,000) square feet of floor area.

Article 11
Residential Zoning Districts

2. Every one family dwelling hereafter erected, altered or moved upon a premise shall contain not less than one thousand (1,000) square feet of total floor area and not less than seven hundred and fifty (750) square feet of ground floor area.
 3. Every two-family dwelling hereafter erected, altered or moved upon a premise shall contain not less than one thousand (1,000) square feet of total floor area per unit.
 4. Multiple dwellings, if permitted, shall contain an equivalent minimum floor area per unit as required in two family districts.
- B. R-2 new plats and subdivisions:
1. Every one family, one story dwelling hereafter erected, altered or moved upon premises located in an R-2 District shall contain not less than one thousand two hundred (1,200) square feet of floor area.
 2. Every one family, two story dwelling hereafter erected, altered or moved upon a premise shall contain not less than one thousand two hundred (1,200) square feet of total floor area and not less than eight (800) hundred square feet of ground floor area.
 3. Every two-family dwelling hereafter erected, altered or moved upon premises located in an R-2 District shall contain not less than one thousand two hundred (1,200) square feet of floor area per unit. (amended 11/17/2020)
 4. Multiple dwellings, if permitted, shall contain an equivalent minimum floor area per unit as required in two family dwellings.

11.1.12 Residential Building Height: A building may be erected or structurally altered to a maximum height of thirty-five (35) feet at its highest point. However, churches (not including steeples), public and semi-public buildings may be erected to a greater height if the building is set back from each required yard line at least one more foot for each foot of additional height above thirty-five (35) feet.

SECTION 11.2: MULTIPLE FAMILY RESIDENTIAL (MFR) DISTRICT

11.2.1 Intent: To provide sites for multiple-family dwelling structures and related densities of dwellings which generally serve the residential needs of persons desiring an apartment-type of accommodation with central services as opposed to the residential patterns found in single family residential Districts. The multiple-family district is further provided to serve as a zone of transition between nonresidential districts and lower density residential districts. This district is further intended to permit boarding and lodging houses under specified maximum capacities.

11.2.2 Regulations: The area, density, bulk, and yard requirements of the following rules shall apply in all cases except where specific provisions are otherwise provided in this Ordinance for a specific use, development structure, or circumstance in which even those specific provisions shall apply.

11.2.3 Uses Permitted by Right and Special Land Uses:

Section 11.2.3	
LAND USES: PRINCIPAL USE	
<small>P = Permitted by Right S = Special Approval Use Permit Required</small>	
Residential Uses/Accessory Buildings	MFR
Accessory building	P
Adult foster care home	P

**Article 11
Residential Zoning Districts**

Residential Uses/Accessory Buildings (continued)	
Apartment building	P
Condominiums that comply with PA 59 of 1978	P
Multi-family dwellings (more than two living units)	P
Single family dwellings	P
Townhouses	P
Accommodation and Food Services	
Boarding and lodging house containing ≤ 6 separate units	P
Lodging homes	P
Rooming and Boarding Homes	S
Bed and breakfasts	S
Tourist homes	S
Human Care and Social Assistance	
Child care center	P
Convalescent home	P
Day nursery	P
Housing for elderly, orphans or wards of the court ≤ 6	P
Housing for the elderly when provided as a planned development	P
Nursery school	P
Nursing home	P
State licensed residential facility providing services for ≤ 6 within accordance with P.A. 395 of 1976	P
Educational Services and Religion	
Churches	S
Public, private or parochial school offering courses in general education and not operated for profit	P
Schools	S
Public Facilities	
Public or community assembly buildings	S

11.2.4 Prohibited Uses:

- A. Parking on or adjacent to any premises of a commercial truck or vehicle having a gross vehicle weight of 10,000 pounds or more.

11.2.5 Lot Area and Density/Computation of Area: The area used for computing lot size and density shall be the total site area exclusive of any dedicated public right-of-way except where a lot abuts an alley or land in which even half of the alley or lane abutting the lane shall be included.

11.2.6 Minimum Lot Area:

- A. Maximum Units per Area: There shall be no more than twelve (12) multiple units per 40,000 square feet except for *town houses of which shall be not more than six (6) in 40,000 square feet.*
- B. Schedule of areas/or various units: For the purpose of computing the permitted number of dwelling units per 40,000 square feet, the following lot area assignments shall control.

Article 11
Residential Zoning Districts

Efficiency	1,200 square feet
1 Bedroom	2,400 square feet
2 Bedroom	3,600 square feet
3 Bedroom	4,800 square feet
4 Bedroom	6,000 square feet

(Where plans show 1 or 2 bedroom units including a den, library or other extra room, such room shall be counted as a bedroom for the purpose of computing density).

- C. Minimum Lot Size: The minimum lot size for each dwelling unit shall be 20,000 square feet area and 100 feet width.
- D. Maximum Lot Area Development: The combined area of all structures shall not exceed thirty percent (30%) of the total lot area.

11.2.7 Corner Lot: On any corner lot, no walls, fenced, hedges or accessory structures or shrubbery shall rise over three (3) feet in height above the level of the road grade within twenty (20) feet of any corner so as to interfere with the traffic visibility.

11.2.8 Driveways and Parking:

- A. Driveways shall be not less than ten (10) feet wide and at least three (3) feet from the lot line.
- B. Off street vehicle parking, access and egress shall be provided as shown in Section 3.21.

11.2.9 Yards:

- A. Front Yards. The minimum front yard setback per lot in feet from main building is thirty (30) feet.
- B. Side Yards. The minimum side yard setback per lot in feet from main building is ten (10) feet.
- C. Rear Yards. The minimum rear yard setback per lot in feet from main building is thirty-five (35) feet.

11.2.10 Fences: Fences located in residential districts:

- A. Shall not exceed four (4) feet in height in the required front yard setback and shall not exceed six (6) feet in height in any part forward from the extreme rear line of the dwelling on the lot if the fence is built on the property line or within five (5) feet thereof, and shall not be of closed construction.
- B. Fences located in the rear yard on the lot line or within five (5) feet thereof may be built to a height of eight (8) feet without restriction on solid matter or closed construction.

11.2.11 Signs: Signs shall be in conformance with Article 7.

11.2.12: Building Floor Area and Height:

- A. Floor Area:
 - 1. No dwelling unit having two (2) or less bedrooms shall have a square foot area of less than six hundred fifty (650) feet and each additional bedroom shall have an additional one hundred fifty (150) square feet, each being measured around the interior faces of the exterior walls.

Article 11
Residential Zoning Districts

2. A room designated as den, library or extra room shall be considered a bedroom for the purpose of computing the square footage requirements.
 3. All multiple dwelling units shall have at least one (1) living room and one (1) bedroom, except that not more than ten (10%) percent of the units may be of an efficiency apartment type.
 4. The minimum floor area for a building is 1,200 square feet.
- B. Height:
1. A basement shall not be counted as a story, but that portion of a basement which is above grade level shall be considered in connection with height limitations.
 2. The height limitations of this Ordinance shall not apply in farm buildings, chimneys, church spires, flag poles, public monuments or wireless transmission towers provided, however, that the Planning Commission may specify a height limit for any such structure designated as a use by special approval.
 3. The maximum height of structures shall be thirty-five (35) feet at its highest point.

11.2.13 Accessory Buildings: No accessory building may be located closer to a side lot line than the permitted distance for the dwelling. However, if an accessory building is located completely to the rear of the dwelling, it may be erected three (3) feet from the side and rear lot lines. Garages shall not exceed fifteen (15) feet in overall height.

**ARTICLE 12
MOBILE HOME SUBDIVISION (MHS) DISTRICT**

SECTION 12.1: MOBILE HOME SUBDIVISION OR PARK DISTRICT (MHS)

12.1.1 Intent: The intent of the Mobile Home Subdivision or Park District is to provide a sound and healthy residential environment sufficient to meet the needs of inhabitants living in mobile homes, to protect mobile home parks from encroachment by incompatible uses and to encourage the consolidation of mobile homes into mobile home parks.

12.1.2 New Mobile Home Parks and Subdivisions:

- A. An applicant who wishes to create a new Mobile Home Subdivision or Park shall apply to the Planning Commission to establish a Mobile Home District, when a change in zoning is required.
- B. An Application for a Mobile Home Park shall have the preliminary plan approved by the County Road commission, County Drain Commissioner and the County Health Department before it will be considered by the Village. In considering application for a new park, the Village shall be guided by, and require compliance with, Michigan Mobile Home Commission Act (Public Act 96 of 1987), as amended.
- C. Persons wishing to create a new Mobile Home Subdivision shall comply with the Land Division Act (Public Act 288 of 1967), as amended, before the Village shall consider creating such a new district. Further, the Village shall make any rezoning recommendations conditional upon compliance with the applicable provisions of this Ordinance, including yards, buffers, fences, screening, lot size roadways, driveways, parking, etc. as restrictions on lot titles.
- D. The Village Council Planning Commission shall follow the requirements of Article 18 in rezoning of any real estate to Mobile Home Subdivision, as well as the requirements of Article 17 for Special Land Uses. (Public hearings and notices being required.)

12.1.3 Uses Permitted by Right and Special Land Uses:

Residential Uses/Accessory Buildings	
Accessory building (one per lot)	P
Commercial operations ancillary to the operation of a mobile home park	S
Garage (one per lot)	P
Park or subdivision grounds maintenance buildings	P
Single-family mobile home residential dwellings with no more than one dwelling per lot	P
Arts, Entertainment, and Recreation	
Playgrounds and Recreation Facilities	S
Public Facilities	
Public or community assembly buildings	S

Article 12
Mobile Home Subdivision (MHS) District

12.1.4 Prohibited Uses:

- A. More than one dwelling on a parcel of land, unless a variance is granted by the Board of Appeals after public hearing.
- B. Parking on or adjacent to any premises of a commercial truck or vehicle having a gross weight of 10,000 pounds.

12.1.5 Minimum Lot Area: Minimum lot area shall be no less than sixty (60) feet in width and one hundred fifty (150) feet in length with a minimum area of nine thousand (9000) square feet.

12.1.6 Corner Lot: On any corner lot no walls, fences, hedges or accessory structures or shrubbery shall rise over three (3) feet in height above the level of the road grade within twenty (20) feet of any corner so as to interfere with traffic visibility.

12.1.7 Driveways and Parking:

- A. Driveways shall be not less than ten (10) feet wide and at least three (3) feet from the lot line. No driveway common to two buildings shall be permitted unless an easement providing for same is recorded with the Sanilac County Register of Deeds.
- B. Off-street vehicle parking, access and egress shall be provided as shown in Section 3.20.
- C. Mobile Home Park off-street parking, driveways, access and egress shall be provided in accordance with the Michigan Mobile Home Commission Rules (R 125.1925), as amended.
- D. In Mobile Home Subdivisions, driveways shall be not less than ten (10) feet wide and at least three (3) feet from the lot line. No driveway common to two mobile homes shall be permitted unless an easement providing for same is recorded with the Sanilac County Register of Deeds.

12.1.8 Yards: Mobile home subdivisions (excepting parks) shall provide yards with no less than the following minimum sizes:

- A. Front Yards. Thirty (30) feet from the front lot line.
- B. Side Yards. Ten (10) feet in width on each side.
- C. Rear Yards. Ten (10) feet from the rear lot line.

12.1.9 Fences and Buffers:

- A. Mobile Home Parks and Subdivisions shall be completely screened by a view obstructing fence, earthen berm, coniferous natural growth (or combination thereof) along the entire property line, including the line abutting a public thoroughfare, except at access points. The screen shall be at least six (6) feet above the road grade level.
- B. Mobile Home Parks and Subdivisions shall have open buffer areas at least ten (10) feet wide at all side and rear property lines.
- C. Fences, walls and shrubs of more than three (3) feet in height above the road grade level are not allowed on an interior lot within ten (10) feet of the front property line where they will interfere with the traffic visibility from a drive.

12.1.10 Signs: Signs shall be in conformance with Article 7.

12.1.11 Building and Floor Area Height:

- A. Floor Area:

Article 12
Mobile Home Subdivision (MHS) District

1. Every mobile home in a mobile home subdivision or park shall contain not less than seven hundred twenty (720) square feet of living area. In no case shall minimum area include floor space in an attached garage, open porch or other attached structure.
- B. Height:
1. Buildings may be erected or structurally altered to a maximum height of thirty-five (35) feet at its highest point. However, public and semi-public buildings may be erected to a greater height if the building is set back from each required yard line at least one (1) more foot for each foot of additional height above thirty-five (35) feet

12.1.12 Accessory Buildings: No accessory building shall be erected closer to a side lot line than the permitted distance for the dwelling. However, if an accessory building is erected completely to the rear of the dwelling, it may be erected three (3) feet from the side and rear lot lines. Garages shall not exceed two (2) vehicle capacity and fifteen (15) feet in height.

(amended numbering 2/16/2021)

**ARTICLE 13
COMMERCIAL ZONING DISTRICTS**

SECTION 13.1: Commercial District (C)

13.1.1 Intent: The provisions of this district are intended to apply to areas that can serve the general needs of the community within a large variety of retail commercial, financial, professional, office, service and other general commercial activities. This district establishes and preserves general commercial areas consisting of shopping centers and commercial strips where customers reach individual business establishments primarily by automobile.

13.1.2 All uses shall comply with the performance standards listed in Section 3.22 of this Ordinance. Other than dwellings, structures shall comply with all state and local commercial building codes.

13.1.3 Uses Permitted by Right and Special Land Uses:

Section 13.1.3	
LAND USES: PRINCIPAL USE	C
P = Permitted by Right S = Special Approval Use Permit Required	
Residential Uses/Accessory Buildings	
Accessory building	P
Home occupation in a dwelling	P
Multi-family dwellings (more than two living units)	S
Single family dwellings	P
Two family dwellings	P
Long-term rental	P
Accommodation and Food Services	
Bars, taverns and restaurants serving alcoholic beverages	S
Bed and Breakfasts	S
Coffee shops and tea rooms	P
Hotel / Motel	P
Ice cream parlors	P
Other prepared food vendors for consumption on or off premises excluding premises on which alcohol is served	P
Pizza and sub shops	P
Restaurants	P
Rooming homes	P
Tourist homes	P
Short-term rental	P
Human Care and Social Assistance	
Nursing home	S
Public or community assembly buildings	S
Hospitals	S
Medical clinics/offices	S
Veterinary clinics/animal hospitals	S
Arts, Entertainment, and Recreation	
Arenas	S
Boat liveries	S
Campgrounds	S

Article 13
Commercial Zoning Districts

Marinas	S
Recreation and amusement facilities (e.g. pool halls, arcades) for which a license is required pursuant to any state or local Ordinance	S
Recreational facilities	S
Stadiums	S
Theaters	S
Educational Services/Religion	
Churches	S
Schools	S
Public Facilities	
Community clubs, fraternal organizations and similar civic organizations	P
Public or community assembly buildings	S
General Commercial/Business/Service	
Adult book stores	S
Business and professional offices	P
Cemeteries	S
Food processing facility	S
Funeral homes	S
Gasoline service stations	S
Mortuaries	S
Open air markets (e.g. flea markets, farmers' markets)	S
Outdoor advertising signs	P
Public and personal services direct to the customer (e.g. barbers)	P
Public, semi-public and public utility buildings, excluding storage yards	P
Retail stores or outlets and accessory service/production departments	P
Sale of alcoholic beverage for consumption off premises	P
Small businesses engaging in the repair, finishing, alteration, assembling, fabrication or storage of goods	S
Transportation Services/Warehousing/Storage	
Motor vehicle and/or boat repair shops	S
New and used motor vehicle and/or boat storage or display lots	S
Parking Lots	
Parking lots	P
Agricultural	
Greenhouses and nurseries	P
Utilities	
Electric transformers (stations and substations)	P
Gas regulator stations	P
Public utility electric power generating facilities	P
Publicly owned buildings and public utility buildings	P
Telephone exchange buildings	P
Water and sewage stations	P
Public, semi-public and public utility buildings, excluding storage yards	P
Small businesses engaging in the repair, finishing, alteration, assembling, fabrication or storage of goods	S
Gasoline service stations	S

13.1.4 Minimum Lot Area: Minimum lot area shall be five thousand (5,000) square feet with a minimum frontage of fifty (50) feet in all newly created parcels of property.

13.1.5 Corner Lot: On any corner lot where a residential structure is located, no walls, fences, hedges or accessory structures or shrubbery shall rise over three (3) feet in height

Article 13
Commercial Zoning Districts

above the level of the road grade within twenty (20) feet of any corner so as to interfere with traffic visibility.

13.1.6 Driveways and Parking

- A. Driveways shall be not less than ten (10) feet wide and at least three (3) feet from the lot line. No driveway common to two buildings shall be permitted unless an easement providing for same is recorded with the Sanilac County Register of Deeds.
- B. Off-street vehicle parking, access and egress shall be provided as shown in Section 3.21.

13.1.7 Yards: Every building hereafter erected, altered or moved upon commercial premises shall be provided with yards complying with the following standards:

A. Front Yards:

- 1. Commercial structures in commercial districts shall be erected with not more than a five (5) foot setback from the existing or prospective sidewalk at the front of the building. (The purpose of this provision being to require development of parking areas to the rear of the commercial structure and to preserve and expand upon the Village's architectural theme.)
- 2. Front yards for residential structures in commercial districts shall be not less than the average depth of existing front yards in the block in which parcel is located.
- 3. Provisions of this Section ("Front Yards") notwithstanding, those lots which border on use districts other than commercial shall comply with the setback requirements defined in Section 3.38.

B. Side Yards:

- 1. Commercial structures may be built up to the side property line, with no side yard. However, residential structures must comply with the side yard requirements of residential districts.

C. Rear Yards:

- 1. Shall contain sufficient area for off-street parking, loading and unloading as defined in Article 3, but not less than 25% of the total lot depth. The depth of a rear yard abutting upon a street shall not be less than the depth of a front yard required for a building of the same size and kind, on the adjoining lot fronting on such rear street.

13.1.8 Fences and Buffers:

- A. All outdoor storage areas, including refuse disposal units, shall be completely screened by a view obstructing fence, earthen berm, coniferous natural growth (or combination thereof) surrounding the storage area, including the line abutting a public thoroughfare. The screen shall be at least six (6) feet above the road grade level. Exceptions may be made by the Planning Commission (for Special Land Uses) or the Zoning Board of Appeals (for variances).

13.1.9 Signs: Signs shall be in conformance with Article 7.

13.1.10 Building Floor Area and Height:

A. Floor Area

- 1. Every building hereafter erected, altered or moved upon commercial premises shall contain not less than seven hundred and fifty (750) square feet of ground floor area. The total floor area of Commercial district Special Land Uses shall not exceed twenty (20,000) square feet.

B. Height

**Article 13
Commercial Zoning Districts**

1. No buildings shall hereafter be erected, altered or moved upon any premises exceeding a height of thirty-five (35) feet at its highest point unless a variance for a greater height is approved by the Zoning Board of Appeals after a public hearing and taking into consideration the firefighting capabilities in the Village or available neighboring fire-fighting facilities.

13.1.11 Accessory Buildings: Accessory buildings which are located on a corner lot shall not be placed closer than ten (10) feet to a rear or side line. (amended numbering 1/25/2021)

SECTION 13.2: Central Business District (CBD)

13.2.1 Intent: The Central Business District is designed to promote uses that generate a high volume of people activity among the businesses, institutions and public spaces within the City's downtown. To that end the CBD's primary focus is on retail, institutional, culinary, hospitality and service uses that stimulate ongoing interaction and vitality within the downtown. These primary uses are supplemented by professional, business and governmental offices and other service businesses. Together they provide the shopping, service and entertainment needs of the entire community. The retail and entertainment focus of the district shall be promoted by encouraging the development of such uses along the major street frontages and by prohibiting automotive related services and non-retail uses.

13.2.2 In the Central Business District (CBD), land may be used and buildings or structures be erected, altered or moved on and used, in whole or in part, for any one or more of the following specified uses, except as otherwise provided in this Ordinance. All uses shall comply with the performance standards listed in Section 3.22 of this Ordinance. Other than dwellings, structures shall comply with all state and local commercial building codes.

13.2.3 Uses Permitted by Right and Special Land Uses from the CBD District:

Section 13.2.3	
LAND USES: PRINCIPAL USE	CBD
P = Permitted by Right S = Special Approval Use Permit Required	
Residential Uses /Accessory Buildings	
Accommodation and Food Services	
Bars, taverns and restaurants serving alcoholic beverages	P
Bed and Breakfasts	S
Coffee shops and tea rooms	P
Hotel / Motel	P
Ice cream parlors	P
Other prepared food vendors for consumption on or off premises excluding premises on which alcohol is served	P
Pizza and sub shops	P
Restaurants	P
Rooming homes	P
Tourist homes	P
Arts, Entertainment, and Recreation	
Arenas	S
Boat liveryes	S

**Article 13
Commercial Zoning Districts**

Marinas	S
Recreation and amusement facilities (e.g. pool halls, arcades) for which a license is required pursuant to any state or local Ordinance	P
Theaters	P
Educational Services/Religion	
Human Care and Social Assistance	
Medical clinics/offices	S
Veterinary clinics/animal hospitals	S
Public Facilities	
Community clubs, fraternal organizations and similar civic organizations	P
General Commercial/Business/Service	
Adult book stores	S
Business and professional offices	P
Fueling service stations including electrical vehicles	S
Gasoline service stations	S
Open air markets (e.g. flea markets, farmers' markets)	S
Processing or sale of used motor vehicles	S
Public and personal services direct to the customer (e.g. barbers)	P
Retail stores or outlets and accessory service/production departments	P
Sale of alcoholic beverage for consumption off premises	P
Sidewalk kiosks	P
Signs not in compliance with Article 7	S
Small businesses engaging in the repair, finishing, alteration, assembling, fabrication or storage of goods	S
Parking Lots	
Public parking lots	P
Transportation Services/Warehousing/Storage	
Motor vehicle and/or boat repair shops	S
New and used motor vehicle and/or boat storage or display lots	S
Utilities	
Electric transformers (stations and substations)	P
Gas regulator stations	P
Public utility electric power generating facilities	P
Public, semi-public and public utility buildings, excluding storage yards	P
Publicly owned buildings and public utility buildings	P
Telephone exchange buildings	P
Water and sewage stations	P

(amended 11/17/2020)

13.2.4 Minimum Lot Area: Minimum lot area shall be five hundred (500) square feet with a minimum frontage of twenty (20) feet in all newly created parcels of property.

13.2.5 Corner Lot: On any corner lot where a residential structure is located, no walls, fences, hedges or accessory structures or shrubbery shall rise over three (3) feet in height above the level of the road grade within twenty (20) feet of any corner so as to interfere with traffic visibility.

13.2.6 Parking: Parking Requirements listed in Section 3.20 will include on-site and available Municipal Parking lots within a reasonable walking distance for Commercial

Article 13
Commercial Zoning Districts

Enterprises. Applicant must submit alternative suitable parking plan to the Zoning Administrator to be exempt from the commercial parking requirements.

13.2.7 Yards: Every building hereafter erected, altered or moved upon commercial premises shall be provided with yards complying with the following standards:

A. Front Yards:

1. Commercial structures in commercial districts shall be erected with not more than a five (5) foot setback from the existing or prospective sidewalk at the front of the building. (The purpose of this provision being to require development of parking areas to the rear of the commercial structure and to preserve and expand upon the Village's architectural theme.)
2. Front yards for residential structures in commercial districts shall be not less than the average depth of existing front yards in the block in which parcel is located.

B. Side Yards:

1. Commercial structures may be built up to the side property line, with no side yard. However, residential structures must comply with the side yard requirements of residential districts.

C. Rear Yards:

1. Shall contain sufficient area for off-street parking, loading and unloading as defined in Article III, but not less than 25% of the total lot depth. The depth of a rear yard abutting upon a street shall not be less than the depth of a front yard required for a building of the same size and kind, on the adjoining lot fronting on such rear street.

13.2.8 Fences and Buffers:

- A.** All outdoor storage areas, including refuse disposal units, shall be completely screened by a view obstructing fence, earthen berm, coniferous natural growth (or combination thereof) surrounding the storage area, including the line abutting a public thoroughfare. The screen shall be at least six (6) feet above the road grade level. Exceptions may be made by the Planning Commission (for Special Land Uses) or the Zoning Board of Appeals (for variances).

13.2.9 Signs: Signs shall be in conformance with Article 7.

13.2.10 Building Floor Area Height:

A. Floor Area:

1. Every building hereafter erected, altered or moved upon commercial premises shall contain not less than two hundred and fifty (250) square feet of ground floor area.

B. Building Height:

1. No buildings shall hereafter be erected, altered or moved upon any premise exceeding a height of thirty-five (35) feet at its highest point or unless a variance for a greater height is approved by the Village Council after a public hearing and taking into consideration the firefighting capabilities in the Village or available neighboring firefighting facilities.

13.2.11 Accessory Buildings: Accessory buildings which are located on a corner lot shall not be placed closer than ten (10) feet to a rear or side line. (amended numbering 2/16/2021)

**ARTICLE 14
INDUSTRIAL (I) ZONING DISTRICT**

SECTION 14.1: Industrial District (I)

14.1.1 Intent: The Industrial district is established to protect public health, safety, comfort, convenience and the general welfare and to protect the economic base of the Village as well as the value of real estate, by regulating industrial development in appropriate locations. The objectives of the Industrial district regulations are to protect previously established residential and commercial areas by regulating those nearby industrial activities which may create offensive noise, vibration, smoke, dust, odors, heat, glare, fire hazards, and other objectionable influences to those areas; and to establish proper standards of performance which will restrict undesirable industrial activities, while at the same time encouraging and permitting industrial activities which are able to comply with the standards established herein without adversely affecting the health, happiness, safety, convenience and welfare of the people living and working in nearby areas.

14.1.2 Use Types: Land may be used or buildings or structures may be erected, altered or moved on and used, in whole or part, for any one of the following specified uses, except as otherwise provided in this Ordinance. All uses in Industrial Districts shall comply with the performance standards listed in Section 3.21 of this Ordinance, as well as all state and local industrial building codes.

14.1.3 Uses Permitted by Right and Special Land Uses:

Accommodation and Food Services	
Coffee shops and tea rooms	S
Hotel / Motel	S
Ice cream parlors	S
Other prepared food vendors for consumption on or off premises excluding premises on which alcohol is served	S
Pizza and sub shops	S
Restaurants	S
Rooming homes	S
Tourist homes	S
Educational Services/Religion	
Schools	S
Public, private or parochial school offering courses in general education and not operated for profit	S
Churches	S
Public Facilities	
Community clubs, fraternal organizations and similar civic organizations	S
Public or community assembly buildings	S
General Commercial/Business/Service	
Business and professional offices	P
Food processing facility	S

Article 14
Industrial (I) Zoning District

Outdoor advertising signs	P
Public and personal services direct to the customer (e.g. barbers)	P
Public, semi-public and public utility buildings, excluding storage yards	P
Retail stores or outlets and accessory service/production departments	P
Sale of alcoholic beverage for consumption off premises	P
Parking Lots	
Parking lots	P
Agricultural	
Greenhouses and nurseries	S
Slaughter Houses	S
Transportation Services/Warehousing/Storage	
Airplane landing strips	S
Airplane launching strips	S
Open Storage Yards	S
Truck Terminals	S
Utilities	
Electric transformers (stations and substations)	P
Gas regulator stations	P
Public utility electric power generating facilities	P
Public, semi-public and public utility buildings, excluding storage yards	P
Publicly owned buildings and public utility buildings	P
Telephone exchange buildings	P
Water and sewage stations	P
Manufacturing / Industrial / Mining / Waste Management	
Aeration Fields	S
Catch Basins	S
Combustible or toxic material storage structures or yards	S
Dumps	S
Fertilizer and other chemical plants	S
Gravel pits	S
Junkyards	S
Landfills	S
Open pit mines	S
Ponds used for dumping or treatment of waste, chemicals liquids or any materials from any commercial or industrial enterprise	S
Rendering Plant	S
Reservoirs	S
Sand Mines	S
Sewage Disposal Plants	S
Transfer station	S

14.1.4 Minimum Industrial Lot Area: A lot site or parcel of land shall consist of not less than five (5) acres and shall not be less than five hundred (500) feet on the front street.

14.1.5 Corner Industrial Lot: On any corner lot, no walls, fences, hedges, or accessory structures or shrubbery shall rise over three (3) feet in height above the level of the road grade within twenty (20) feet of any corner so as to interfere with traffic visibility.

14.1.6 Driveways: Driveways shall be not less than fourteen (14) feet wide and located at least three (3) feet from the side lot lines.

Article 14
Industrial (I) Zoning District

14.1.7 Parking: Off-street vehicle parking and loading space shall comply with the provisions of Section 3.20 of this Ordinance. However, vehicle parking shall be allowed only in side or rear yards of industrial-zoned property.

14.1.8 Fire Lane: A clear and unobstructed drive, at least twenty (20) feet wide for the access of fire-fighting equipment, shall be kept open in side or rear yards.

14.1.9 Yards and Fences: Every building hereafter erected, altered or moved upon industrial zoned premises shall be provided with yards having no less than the following minimum sizes:

- A. Front Yard:** Front yards shall include an open areas of not less than one hundred fifty (150) feet measured from the centerline of the abutting highway, street or road. However, where there are existing buildings within fifty (50) feet of the sidelines of the parcel of land upon which the building is to be located, the front yard space may be reduced to the average of such buildings. Front yards shall be ornamentally landscaped.
- B. Side Yard:** There shall be two (2) side yards, each of which shall not be less than fifty (50) feet in width except where a side property line adjoins a railroad right-of-way, in which case no side yard will be required along such lot line.
- C. Rear Yard:** There shall be a rear yard of not less than fifty (50) feet in depth except where the property line adjoins a railroad right-of-way, in which case no rear yard will be required.
- D. Fences and Buffers:** Where industrial property abuts any other use district, the side yard shall be at least seventy five (75) feet in width and shall include a green strip at least fifteen (15) feet wide and an isolation barrier at least eight (8) feet high. Such barrier shall consist of coniferous trees and may be supplemented by additional ornamental foliage. The total height of the isolation barrier may include a berm.

**ARTICLE 15
FLOOD HAZARD AND
HIGH RISK EROSION (HRE) OVERLAY DISTRICT**

SECTION 15.1: Flood Hazard and High Risk Erosion (HRE) Overlay

15.1.1 Intent: The intent of this overlay district is to prevent the placement of structures in areas of high risk erosion and flood hazards consistent with Part 323 (Shorelands Protection and Management) of the Natural Resources and Environmental Protection Act (Public Act 451 of 1994), as amended. It is furthermore the intent of this section to:

- A. Establish a minimum setback from an eroding bluff which, based on the erosion studies prepared by the Department of Natural Resources pursuant to Part 323 (Shorelands Protection and Management) of the Natural Resources and Environmental Protection Act (Public Act 451 of 1994), as amended, is intended to provide a minimum of 30 years protection from shoreland erosion.
- B. Minimize the economic hardships which individuals and Port Sanilac may face in the case of unanticipated property loss due to severe erosion or flood hazards, and protect individuals from buying lands which are unsuited for intended purposes because of flood or erosion hazards.
- C. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or erosion to bluffs and banks of drains, creeks, rivers, or the Lake Huron shoreline.
- D. Require that the uses vulnerable to floods or erosion shall be protected against such flood or erosion damage at the time of initial construction, enlarging, altering or moving.
- E. Facilitate qualification for flood insurance under the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended and regulated by the Federal Insurance Administration, Department of Housing and Urban Development.
- F. The standards and requirements in this section, and on the zoning map, are intended to further the purposes of Part 323 (Shorelands Protection and Management) of the Natural Resources and Environmental Protection Act (Public Act 451 of 1994), as amended..

15.1.2 Definitions:

- A. Bluffline:** The line which is the edge or crest of the elevated segment of the shoreline above the beach which normally has a precipitous front including steeply on the lakeward side. Where there is no precipitous front indicating the bluffline, the line of perennial vegetation may be considered the bluffline.
- B. High Risk Erosion Area:** An area designated as a high risk area due to shoreland erosion by the Michigan Department of Natural Resources pursuant to Part 323 (Shorelands Protection and Management) of the Natural Resources and Environmental Protection Act (Public Act 451 of 1994), as amended.
- C. Setback:** The distance required to obtain an open space between a property line, bluffline or other specified boundary and structures erected on the premises.
- D. Structure:** Anything fabricated, constructed or erected which requires fixation or placement in or on the ground or to another structure which is affixed or placed in or on the ground. The term shall include signs but shall exclude wire, stone, wooden and other fences.

Article 15
Flood Hazard and High Risk Erosion (HRE) Overlay District

- E. Accessory or Appurtenant Structure:** A building or other structure, the use of which is incidental to that of the main building or use of the land. The structure will not have a permanent foundation and shall be constructed to be easily moved or removed. Accessory or appurtenant structures shall be less than 15 feet by 15 feet by 10 feet high and used for picnicking or storage of recreational or lawn equipment.
- F. Permanent or Principal Structure:** A residential, commercial, industrial, or institutional building, a mobile home, accessory and related building, septic systems, tile field, or other waste handling facility erected, installed or moved on a parcel of land.
- G. Moveable Structure:** A permanent structure which is determined to be moveable based on a review of the design and size of the structure, a review of the capability of the proposed structure to withstand normal moving stresses and a site review to determine whether the structure is accessible to moving equipment.
- H. Substandard Lot:** A lot of record or a lot which is described in a land contract or deed executed and delivered before the designation of high risk erosion area and which does not have adequate depth to provide the minimum required setback from the bluffline for a permanent structure. The term also means those lots which are legally created after the designation of a high risk erosion area, which have sufficient depth to meet setback requirements for permanent structures, but which subsequently become substandard due to erosion processes.

15.1.3 General Provisions:

- A. No lot shall hereafter be created, subdivided or otherwise established without sufficient depth to accommodate a principal structure in accord with the requirements of this section. Hereafter, all principal structures erected, and all structural alterations or relocations of existing principal structures shall be in accordance with the requirements of this section.
- B. Any substandard lot of record or substandard lot described in a land contract or deed executed or delivered prior to the adoption of this section shall only be developed if a variance is granted.
- C. Any lot or parcel which, in whole or part, falls within the area affected by this section shall be used for the erection, relocation or reconstruction of a principal structure, only upon receipt of a zoning permit from the zoning administrator.
- D. Accessory structures which can be easily and economically removed prior to erosion damage are exempted from the setback requirements for principal structures in this section, except that no accessory structures which are permanent in either construction or location may be placed in the high risk erosion area. To the fullest extent practical, permitted accessory structures which are placed in high risk erosion areas shall be removed prior to erosion damage.
- E. The lawful use of any principal structure existing at the time in which this section is adopted may continue in the same manner and to the same extent although the location of the principal structure does not conform with the provisions of this ordinance. A nonconforming principal structure shall not be repaired, restored, extended, enlarged, or removed except in accord with the requirements that follow:
1. Routine Repairs and maintenance work required to keep a nonconforming principal structure in sound condition are permitted. Remodeling of a nonconforming principal structure is permitted as long as the structure is neither enlarged nor extended in a nonconforming manner. A structure may be returned to its original condition without the authorization if damaged less than 25% of the structure's replacement cost.

Article 15
Flood Hazard and High Risk Erosion (HRE) Overlay District

2. Except as provided in Section 15.1.3.E.1, the Zoning Board of Appeals shall not authorize restoration unless the board determines that the structure will be restored in compliance with the following standards:
 - a. An existing structure which is not in conformity with the setback requirements of a designated high risk erosion area shall not be altered, enlarged, or otherwise extended in a manner which increases its nonconformity. If a nonconforming structure deteriorates or becomes damaged, it may be restored to its condition before the deterioration or damage if the repair costs do not exceed 60% of the replacement value of the structure in any twelve (12) month period. If, in any twelve (12) month period, the cost of restoring the nonconforming structure is in excess of 60% of its replacement value, the requirements for new permanent structures shall apply.
 - b. The Zoning Board of Appeals may allow the restoration of structures when in compliance with the terms of this Section and when restoration would not violate the spirit and intent of this ordinance. Furthermore, as a condition for approval of restoration plans, the Zoning Board of Appeals may require:
 - i. Measures which will aid in stabilizing the bluff other than the construction of erosion control devices.
 - ii. The use of runoff or soil erosion control techniques to prevent any acceleration erosion which may occur during restoration of the structure.
 - iii. The relocation of a restored principal structure further back from the eroding bluff when the Zoning Board of Appeals determines that the structure is likely to suffer erosion damage within three years based on average annual recession rates calculated in the shoreland erosion studies conducted pursuant to Part 323 (Shorelands Protection and Management) of the Natural Resources and Environmental Protection Act (Public Act 451 of 1994), as amended.
 - iv. The lawful disposal of all debris resulting from the damage or from the restoration of a principal structure in a manner such that the debris poses no safety or health hazard.
 - v. The Zoning Board of Appeals may impose other conditions on the restoration of nonconforming principal structures, provided these conditions are consistent with the intent of this ordinance and consistent with the promotion of the public health, safety and welfare.
 - c. The Zoning Board of Appeals shall not authorize the enlargement or extension of any principal structure in a manner which does not conform with the setback or variance requirements of this ordinance.
 - d. The pre-catastrophe replacement cost of repairing damage to a nonconforming structure, excluding contents, damaged by erosion, flood, fire, or other means, shall be made on the basis of an appraisal by a qualified individual designated by the Zoning Board of Appeals. The cost for such determination shall be borne by the applicant.

15.1.4 Areas Affected:

A. Flood Hazard Area: Generally, these lands are those bordering on and adjacent to Leins Creek and Lake Huron. Copies of the Flood Hazard Area maps, as may be issued by the Federal Insurance Administration, shall be kept on file in the Village office for examination by interested parties.

B. Shoreland (Coastal) Erosion Areas: The boundaries of those stretches of shoreland affected by the high risk erosion overlay zone shall be consistent with the affected

Article 15
Flood Hazard and High Risk Erosion (HRE) Overlay District

properties described in the U.S. Army Corps of Engineers (USACE) recommendations as from time to time amended.

- 1.** The northern boundary of the HRE zone is Cherry Street, as extended to the shore of Lake Huron. The southern Village limit (Goldman Street) defines the southern limit of the HRE zone.
- 2.** This area is shown on the official Village of Port Sanilac Zoning Map, which is part of this Ordinance. This area extends landward from the ordinary high water mark to the minimum setback line for principal structures. For the purpose of the high risk erosion overlay zone, the minimum setback requirement shall be measured landward from the bluffline and shall be construed as running parallel to the bluffline. In the event the bluffline recedes (moves landward), the setback line of the high risk erosion area shall also be construed as to have moved landward a distance equal to the bluffline recession.

15.1.5 Schedule of Regulations: Within the boundaries of the high risk erosion area established by this section, no principal structure shall be located between the ordinary high water mark and the line defining the minimum setback distance indicated on the table that follows.

Area A	55 feet	40 feet
Area B	95 feet	65 feet
Area C	70 feet	55 feet
Area D	65 feet	50 feet
Area E	50 feet	35 feet
Area F	60 feet	45 feet
Area G	65 feet	50 feet

15.1.6 Variances from the Setback Requirements:

- A.** A reduction from the “Standard Setback Requirement from the Bluffline” to the “Minimum Setback Requirement” may be granted by the Zoning Board of Appeals upon showing of hardship or unusual circumstances.
- B.** A variance from the “Minimum Setback Requirement” for principal structures on substandard lots of record or lots described in a deed or land contract may be granted by the Zoning Board of Appeals under the exceptional circumstances described below, but then only if the conditions hereafter are complied with:
 1. Established prior to the effective date of this ordinance, but which have inadequate depth to comply with the minimum setback for principal structures.
 2. Created in full compliance with this ordinance, but which at the time of application to establish a principal structure, lack sufficient depth because of natural erosion processes.
- C.** Any nonconforming lot or legal conforming lot described in a deed or land contract which becomes substandard as a result of the amendatory ordinance establishing the high risk erosion overlay zone shall not be used for establishing a principal structure except if a variance is granted.
 1. A special exception may be granted by the Planning Commission to install a moveable structure on a substandard lot if all of the following provisions are complied with:

Article 15
Flood Hazard and High Risk Erosion (HRE) Overlay District

- a. If a sanitary sewer is not used, the septic system, tile field, or other waste handling facility shall be located on the landward side of the moveable structure.
 - b. The moveable structure shall be located as far landward of the bluffline as local zoning restrictions allow.
 - c. The moveable structure shall be designed and constructed in accordance with proper engineering standards and building moving restrictions applicable to the subject area. Review and approval of the design shall be incorporated into the department permit process. All construction materials, including foundations, shall be removed or disposed of as part of the moving operation. Access to and from the structure shall be of sufficient width and acceptable grade to allow for moving of the structure.
- D. If a substandard lot does not have access to and from the structure site of sufficient width and acceptable grade to allow for a moveable structure, a special exception may be granted to utilize an erosion control device in place of a portion of the minimum setback requirement. The special exception shall be granted only if all of the following provisions are complied with:
1. If a sanitary sewer is not used, the septic system, tile field, or other waste handling facility shall be located on the landward side of the permanent structure.
 2. The permanent structure shall be located as far landward of the bluffline as local zoning restrictions allow.
 3. The erosion control device shall be designed to meet or exceed proper engineering standards for the Great Lakes, and a professional engineer shall certify that the device has been designed and will be constructed in accordance with these standards.
- E. Modification of the Minimum Setback Requirement. A person who can document, with acceptable engineering studies, an annual average recession rate which differs from the Michigan Department of Natural Resources (MDNR) recession rate data may be granted a modification of the setback requirement for principal structures by the Zoning Board of Appeals. Prior to any modification of the minimum setback requirement, the applicant's engineering studies shall be sent to the MDNR, who shall report to the Zoning Board of Appeals on the accuracy of the applicant's studies. The Zoning Board of Appeals shall only act upon requests for modification of the setback requirement after a determination has been made on the validity of the applicant's data and only after the Zoning Board of Appeals has determined that such modification would not violate the spirit and intent of this ordinance.

SECTION 15.2: DISCLAIMER OF LIABILITY

15.2.1 Disclaimer of Liability: The provisions of this Ordinance are considered the "minimum" necessary for reducing erosion hazards and property loss for a "30-year period" based upon current engineering and scientific methods of study. Faster or slower rates of erosion occur. Erosion rates may be increased by natural causes such as high lake levels or major storms or man-made causes such as the construction of erosion control devices or by increasing the amount of runoff from the land. Placing a structure landward of the high-risk erosion is not a guarantee or warranty of safety from erosion damage. Individual property owners concerned with erosion hazards are encouraged to consult with local building officials and personnel of the Department of Natural Resources to arrive at site design plans which may use a greater setback to maximize protection from erosion damage.

Article 16
Site Plan Requirements

ARTICLE 16
SITE PLAN REQUIREMENTS

SECTION 16.1: PURPOSE

16.1.1 Purpose: The purpose of the site plan review requirements is to ensure and maintain development practices and patterns to protect the public health and safety of the community and to properly advance the long-term community vision and planning goals set forth in the Port Sanilac Master Plan.

It is further the intent of this section that where a site plan is required, the size, shape, placement and design of buildings, parking lots, landscaping, fencing and related changes to a lot or parcel are all made consistent with a site plan which is submitted and reviewed to establish conformance or nonconformance with the requirements of this Ordinance and any other applicable local, county, state or federal regulations.

SECTION 16.2: USES REQUIRING SITE PLAN APPROVAL

16.2.1 Uses Requiring Site Plan Approval: The Zoning Administrator shall not issue a zoning permit or a certificate of zoning compliance, nor shall the Building Inspector issue a building permit for any principal use listed below, nor for any accessory use on a lot or parcel for which site plan approval was previously granted or is required, until a site plan covering the entire lot or parcel has been reviewed and approved:

- A. Whenever a building permit is required for new construction or alteration of an existing commercial building.
- B. For any substantial change in commercial and industrial use or type of business that may result in additional impacts to the health, safety and general welfare of Village residents or those who will use the facility as well as affect increased service or facility load or additional impact on the natural environment.
- C. Whenever a business parking or storage area is to be constructed or modified.
- D. A site plan is required with all applications for status as a special land use. The application form for site plan review is available from the Village Clerk.
- E. Any use except single-family residential which lies contiguous to a major thoroughfare or collector street that affects internal traffic circulation or requires an increase in off-street parking.
- F. All Special Land Uses permissible on appeal in single-family districts such as, but not limited to: churches, schools, public facilities, and similar uses.
- G. All site condo and condominium subdivisions developed pursuant to the Condominium Act (Public Act 59 of 1978), as amended.
- H. All other developments in which ownership interests in land are transferred for the purpose of development of a physical structure and which do not fall under the requirements of the Land Division Act (Public Act 288 of 1967), as amended.
- I. Increase in floor space of an existing building that requires an increase in off-street parking to satisfy the zoning requirements.
- J. Any site change that affects internal traffic circulation of the property or affects traffic circulation for properties surrounding the property.

Article 16
Site Plan Requirements

SECTION 16.3: INFORMAL REVIEW PROCESS

16.3.1 Informal Review Process: It is recommended that, prior to incurring any expense associated with preparing and submitting a detailed site plan application for consideration, the prospective applicant meets for an informal review with the Zoning Administrator. At the discretion of the Zoning Administrator, proposed projects may be subject to an informal review at a regularly scheduled Planning Commission meeting.

- A. The purpose is to discuss early and informally with the applicant the intent and effect of these zoning regulations and the criteria and standards contained within. This may include any potential variance requests that need to be filed with the Zoning Board of Appeals.
- B. To aid in the discussion, the potential applicant should prepare a discussion plan, drawn approximately to scale, showing the relationship of the development to surrounding properties, location of buildings, and parking areas, internal circulation patterns, proposed size of buildings and uses to be included in the development.
- C. Requests for an informal review process that are made at least fourteen (14) days prior to the next meeting of the Planning Commission will be placed on the agenda of the next regularly scheduled meeting. The applicant is encouraged to pre-schedule the meeting with the Zoning Administrator.
- D. No action shall be taken at such a meeting and no discussions, opinions, suggestions, or recommendations discussed at the informal review meeting shall be relied upon by the applicant to indicate any potential and subsequent approval or disapproval of the plan.
- E. At the discretion of the Zoning Administrator and/or the Planning Commission, other agencies with appropriate technical advice may attend the meeting.

SECTION 16.4: APPLICATION PROCEDURE

16.4.1 Application Procedure:

- A. All land for which site plan approval is sought must be owned, under the control of the applicants who must have a majority ownership interest if there is more than one owner, or have a valid purchase agreement option on the property. The Zoning Administrator, with Planning Commission approval, may research the parcel ownership and if unsatisfied that the applicant(s) have the majority ownership interest or purchase agreement interest in the property, may require proof thereof.
- B. An application for Site Plan Review by the Village Planning Commission, the required fee, along with a digital copy and two (2) paper copies of the required site plan to be reviewed shall be submitted to the Zoning Administrator at least thirty (30) days prior to the date of the Planning Commission meeting at which the review is to be conducted.
- C. All information depicted on a site plan shall be prepared by, or under the direct supervision of, a professional engineer, architect, land surveyor, or landscape architect licensed in Michigan as indicated by the signature and seal of the professional. This requirement may be waived by the Zoning Administrator for site plans involving only accessory structures or minor building alterations as documented by the Zoning Administrator in the official log of waivers.
- D. The Zoning Administrator shall record the date of the receipt of all materials. When all required materials have been received and are determined by the Zoning Administrator to be complete, the Zoning Administrator shall conduct a review of the site plan, attempt to resolve areas of noncompliance and concern with the applicant,

Article 16
Site Plan Requirements

and then forward the application, site plan, and the review thereof to the Planning Commission prior to the meeting at which it will be considered.

- E. The Zoning Administrator and the Planning Commission shall review and approve or approve with conditions, all other site plans within sixty (60) days. The Zoning Administrator shall document, prior to approval of any site plan within his/her authority to approve, that conformance with the site plan submittal requirements applicable to site plans in Section 16.5 have been met. The authority granted to the Planning Commission in Section 16.6 also rests with the Zoning Administrator on those site plans he/she has the authority to approve.

SECTION 16.5: SITE PLAN SUBMITTAL REQUIREMENTS

16.5.1 Site Plan Submittal Requirements: In addition to the property owner's and applicant's full name, address, telephone, fax and e-mail numbers, and signature(s), the preparer of the site plan must also provide the same information. The following data and other items as may be requested by the Zoning Administrator and/or Planning Commission is required to be depicted on every site plan submitted for review and approval, except if waived by the Zoning Administrator:

- A. Name and address of the developer (if different from the applicant).
- B. Name and address of the engineer, architect, land surveyor, or landscape architect licensed in Michigan as indicated by the signature and seal of the professional.
- C. Legal description of the property, lot numbers, property lines including angles, dimensions, and a reference to a section corner, quarter corner, or point on a recorded plat. Include a copy of any existing deed restrictions or previous zoning approval which limits use of the property, as well as any proposed deed restrictions.
- D. A vicinity sketch showing the location of the site in relation to the surrounding street system and the classification of land bordering the site in question.
- E. Building Elevations.
- F. A map at a scale of not less than 1"=20' if the subject property is less than three (3) acres and 1"=100' if three (3) acres or more. The following items shall be shown on the map:
 - 1. Existing zoning classification of the site and surrounding properties and any variances to be requested;
 - 2. Name, address and seal of the preparer and date site plan was prepared or last updated.
 - 3. The topography of the site at a minimum of two (2) foot intervals and its relationship to adjoining land;
 - 4. Existing man-made features and existing natural features, including all trees and woods on site and all drains, streams, lakes, ponds, floodplains, sand dunes, high risk erosion areas, and similar features on the site with an indication as to which will be retained and which will be removed or altered by earth changes;
 - 5. Dimensions of yards, setbacks, locations, heights and size, use and shape of all buildings and structures. Lot area, lot coverage, floor area, floor elevation, finished ground and basement floor grades, and building height by side of building shall all be indicated;
 - 6. Proposed grading, drainage systems, on-site retention and detention basins, and the direction of drainage flow;
 - 7. Location and type of drainage, sanitary sewers, storm sewers, water, electric and gas lines and any other utilities, as well as any easements that exist or are proposed for the installation, repair and/or maintenance of utilities. Any septic systems, drain fields, dry wells, catch basins, water wells (active or abandoned),

Article 16
Site Plan Requirements

- and underground storage tanks (active or abandoned) shall also be indicated, as well as the point of discharge for all drains and pipes;
8. Proposed streets, driveways, parking spaces and sidewalks, with indication of direction of travel for one-way streets and drives and inside radii of all curves. The width of streets, driveways and sidewalks and the total number of parking spaces shall be shown. Parking areas shall be designed showing individual spaces and shall conform to the provisions of Section 3.21.
 9. Adjacent properties and their uses shall be identified;
 10. Location and type of signs and on-site lighting;
 11. Existing and proposed trash receptacles and dumpsters and the location and specifications of any proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials, as well as any containment structures or clear zones required by government authorities;
 12. Any other information necessary to establish compliance with Village Ordinances.

**SECTION 16.6: PLANNING COMMISSION REVIEW OF AND
SITE PLAN PERFORMANCE GUARANTEE**

16.6.1 Planning Commission Review of Site Plan and Performance Guarantee: The Village Planning Commission shall review the required site plan and either approve, deny, or approve with conditions the site plan based on the purposes, objectives and requirements of this Ordinance and specifically, the standards listed in Section 16.5. Any conditions required by the Planning Commission shall be shown on the site plan, as well as stated in writing and delivered to the applicant. The Planning Commission shall document its conclusions, the rationale for the conclusions, and, if an application is denied but approval appears feasible, what must be done to obtain approval.

- A. Further, the Planning Commission is empowered to require a performance bond, certified check, irrevocable letter of credit, and/or cash bond in the amount equal to the estimated cost of improvements associated with the project. Such performance guarantee shall be deposited with the Village Treasurer at the time of the issuance of the permit authorizing the activity or project to ensure faithful completion of the improvements indicated with the approved site plan; if not faithfully completed, said performance bond shall be forfeited. The Village shall rebate a proportional share of the performance guarantee when requested by the depositor, based on the percent of improvements completed, as attested by the depositor and verified by the Zoning Administrator. In cases where the provisions of Section 16.5 have not been met, the amount of the aforementioned performance guarantee shall be used by the Village to return the property to a safe and healthy condition, including completion of required improvements, and the balance of the performance guarantee, if any, shall be returned to the applicant.
- B. Each development for which site plan approval is required shall be under construction within one (1) year after the date of final approval by the Planning Commission. If said applicant does not fulfill this provision, the Planning Commission may grant a sixty (60) day extension, provided the applicant has an opportunity, preceded by at least ten (10) days' notice, to present reasonable evidence which is discussed at a public meeting of the Planning Commission, to the effect that said development has encountered unforeseen difficulties but is then ready to proceed. Should neither of the aforementioned provisions be fulfilled or a sixty (60) day extension has expired without construction underway, the Planning Commission shall hold a hearing to decide whether the site plan will be voided. If a site plan is determined by the Planning Commission to be null and void following a hearing, It

Article 16
Site Plan Requirements

may be reconsidered only upon reapplication and payment of all fees.

- C. Upon approval of said site plan, the Zoning Administrator shall sign and date three (3) copies thereof. One (1) signed copy shall be made part of the Planning Commission's files and one (1) shall be forwarded to the Building Inspector for issuance of a building permit. The third copy shall be returned to the applicant. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals relative to the property for which site plan approval was granted, the minutes concerning the variances, duly signed and dated, shall also be filed with the Planning Commission records as a part of the approved site plan and a copy delivered to the applicant.

SECTION 16.7: FEES

16.7.1 Fees: The applicant shall submit a Site Plan and Application for Site Plan Review to the Village Clerk, along with a fee as specified in Section 4.8.

SECTION 16.8: SITE PLAN AMENDMENT

16.8.1 Site Plan Amendment: Site Plan amendments shall be subject to the same submittal, review, and approval procedural requirements as the original Site Plan being amended. Site Plan amendments require the mutual agreements of the body or official approving the original site plan and the applicant.

SECTION 16.9: CONFORMITY TO APPROVED SITE PLANS

16.9.1 Conformity to Approved Site Plans: Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the permit issuing authority. If construction and development does not conform to such approved plans, as evidenced in an inspection by the Building Inspector or Zoning Administrator, the owner shall be given a notice of violation of the Ordinance and notified that all construction activities shall cease at the time of the notice. Following a notice of violation, the Planning Commission shall hold a hearing to determine the cause for nonconformity or other issues in conforming to the approved site plan. Following the hearing, the permit may be reinstated.

SECTION 16.10: APPEALS OF SITE PLAN DECISIONS

16.10.1 Appeals of Site Plan Decisions: An appeal of a site plan decision made by the Zoning Administrator may be taken to the Zoning Board of Appeals in the same manner as other administrative decisions. An appeal of a site plan decision by the Village Planning Commission or Village Council may be taken to the Circuit Court. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any decision by the Zoning Administrator, or to decide in favor of the applicant. The appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the Village, County, or State. The Zoning Board of Appeals shall state the grounds of each determination.

Article 16
Site Plan Requirements

SECTION 16.11: AS-BUILT SITE PLANS

16.11.1 As-Built Site Plans: Once a project for which a site plan was approved is completed, two (2) sets of “as built” site plans showing the exact building footprints driveways, parking areas, landscaping, utilities, sidewalks, bike paths and trails shall be signed by the licensed professional who prepared them and delivered to the Zoning Administrator within one (1) month of receipt of a certificate of zoning compliance (for each phase of a project if multi-phased). The Zoning Administrator may waive this requirement, except where major utilities, new roads and/or large buildings are involved.

Article 16
Site Plan Requirements

**ARTICLE 17
SPECIAL LAND USE REGULATIONS**

SECTION 17.1: PURPOSE

17.1.1 Purpose: Special land uses are those uses of land which are not essentially incompatible with uses permitted in a zoning district, but may possess characteristics which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent land uses. The purpose of this chapter is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special land uses. The criteria for decision and the requirements provided for under the provisions of the chapter shall be in addition to those required elsewhere in this Ordinance, which are applicable to the special approval land use under consideration.

SECTION 17.2: SPECIAL LAND USE

17.2.1 Special Land Use: A use that meets the intent and purpose of the zoning district but which requires the review and approval of the Planning Commission in order to ensure that any adverse impacts on adjacent uses, structures, or public services and facilities that may be generated by the use can be, and are, mitigated.

SECTION 17.3: REVIEW PROCESS

17.3.1 Application Procedures: The Planning Commission may, by resolution, grant permits for special land uses which are authorized in this Ordinance. Such permits may contain conditions or restrictions consistent with the terms of this Ordinance. An application for permission to establish or expand a special land use shall be submitted and acted upon in accordance with the following procedures:

A. Applications for a Special Land Use Permit shall be submitted to the Zoning Administrator at least thirty (30) calendar days prior to the next Planning Commission meeting. The Zoning Administrator shall review the application for completeness. If the application is complete, it shall be transmitted to the Planning Commission.

17.3.2 Required Information:

- A. The application shall describe the nature of the request and the property which is the subject of the request.
- B. Every application involving the construction of or addition to a building or structure shall be accompanied by a minimum of four (4) copies of a site plan prepared pursuant to Article 16 "Site Plan Requirements." The Zoning Administrator may require additional copies of a site plan.

Article 17
Special Land Use Regulations

- C. An application for a special land use permit shall be accompanied by the following documents and information:
 - 1. A Special Land Use Permit application form supplied by the Zoning Administrator, which has been completed in full by the applicant.
 - 2. A final site plan, as specified in Article 16 “Site Plan Requirements.”
 - 3. A statement with regard to compliance with the criteria required for approval in Section 17.4 and other criteria imposed by this Ordinance affecting the special approval use under consideration.
- E. The Zoning Administrator may require such additional information as may be reasonably required to determine compliance with this Ordinance. The Zoning Administrator shall review the application and documentation as to form and content. If the application is complete, it shall be presented to the Village Planning Commission at its next regular meeting or at a special meeting called for that purpose.

17.3.3 Public Hearing: Upon receipt of an application for a Special Land Use Permit, the Zoning Administrator shall schedule at least one (1) public hearing, in accordance with the public hearing and public notice requirements set forth in the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and the public notification requirements detailed in Section 4.10 of this Ordinance.

17.3.4 Review and Approval: Within thirty (30) days following the public hearing, provided all materials are complete, the Village Planning Commission shall review the application for a Special Land Use Permit, comments received at the public hearing, the site plan, and other materials submitted in relation to the application, and make a determination on the Special Land Use Permit application in accordance with the criteria for the approval stated in Section 17.4 and such standards contained in this Ordinance which relate to the special land use under consideration. It may deny, approve, or approve with conditions the application for a Special Land Use Permit. Its decision shall be incorporated in a statement of conclusions relative to the special approval use under consideration, and shall specify the basis for the decision and any conditions imposed. A request for approval of a land use or activity which is in compliance with Ordinance standards, other applicable Ordinances, and state and federal statutes shall be approved. Upon the approval, or approval with conditions by the Village Planning Commission, the applicant may apply for a building permit.

SECTION 17.4: BASIS FOR DETERMINATION

17.4.1 Basis for Determination: Prior to approval of a Special Land Use Permit application, the Planning Commission shall ensure that the standards specified in this section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special land use under consideration.

Article 17
Special Land Use Regulations

17.4.2 General Standards: The Village Planning Commission shall review the particular circumstances of the Special Land Use Permit application under consideration in terms of the following standards and shall approve a Special Land Use Permit application only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

- A. The special land use is consistent with the intent of the Village of Port Sanilac Master Plan.
- B. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
- C. The special land use shall not change the essential character of the surrounding area.
- D. The special land use shall not be hazardous to the adjacent property, property values, or involve uses, activities, processes, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance.
- E. The special land use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion.
- F. The special land use shall meet the site plan review requirements of Article 10.
- G. The special land use shall conform to all applicable state and federal requirements for that use.
- H. The special land use shall conform with all standards in this Ordinance and other applicable Village Ordinances, and standards particular to the special land use found in the district provisions, Schedule of Regulations, or elsewhere.

17.4.3 Conditions: The Planning Commission may impose conditions with approval of a Special Land Use Permit which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the special land use permit and shall be enforced by the Zoning Administrator.

17.4.4 Previously Approved Special Land Uses and Conditional Uses: Uses of land and/or development projects granted conditional use approval or special land use status by the Village prior to the adoption or amendment of this Zoning Ordinance may continue this status as permitted uses, provided the rules, regulations, requirements, and conditions of the permit issued for the conditional use or special approval use are met. Any changes to a previously approved conditional use or special approval use shall be processed according to the procedures and standards of this Ordinance for special approval uses, if the use is listed as a special land use in this Ordinance.

Article 17
Special Land Use Regulations

SECTION 17.5: FEES

17.5.1 Fees: The applicant shall submit a formal application to the Zoning Administrator, along with a fee as specified in Section 4.8.

SECTION 17.6: APPEAL TO CIRCUIT COURT

17.6.1 Appeal to Circuit Court: An appeal on a Special Land Use Permit decision may be taken to the Circuit Court, as provided by law.

SECTION 17.7: PERMITS

17.7.1 Validity of Permit: A Special Land Use Permit issued under Article 17 shall be valid for a period of one (1) year from the date of the issuance of said permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this one (1) year period, the Zoning Administrator shall notify the applicant in writing of the expiration or revocation of said permit, provided however, that the Planning Commission may waive or extend the period of time in which the permit is to expire if: a) it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction; b) no significant changes to applicable regulations have occurred; or c) there have been no significant changes in the condition or abutting property or services. This determination of the Planning Commission shall be forwarded to the applicant with a recommended action.

17.7.2 Permit Revocation: The Planning Commission shall have the authority to revoke any Special Land Use Permit following a hearing, after it has been demonstrated that the holder of the permit has failed to comply with one or more of the applicable conditions specified in the permit. The reasons for any revocation shall be documented in writing and shall accompany the motion to terminate. After a revocation notice has been given, the use for which the permit was granted must cease within sixty (60) days. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this Ordinance. See Article 23.

17.7.3 Termination of a Special Land Use Permit if the Use Changes: If the use of a property for which a conditional use or a Special Land Use Permit was issued is no longer for the land use authorized by either of those permits, the Planning Commission shall hold a hearing to consider whether to terminate the conditional use or special land use authorization. Discontinuance of a seasonal use for which a Special Land Use Permit was issued is also subject to termination of the Special Land Use Permit following a hearing before the Planning Commission if the season passes in which the permit would normally apply and a different use is in place instead.

Article 17
Special Land Use Regulations

17.7.4 Recording with County Register of Deeds: A Special Land Use Permit and all conditions attendant thereto, may be recorded by the Village of Port Sanilac with the Sanilac County Register of Deeds and attached to the property record of the property for which it was issued, as may a notice that such permit no longer is valid.

SECTION 17.8: REAPPLICATION

17.8.1 Reapplication: No application for a Special Land Use Permit for the same or a very similar use which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly-discovered evidence of proof of changed conditions. A reapplication shall require a new fee and the process will have to begin all over again.

SECTION 17.9: SITE PLAN AMENDMENT

17.9.1 Site Plan Amendment: The site plan, as approved, shall become part of the record of approval, and subsequent actions relative to the activity authorized shall be consistent with the approved site plan, unless a change conforming to this Ordinance receives the mutual agreement of the landowner and the Planning Commission.

SECTION 17.10 SPECIAL LAND USE STANDARDS

The following standards apply to the uses of land permitted by Special Land Use Permit in this Ordinance. The regulations contained in this Section shall be applied in addition to any other applicable standard or regulation contained elsewhere in this Ordinance (such as for site plans in Article 16), unless specifically noted.

17.10.1 Airplane Landing Strips and Helicopter Landing Pads (Non-Commercial):

- A. Airplane landing strips and helicopter landing pads are permitted by Special Land Use Permit in the A-R district.
- B. All landing strips for aircraft or helicopter landing pads shall be so designed and the runways and facilities so oriented, that the incidence of aircraft passing directly over dwellings during their landing or take-off patterns is minimized. They shall be located so that traffic shall not constitute a nuisance to neighboring uses. The proponents shall show that adequate controls or measures will be taken to prevent offensive noise, vibrations, dust, or bright lights. New landing strips and heliports shall not be construed to be permitted in any district established by this Ordinance, unless and until a Special Land Use Permit shall first have been secured.

17.10.2 Bars and Restaurants that Serve Alcoholic Beverages:

Article 17
Special Land Use Regulations

- A. Bars and restaurants that serve alcoholic beverages are permitted by Special Approval Use Permit in the C zoning district.
- B. At all times, bars and restaurants that serve alcohol shall remain in conformance with all rules, regulations, license conditions, permits, approvals, sanctions or other requirements of the Michigan Liquor Control Commission.
- C. Such establishments shall apply for and receive site plan review and approval from the Village of Port Sanilac Planning Commission before any change of use that requires a new or modified license or permit from the Michigan Liquor Control Commission before such a license or permit has been obtained from the Michigan Liquor Control Commission.
- D. Brewpubs shall only be allowed in conjunction with and as part of a restaurant.
- E. Designated outdoor dining areas, such as in a courtyard or on a roof, deck, or patio, may be provided in the C and CBD districts provided the following conditions are met:
 - 1. The outdoor dining area must be immediately adjacent to the indoor dining area and not adjacent to a residence.
 - 2. The outdoor dining area shall be physically separated from the surrounding outdoor area. Such separators must be approved by the Zoning Administrator and can be a fence, elevated deck, planters, movable gating or theater type posts with ropes, etc. Indicate if outdoor consumption of alcohol will be involved.
 - 3. It shall not be located in any required front, rear, or side yard setback area.
 - 4. The location and volume of seating, as well as the location and dimensions of the restaurant/food service building, property boundaries, existing and proposed surfaced areas, and access and separation shall be indicated on a site plan.
 - 5. Depictions of non-permanently sited tables, chairs, umbrellas, awnings, trash receptacle(s), and the physical separator(s) should be provided, as well as corresponding information regarding materials, flooring, and the proposed schedule of operation and maintenance of the area.
 - 6. Any live or recorded music played or noise projected outside the restaurant/food service establishment cannot be a nuisance. The Zoning Administrator is empowered to interpret a nuisance for a minimal level of noise unacceptable to the surrounding area.
 - 7. For an outdoor dining area with more than sixteen (16) seats, food service shall be provided by wait staff.
 - 8. Designated outdoor eating areas shall be added to the gross floor area of the building for purposes of computing off-street parking requirements.
- F. When a commercial district abuts a residential district, a greenbelt shall be established on the commercial property to serve as a buffer between the Commercial District and the non-commercial district. Layout and design, including width and depth and type of plantings shall be specified by the Planning Commission during site plan review. Greenbelts shall be maintained with healthy trees and shrubs. Dead trees or shrubs shall be replaced with healthy specimens.

Article 17
Special Land Use Regulations

17.10.3 Bed and Breakfasts:

- A. Bed and Breakfasts are permitted by Special Land Use Permit in the R-1, R-2, C, and CBD districts.
- B. Property must be suitable for use as a guest lodging facility.
- C. The use shall be compatible with the neighborhood in which it is located and other allowed uses in the vicinity.
- D. Guests may rent sleeping rooms for a period not to exceed fourteen (14) consecutive days. Seven (7) additional consecutive days may be allowed upon approval by the Zoning Administrator.
- E. A smoke detector in proper working order shall be provided in every sleeping room and in additional locations within the structure as determined by the Village Building Official. A fire extinguisher in proper working order shall be located on every floor in the immediate vicinity of the sleeping rooms.
- F. The structure shall have at least two (2) exit doors to the outside.
- G. The use shall be located in the principal structure on the property. The rooms utilized for sleeping shall be part of the primary residential use and not specifically constructed for rental purposes. The Planning Commission may grant permission for accessory dwellings or structures in existence as of the effective date of this section and located on the same parcel as the principal structure containing the Bed and Breakfast to be used as additional sleeping rooms.
- H. The Bed and Breakfast shall not alter the residential character of the structure.
- I. Rental sleeping rooms shall have a minimum of 100 square feet for one (1) or two (2) occupants with an additional thirty (30) square feet for each occupant to a maximum of four (4) occupants per room.
- J. Lavatories and bathing facilities shall be provided for guests at the Bed and Breakfast at a ratio of one (1) per floor, and shall be designated for the exclusive use of guests of the Bed and Breakfast.
- K. There shall be no separate cooking facilities for the Bed and Breakfast establishment other than those which serve the principal residence. Food and beverages for compensation may be served only to guests staying on the premises.
- L. A site plan shall be provided including a floor plan of the structure, drawn to scale not less than 1/8" = 1', providing the following information:
 - 1. Owner/resident manager and guest on-site parking
 - 2. Guest entrance to the structure
 - 3. Outdoor areas for use by guests
 - 4. All rooms of the structure clearly indicating guest and owner/resident manager sleeping rooms, and all other portions of the residence available for use by guests
 - 5. Additional information as may be deemed necessary by the Planning Commission.
- M. All on-site parking shall be paved and constructed in accordance with the parking requirements of Section 3.20.

Article 17
Special Land Use Regulations

- N. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto adjoining property used or zoned for residential purposes, or onto public rights-of-way.
- O. All required state and local permits must be secured, maintained and displayed within an area of the Bed and Breakfast available to guests.
- P. Rental of snowmobiles, ATV's, or similar vehicles, boats and other marine equipment to guests may be permitted as part of the Special Land Use approval by the Planning Commission. Such requests will be evaluated by the Planning Commission on a case by case basis based on information provided by the applicant.
- Q. All requirements and conditions imposed upon the Special Land Use approval shall be implemented prior to the Bed and Breakfast establishment becoming operational.

17.10.4 Campgrounds:

- A. Campgrounds are permitted by Special Land Use Permit in the C and CBD zoning districts.
- B. The location of a campground shall front or have public access to an existing paved or blacktopped road, existing state trunk line, existing primary road or the developer shall agree to provide the funds to upgrade or will upgrade an existing public or private road to a road which is paved, blacktop, or to a primary road.
- C. The location of a campground shall front on a right-of-way or easement where public water and sewer exists and is available for connection to campground facilities or the developer shall agree to extend public sewer and water lines from the existing lines to the campground facilities. If no public water and sewer exists, an acceptable on-site system shall be constructed, according to rules promulgated by the Michigan Department of Health, as shown by an issued permit.
- D. The campground shall conform to all applicable regulations of any rules promulgated by the Michigan Department of Health under authority of Part 125 of the Michigan Public Health Code (Public Act 368 of 1978), as amended.
- E. The application for a Special Land Use Permit for a campground shall contain all the elements and parts which are required by the Michigan Department of Health for a campground license under authority of Sections 12501 to 12516 of the Michigan Public Health Code (Public Act 368 of 1978), as amended, in addition to the Special Land Use Permit application requirements presented in this Zoning Ordinance.
- F. The minimum parcel area shall not be less than X square feet, where X equals 2,000 times the number of proposed campsites. (For example, if 100 campsites are proposed, multiplied by 2,000 – the minimum parcel area would have to be 200,000 square feet, or 4.59 acres).
- G. Spaces in the campground shall be only rented on a daily, weekly, or monthly basis.

Article 17
Special Land Use Regulations

- H. Management headquarters, recreation facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to the operation of a campground are permitted as accessory uses provided:
1. Such establishments and the parking area primarily related to their operations shall not occupy more than ten percent (10%) of the campground.
 2. Such establishments shall be restricted in their use to occupants of the campground.
 3. Such establishments shall present no visible evidence of their commercial character, which would attract customers other than occupants of the campground.
 4. No space shall be so located so any part intended for occupancy for sleeping purposes shall be within one hundred (100) feet of the right-of-way line of any road. Setback spaces may be reduced if occupied by plant material and/or a berm. In no case shall the setback be less than 40 feet, and allowed only in instances when screening is an opaque fence or berm. In all cases, plant materials shall be maintained in a setback area. Plant materials shall be of sufficient size when installed to ensure immediate and effective screening of the campground from adjacent roads and properties. The plans and specifications for a campground shall include the proposed arrangement of such plantings.

17.10.5 Cemeteries, Crematories, and/or Mausoleums

- A. Cemeteries, crematories, and/or mausoleums are permitted by Special Land Use Permit in the A-R and C districts.
- B. The minimum development site for cemeteries, crematories, and/or mausoleums shall be ten (10) acres.
- C. No more than five (5) percent of the site area may be occupied by enclosed structures.
- D. All burial plots and all structures shall be set back no less than twenty (20) feet from a street right-of-way or property line.
- E. Adequate stacking and travel lanes shall be provided on the site and shall be located at least fifty (50) feet from any lot line.
- F. A ten (10) foot buffer containing screening plant materials is to be retained or provided adjacent to all interior lot lines.
- G. All ingress and egress to the site shall be from a paved street.
- H. Adequate off-street vehicle stacking shall be provided for funeral processions to discourage parking and idling in the public road right-of-way.
- I. All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the Sanilac County Health Department and the State of Michigan.

17.10.6 Churches and other Places of Worship

- A. Churches and other places of worship are permitted by Special Land Use Permit in the R-1, R-2, MFR, A-R, C, and CBD districts.

Article 17
Special Land Use Regulations

- B. All structures for purposes of assembly, education or gathering shall be set back no less than forty (40) feet from any side or rear yard.
- C. All ingress and egress to the site shall be from a paved street.
- D. In the event that education facilities and/or programs are offered, student and participant drop-off shall occur on site and be located in designated areas exclusive of travel lanes.

17.10.7 Commercial Operations Ancillary to the Operation of a Mobile Home Park:

- A. Commercial operations ancillary to the operation of a mobile home park are permitted by Special Land Use Permit in the MHS district.
- B. Service buildings to be provided shall be of permanent construction, be conveniently located and well lighted and ventilated and maintained in a sanitary manner.
- C. Management headquarters, recreation facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to the operation of a mobile home park are permitted by Special Land Use Permit provided:
 - 1. Such establishments and the parking area primarily related to their operations shall not occupy more than ten percent (10%) of the mobile home park.
 - 2. Such establishments shall be restricted in their use to residents of the mobile home park.
 - 3. Such establishments shall present no visible evidence of their commercial character, which would attract customers other than residents of the mobile home park.

17.10.8 Community Residential Care Facilities:

- A. Community residential care facilities are permitted by Special Approval Use Permit in the A-R, R-1, and R-2 zoning districts.
- B. Safe areas for pick-up and discharge of users shall be provided that do not interfere with the free flow of traffic on adjacent streets.
- C. Adult day care centers shall be in full compliance with all applicable requirements of the Americans with Disabilities Act of 1990, as amended.
- D. Adequate provisions shall be made for access by emergency medical and fire vehicles.
- E. Facilities shall have an appearance that is non-intrusive and consistent in color, materials, roofline and architecture with the district and neighborhood in which it is located.
- F. Proof of licensing by the State of Michigan Department of Licensing and Regulatory Affairs (LARA) shall be required prior to the operation of any child care center. Additionally, there shall be provided and maintained an outdoor play area suitable for play activity and containing a minimum of two thousand square feet (2000 sq. ft.). The outdoor play area shall be immediately contiguous to the facility it is intended to serve and shall be enclosed by a protective wall or fence.

Article 17
Special Land Use Regulations

G. In residential zoning districts, state-licensed residential facilities for six (6) or fewer persons, as provided in the Michigan Zoning Enabling Act (PA 110 of 2006), as amended, are governed by the provisions of that Act.

17.10.9 Convalescent Homes and Nursing Homes:

- A. Convalescent homes and nursing homes are permitted by Special Land Use Permit in the A-R and C districts.
- B. There shall be provided at least 1,000 square feet of lot area per bed.
- C. No principal structure shall be closer than forty (40) feet to any lot line unless a greater setback is required by the underlying zoning district.
- D. No more than fifty (50) percent of the site area shall be covered by principal and accessory structures.
- E. Parking areas shall not be located within twenty (20) feet of any property zoned or used for residential purposes.
- F. All ingress and egress to the site shall be from a paved street.
- G. Recreational facilities shall be provided appropriate to the needs of the resident population.
- H. All licenses required by the State of Michigan shall be maintained and a copy provided annually to the Zoning Administrator.
- I. The interior layout and provision for community gathering spaces shall be provided so as to allow a resident of the facility the opportunity to spend the majority of non-sleeping hours outside of the residents' bedroom.
- J. The structure shall have an identified area designed to provide privacy for visiting family, friends and/or agents of the resident.
- K. Appropriate areas shall be provided for access by emergency vehicles.

17.10.10 Food Processing Facilities:

- A. Food processing facilities are permitted by Special Land Use Permit in the C district.
- B. Example food processing facilities: livestock feed production, fruit juice & cider pasteurization and packaging, seed drying, sorting, & packaging, preserved fruits and vegetable manufacturing.
- C. Slaughter houses, meat packing plants, and other similar uses shall be specifically excluded.
- D. These uses may only be located upon a site where abutting lands are zoned for industrial or non-residential purposes on all sides. For a site zoned for agricultural or industrial purposes all processing buildings, fixed equipment, machinery, and stored raw materials and product shall be located at least five hundred (500') feet from said site lot line(s).
- E. The classification of the road from which access is sought shall be determined by the Planning Commission to be appropriate to the scale and nature of the operation proposed. The proposed operation shall be determined not to generate excessive car and/or truck traffic through residential areas.
- F. The operator may be required to file with the Sanilac County Road Commission a bond for maintenance of and dust control on the public road(s)

Article 17
Special Land Use Regulations

providing access to the site. A truck route may also be designated if determined necessary.

- G. Ingress/egress. There shall be not more than one (1) entrance way to the facility property for each five hundred (500') feet of road frontage.
- H. Parking. All parking shall be provided as off-street parking within the boundaries of the development.
- I. Truck standing/loading. No vehicle shall be permitted to wait or to stand within a dedicated road right-of-way.
- J. Such food processing or storage shall not be conducted as to cause the pollution by any material of any subsurface, water course, or waterbody outside the lines of the property on which such use shall be located.

17.10.11 Funeral Homes and Mortuaries:

- A. Funeral homes and mortuaries are permitted by Special Land Use Permit in the C and CBD districts.
- B. The use shall be so arranged that adequate assembly area is provided off-street for vehicles to be used in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.
- C. Points of ingress and egress shall be designed so as to minimize possible conflicts between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the site.
- D. A mortuary that houses a crematorium shall be located at least one hundred (100) feet from any residential use.
- E. A caretaker's residence may be provided within the main building or within an accessory building of the mortuary establishment.

17.10.12 Gasoline Service Stations:

- A. Gasoline service stations are permitted by special land use permit in the C and CBD zoning districts.
- B. 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.
- C. All activities related to vehicle washing, service and repair equipment shall be entirely enclosed within a building.
- D. 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.
- E. 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.
- F. Vehicle sales shall not be permitted on the premises of any automobile service station or wash.
- G. Gas station/Convenience Stores shall follow all of the provisions as established in C and CBD zoning districts and are required to apply for and secure a Special Land Use Permit.
- H. Gas stations/Convenience Stores are required to follow the State of Michigan Standards - MDEQ regarding underground tanks, wiring, leak protection,

Article 17
Special Land Use Regulations

venting any and/or all requirements as established by the Department of Environmental Quality.

- I. Any/all merchandise within the Convenience Store shall be subject to the licensing and approval of the State of Michigan.
- J. 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.

17.10.13 Hospitals:

- A. Hospitals are permitted by Special Land Use Permit on major thoroughfares in the A-R and C zoning districts.
- B. The minimum area for a hospital shall be ten (10) acres.
- C. Ingress and egress to the site shall be only from a paved major thoroughfare.
- D. The minimum distance of any building from bounding lot lines or streets shall be at least one-hundred feet (100') for front, rear, and side yards for all two (2) story structures. For every story above two (2), the minimum yard distance shall be increased by at least twenty feet (20'). Buildings less than two (2) stories shall be no closer than forty feet (40') from any lot line or right-of-way.
- E. Access to and from any delivery or ambulance areas shall be directly from a major thoroughfare.
- F. Noise producing activities, such as ambulance and delivery areas, laundry, or power plant, shall not be located closer than three hundred feet (300') from any residential area.
- G. Ambulance and delivery areas shall be obscured from all residential view by a solid masonry wall five feet (5') in height.
- H. When a Commercial district abuts a residential or agricultural-residential district, a greenbelt shall be established on the commercial property to serve as a buffer between the commercial district and the non-commercial district. Layout and design, including width and depth and type of plantings shall be specified by the Planning Commission during site plan review. Greenbelts shall be maintained with healthy trees and shrubs. Dead trees or shrubs shall be replaced with healthy specimens.
- I. All lighting shall be shielded away from public right-of-way and neighboring residential lots.
- J. All hospitals shall be licensed by the State of Michigan.
- K. Hospitals shall conform to applicable state and federal laws.

17.10.14 Hotels and Motels:

- A. Hotels/motels are permitted by Special Land Use Permit in the C and CBD zoning districts
- B. Ingress and egress to the lodging establishment shall be only from a paved major thoroughfare.
- C. The minimum lot size shall be two (2) acres with a minimum width of one hundred sixty five feet (165'), provided that there shall be at least eight hundred square feet (800 sq. ft.) of lot area for each guest.

Article 17
Special Land Use Regulations

- D. The maximum lot coverage of all buildings, including accessory buildings, shall not exceed twenty five percent (25%) of the area within the lot lines of land developed at any one time.
- E. Off-street parking is as required in accordance with Article 3, General Provisions.
- F. The front twenty-five feet (25') of the lot shall be landscaped buffer zone, unpaved, and shall not be used for off-street parking.
- G. The outdoor storage of trash or rubbish shall be screened in accordance with Article 3, General Provisions.
- H. No kitchen or cooking facilities shall be provided in guest rooms.
- I. The minimum floor area of each guest unit shall be two hundred-fifty square feet (250 sq. ft.).
- J. No guest shall establish permanent residence at the lodging establishment.

17.10.15 Junkyards:

- A. Junkyards are permitted by Special Land Use Permit in the I district.
- B. The planning commission may establish hours of operation for junkyards to protect the character of the land uses in the vicinity.
- C. The applicant shall demonstrate to the planning commission proper design and licensing measures as required by state and federal statutory and regulatory authority.
- D. Dismantled, wrecked, or immobile vehicles, or other junk stored shall not be kept outdoors unless completely screened from any adjoining parcel or right-of-way and located in the rear or side yard.
- E. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
- F. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with Section 3.21 hereof, and any applicable state or federal requirements.
- G. All materials stored on site shall be located in the side or rear yards.
- H. No portion of the storage area shall be located within two hundred (200) feet of any residential district or residential lot line.
- I. All materials shall be screened with an eight-foot-tall opaque fence.
- J. Stored materials shall not be stacked higher than eight (8) feet, and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way.
- K. A management office shall be provided on site. A residence may be permitted for security personnel or an on-site operator.
- L. The minimum size for all junkyard facilities shall be two (2) acres, maximum lot size shall be eight (8) acres.

17.10.16 Libraries:

- A. Libraries are permitted by Special Land Use Permit in the A-R district.
- B. The proposed site shall front upon, and all ingress and egress shall be from an arterial or collector road.

Article 17
Special Land Use Regulations

- C. Unless greater setbacks are required by the district in which the use is located, buildings and structures shall be setback at least fifty (50) feet from the front lot line and twenty-five (25) feet from the side and rear lot lines.

17.10.17 Marinas or Boat Liveries:

- A. Marinas or boat liveries are permitted by special use permit in the C and CBD zoning districts.
- B. The marina site shall be physically separated from any adjacent industrial uses by fencing a minimum six (6) feet in height.
- C. A separate entry/egress drive shall be provided, which shall not cross through any property used or intended for industrial uses.
- D. On-site restroom facilities shall be provided per code for all marinas.
- E. Any marina that permits boaters to overnight in their moored or docked boats must provide shower/washing facilities as prescribed by the Planning Commission.
- F. On-site parking and landscaping shall be provided in accordance with the requirements of this Ordinance.
- G. Docks and mooring shall be physically separated from adjacent industrial/commercial waterfront uses and shipping channels.
- H. Proposed docks and moorings shall not interfere with the passage of boats into or out of adjacent or nearby marinas, and will not be so located as to be a hazard or obstacle to the normal movement of boats in the Thunder Bay River or the adjacent waters of Lake Huron.
- I. The Planning Commission may modify or waive those site requirements listed in B – E above upon a demonstration of hardship or a compelling need or justification.

17.10.18 Medical Clinics or Offices:

- A. Medical clinics or offices are permitted by Special Land Use Permit in the C and CBD districts.
- B. Any dumpsters used by a medical office shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines. Any disposal of bio-hazardous waste shall be in conformance with state and local requirements.
- C. Where a parking area abuts an existing residential use, the parking area must be screened using appropriate and effective screening methods as determined by the planning commission.
- D. Where the planning commission determines that a proposed medical office shall primarily provide secondary care services the number of parking spaces required may be reduced to provide one space for each three hundred fifty (350) square feet of gross floor area. For purposes of this subsection, "secondary care services" shall mean services provided by human medical specialists who generally do not initially diagnosis or have first contact with a

Article 17
Special Land Use Regulations

patient and who typically generate less vehicle traffic, including optometrists, podiatrists, chiropractors, and similar medical professionals."

- E. The applicant must provide an interior floor plan to demonstrate the proposed layout of the medical office.

17.10.19 Migrant Worker Camps:

- A. Migrant worker camps are permitted by Special Land Use Permit in the A-R district.
- B. Migrant housing may be occupied for no more than ten (10) months during one calendar year.
- C. Seasonal dwellings may not be used for the housing of persons not at some time employed by the owner of the dwelling.
- D. The rules, regulations, and standards of the State of Michigan governing the licensing and operation of migrant housing shall apply to the Village of Port Sanilac where any dwelling is used to house one or more migrant workers. It is the purpose and intent of this provision to incorporate by reference such rules, regulations, and standards and further to apply the same to the housing of one (1) or more such migrant workers notwithstanding that such State regulations may have a greater housing unit or migrant worker threshold.
- E. Seasonal dwellings shall be located at least two hundred (200) feet from any public street, at least two hundred (200) feet from any other property line, and four hundred (400) feet from any dwelling of an adjacent property owner.
- F. No seasonal dwelling shall have more than one (1) story nor contain more dwelling units than are necessary to meet the needs of the owner of the premises.
- G. No seasonal dwelling shall be closer than thirty (30) feet to the private drive or private roadway serving said dwelling.
- H. No seasonal dwelling shall be located between the front entry wall of another seasonal dwelling and a driveway or private roadway serving said other dwelling.
- I. To ensure the health, safety, and welfare of the occupants, all construction shall conform to the most stringent of applicable local, state, and federal building codes, health codes, and other such codes and Ordinances.
- J. The applicant shall submit a Site Development Plan approved by the Planning Commission which shall signify the applicant's agreement to comply with said plan and all the conditions placed upon the use and requirements at all times and shall further agree to the following:
 - 1. The premises and all seasonal dwellings shall be available for the inspection of the Zoning Administrator and Building Inspector.
 - 2. All premises and structures shall be regularly maintained.
 - 3. Any deficiencies arising from time to time shall be corrected by the owner within fifteen (15) days notification by a village, county, state, or federal agent or official.

Article 17
Special Land Use Regulations

4. Any seasonal dwelling which is not occupied by migrant workers during five (5) consecutive seasons shall be removed by the owner within six (6) months of the close of the second season following.
- K. Permits: If the Planning Commission approves the application for migrant housing, it shall authorize the Zoning Administrator to issue a zoning permit and a temporary occupancy permit for the seasonal period above described. The temporary occupancy permit shall state any special conditions of use imposed by the Planning Commission.
- L. Revocation of Permit: If a violation of any of the above conditions, regulations, or special conditions if found to exist, the Zoning Administrator shall notify the owner of migrant housing and the Planning Commission that such violation exists and that the temporary occupancy permit will be revoked within fifteen (15) days of such notification. If said violation is not corrected within said fifteen (15) days, the Zoning Administrator shall revoke said permit. All migrant housing shall be vacated within fifteen (15) days of the date of revocation.

17.10.20 Motor Vehicle and/or Boat Sales and Service Shops:

- A. Motor vehicle and/or boat sales and service establishments are permitted by Special Approval Use Permit in the C and I zoning districts.
- B. Gasoline Filling and Gasoline Service Stations:
 1. No steam cleaning or undercoating shall be permitted.
 2. All ingress and egress to the site shall be directly from a hard surfaced road.
 3. No drive or curb opening shall be located nearer than twenty-five feet (25') to any intersection or adjacent residential property line. No drive shall be located nearer than thirty feet (30'), as measured along the property line, to any other drive on the premises. Curb cuts shall not be permitted where, in the opinion of the Planning Commission, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
 4. No more than one (1) curb opening shall be permitted for every seventy five feet (75') of frontage (or major fraction thereof) along any road.
 5. Ingress and egress drives shall not be more than thirty feet (30') in width.
 6. Minimum lot area shall be twenty thousand square feet (20,000 sq. ft.) for automobile service and filling stations.
 7. Minimum lot width shall be not less than one hundred fifty feet (150') for automobile service and filling stations.
 8. No outside storage of oil drums, trailers, or equipment for rent, sale, or display, shall be permitted.
 9. No gasoline service stations shall be located nor property used as such nearer than four hundred feet (400'), in any direction as measured from any point on the property line of any church, school (public or parochial), public playground or park, public library, police station, fire station, or post office.
 10. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline

Article 17
Special Land Use Regulations

pumps shall be located not less than twenty feet (20') from any lot line, and shall not be arranged so that motor vehicles being supplied with gasoline or serviced will be parked upon or overhanging any public sidewalk, street or right-of-way.

11. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six foot (6') masonry wall and shall comply with requirements for location of accessory buildings. No storage may be extended above the height of the wall. Outside storage or parking of disabled, wrecked, or partially dismantled vehicles shall not be permitted unless ordered by a law enforcement agency.

C. Motor Vehicle and/or Boat Sales:

1. All ingress and egress to the site shall be directly from a hard surfaced road.
2. Minimum lot area shall be two (2) acres.
3. The minimum frontage shall be two hundred feet (200').
4. No loading activities shall be permitted within seventy five feet (75') of any lot line abutting a residential land use.
5. All buildings shall be set back a minimum of fifty feet (50') from any lot line.
6. The lot or area shall be graded and drained as to dispose of all surface water accumulated within the area.
7. The lot or area upon which new and/or used automobiles, recreation vehicles, trucks, boats, and trailers are placed shall be hard surfaced.

17.10.21 Multiple-Family Dwellings:

- A. Multiple-family dwellings are permitted by Special Land Use Permit in the R-1 and R-2 districts.
- B. Multiple-family dwellings shall contain an equivalent minimum floor area per unit as required in the MFR district.
- C. Parking areas shall have a front yard setback of 20 feet and side and rear yard setbacks of ten feet.
- D. Access driveways shall be located no less than 50 feet from the nearest part of the intersection of any street or any other driveway.
- E. Buildings shall not be constructed closer than a distance equal to one and one-half times the height of the taller building.
- F. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.

17.10.22 Open Air Markets:

- A. Open air markets are permitted by Special Land Use Permit in the C and CBD districts.
- B. Minimum lot area shall be one (1) acre.
- C. Minimum lot width shall be two hundred (200) feet.
- D. The Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.

Article 17
Special Land Use Regulations

- E. All open air businesses shall comply with all applicable Health Department regulations regarding sanitation and general health conditions.
- F. The Planning Commission may, to insure strict compliance with any regulation contained herein and required as a condition of special land use approval, require the permittee to furnish a Performance Bond in accordance with Section 4.8 of this Ordinance.
- G. The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.
- H. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.
- I. All lighting shall be shielded from adjacent residential areas.
- J. In the case of a plant materials nursery:
 - 1. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the District.
 - 2. All loading activities and parking areas shall be provided on the same premises (off-street).
 - 3. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
- K. No display area shall be located within ten (10) feet of a road right-of-way line.

17.10.23 Open Storage Yards:

- A. Open storage yards are permitted by Special Land Use Permit in the C district.
- B. As a permitted or accessory use, including sales or storage of: building/lumber supply, contractors yards, flea markets, auctions, garden/landscape supplies, nurseries, greenhouses, stone, farm implement, automobiles, trucks, recreational vehicles, mobile homes, boats, jet skis, mowing equipment, construction equipment and similar materials or equipment.
- C. Any stockpiles of soils, fertilizer or similar loosely packaged materials shall be sufficiently covered or contained to prevent dust or blowing of materials.
- D. All outdoor storage areas shall be paved and include a storm water drainage system.
- E. No outdoor storage shall be permitted in the front yard or in any required side yard or required rear yard of buildings for the district in which the commercial outdoor display, sales or storage use is located.
- F. The site shall include a building of at least 500 feet of gross floor area for office use in conjunction with the approved use.
- G. The display and storage area shall be paved with a permanent, durable and dustless surface and shall be graded and drained to dispose storm water without negatively impacting adjacent property.

Article 17
Special Land Use Regulations

- H. All loading and truck maneuvering shall be accommodated on-site.
- I. All outdoor storage areas adjacent to a residential district shall provide a wall or buffer strip as described in Section 3.13.1.

17.10.24 Parks and Grounds for Outdoor Activities and Recreation:

- A. Parks and grounds for outdoor activities and recreation are permitted by Special Land Use permit in the A-R district.
- B. Such uses shall include, but are not limited to, the following: recreational fields, rinks or courts, including football, softball, soccer, tennis, basketball, ice skating, and similar activities, swimming pools open to the general public or operated by a private non-profit organization, archery and shooting ranges, commercial riding stables, animal racing, go-cart, automobile or motorcycle tracks, music concert pavilions and bandshells, amusement parks and uses accessory to the above uses, such as refreshment stands, retail shops selling items related to the above uses, maintenance buildings, office for management functions, spectator seating and service areas, including locker rooms and rest rooms.
- C. The site shall be adequate to accommodate the intended use(s), parking and adequate buffer areas without significant impact on nearby properties in terms of noise, traffic, lighting glare, views, odors, trespassing, dust or blowing debris, as determined by the Planning Commission. The applicant shall provide documentation that the site area is adequate using national facility standards.
- D. The site shall be located on a paved street or road.
- E. The applicant shall provide evidence of compliance with all appropriate federal, state, county and local permits as appropriate.
- F. No building or spectator seating facility shall be located within 100 feet of a property line.
- G. The site shall be periodically cleared of debris.
- M. Facilities shall provide off-street parking and passenger loading areas.
- N. Adequate stacking area shall be provided for vehicles waiting to enter the lot.
- O. Facilities which have a participant capacity greater than five hundred (500) people shall provide letters of review from the Village of Port Sanilac Department of Public Safety with respect to the proposed project.
- P. Exterior lighting shall be installed in such a manner that so that it does not impede the vision of traffic along adjacent streets.
- Q. Facilities using night lighting adjoining a residentially zoned property shall deflect lighting away from these areas. In the event of a complaint or dispute over lighting levels, testing shall be paid for by the owner of the subject premises.
- R. Outside storage shall be screened.
- S. Central loudspeakers/paging systems are prohibited.
- T. No temporary sanitary facility or trash receptacle shall be located within two hundred feet (200') of an existing dwelling.
- U. All sanitary facilities shall be designed and constructed in strict conformance with Sanilac County Health Department regulations.

Article 17
Special Land Use Regulations

- V. Adequate trash receptacles shall be provided as needed throughout the site.
- W. Operating hours for all uses shall be determined by the Planning Commission based on the nature of the use and the nuisance potential to adjoining property owners

17.10.25 Private Schools:

- A.—Private schools are permitted by Special Land Use in the R-1, R-2, MFR, A-R, and C districts.
- B.—Public schools are not subject to local zoning.
- C. The minimum lot or parcel size for private schools shall be one (1) acre.
- D. No more than forty (40) percent of the site area shall be covered by structures.
- E. No more than sixty (60) percent of the site shall be covered with impervious surface.
- F. Service structures and facilities shall not be located within one hundred (100) feet of a residentially zoned property.
- G. Parking areas and travel lanes shall not be located within thirty (30) feet of a residentially zoned property.
- H. No parking shall be allowed within the twenty five (25) feet of the right-of-way.
- I. The principal structure shall be no closer than fifty (50) feet from any lot line or right-of-way.
- J. All ingress and egress to the site shall be from a paved street.
- K. Student drop-off and vehicular turn-around facilities shall be provided on the site so that vehicles will not interfere with traffic.
- L. Appropriate buffering and screening shall be necessary where improvements, such as structures and recreation areas, are within close proximity to residential development.

17.10.26 Public or Community Assembly Buildings:

- A. Public or Community Assembly buildings are permitted by Special Land Use Permit in the R-1, R-2, MFR, and MHS districts.
- B. Minimum lot size for freestanding places of public assembly: two (2) acres.
- C. Maximum lot size for freestanding places of public assembly: ten (10) acres.
- D. Minimum distance requirement: No freestanding place of public assembly shall be located closer than two thousand five hundred (2,500) feet from any other freestanding place of public assembly, measured from the nearest point on the nearest property line of one (1) place of public assembly to the nearest point of the nearest property line of another place of public assembly in a straight line.
- E. Maximum area for attached places of public assembly: Attached places of public assembly shall be limited to eight thousand five hundred (8,500) square feet of gross floor area and shall make up no more than twenty-five (25) percent of any mixed-use building.
- F. Accessory uses permitted for a freestanding place of public assembly. The following accessory uses shall be permitted as part of a freestanding place of

Article 17
Special Land Use Regulations

public assembly if the use is incidental to and serves to support the functions of such public assembly use:

1. Meeting rooms and educational classrooms.
2. Day-care centers.
3. Offices.
4. Indoor or outdoor recreational facilities incidental to the public assembly use, not used for commercial purposes, of a size appropriate to the scale of the public assembly use.

G. Accessory uses permitted for an attached place of public assembly. The following accessory uses shall be permitted as part of an attached place of public assembly if the use is incidental to and serves to support the functions of such public assembly use:

1. Meeting rooms and educational classrooms, excluding K-12 schools.
2. Offices.
3. Indoor recreational facilities incidental to the public assembly use, not used for commercial purposes, of a size appropriate to the scale of the public assembly use.

17.10.27 Recreation and Amusement Facilities:

- A. Recreation and Amusement Facilities are permitted by Special Land Use Permit in the C district.
- B. It is the intent and purpose of this section to establish standards for a broad category of principal uses, such as arcades, billiard/pool halls, where persons, most often minors, congregate for purposes of recreation. Due to the potential of these uses to attract activities, such as loitering, vandalism and truancy, standards are set below to avoid or mitigate potential nuisances. It is not the intent of this section to regulate such uses that are accessory to a principal use, such as a pool table in a bar or skill machines in a restaurant.
- C. Amusement facilities shall not be located closer than two hundred (200) feet from an adjacent property that is zoned for single-family residential purposes or from the property line of another amusement facility or any school, public or private.
- D. All ingress and egress to the site shall be from a paved street.
- E. The amusement center shall have available access to a pedestrian sidewalk, as well provide accommodations for bicycle racks for non-motorists.
- F. No organized betting or gambling shall be allowed on the premises.
- G. Children under the age of sixteen (16) may not remain on the premises after 10:00 P.M. nor during normal school hours. The petitioner shall outline process and procedure for addressing truancy issues.
- H. The operator shall demonstrate the ability to prevent problems related to potential noise, litter, loitering, crowds or similar types of issues that could potentially create a need for law enforcement. The applicant shall outline process and procedure for addressing such operational issues.

17.10.28 Repair Shops, Finishing Shops, Alteration Shops, Small Assembling and Fabrication Shops:

Article 17
Special Land Use Regulations

- A. Repair services are permitted by Special Land Use Permit in the C and I zoning districts.
- B. Site shall comply with the minimum lot size of the district.
- C. Establishments shall be in a fully enclosed facility and all services and activities shall take place indoors.
- D. Storage of all machinery and equipment being repaired shall be inside an enclosed building.
- E. The outdoor storage of trash or rubbish shall be screened in accordance with Article 3 of this Ordinance.
- F. The facility shall be in conformance with all local, county, state and federal regulations at all times.
- G. All flammable liquids, solvents, cleaners and other hazardous substances shall be stored within a building and secondary containment measures shall be installed and properly maintained.
- H. When a commercial or industrial district abuts a residential district, a greenbelt shall be established on the commercial property to serve as a buffer between the commercial district and the non-commercial district. Layout and design, including width and depth and type of plantings shall be specified by the Planning Commission during site plan review. Greenbelts shall be maintained with healthy trees and shrubs. Dead trees or shrubs shall be replaced with healthy specimens.

17.10.29 Roadside Stands:

- A. Roadside stands that do not meet the permitted use requirements in the A-R district are permitted by Special Land Use Permit.
- B. All permitted farm markets shall comply with the Michigan Department of Agriculture and Rural Development's Generally Accepted Agricultural and Management Practices (GAAMPS) for Farm Markets.
- C. All such uses shall be limited to one open-air type temporary structure (not to exceed 500 square feet in floor area) to include, but not limited to lean-to structures, tents, wagons and similar structures, as determined by the Planning Commission.
- D. All structures and sale areas shall be set back a minimum of 25 feet from the road right-of-way.
- E. A minimum of five (5) off-street parking spaces shall be provided and shall be laid out in such a manner that they can be safely and conveniently used by the customers. The Commission shall determine the number of additional parking spaces necessary based on each individual use and the anticipated traffic that will be generated.
- F. All ingress and egress to the site shall be located at least sixty (60) feet from the intersection of any two roads measured from the right-of-way lines.
- G. There shall be no more than one temporary sign permitted for a roadside stand. The sign area shall not exceed sixteen (16) square feet or eight (8) feet in total height from established grade.

17.10.30 Rooming and Boarding Houses:

Article 17
Special Land Use Regulations

- A. Rooming and boarding houses are permitted by Special Land Use Permit in the R-1 and R-2 districts.
- B. This use shall be considered as an accessory use; board or lodging shall not be furnished to more than five (5) persons in addition to the family.
- C. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
- D. In the case of renting rooms, such convenience shall not be furnished unless there shall be provided at least eighty (80) square feet of floor area per guest in that part of the building directly occupied by such guests for rooming purposes.
- E. Boarding and the renting of rooms shall not include the operating of what is normally termed a restaurant or similar use where meals are served to transient guests. No separate cooking areas shall be allowed in guestrooms.
- F. Board shall not be provided to other than those rooming in the residence.
- G. Off-street parking shall be required in accord with Section 3.20.
- H. The establishment shall have at least two (2) exits to the outdoors.
- I. The boarding house shall not alter the residential character of the building or structure.

17.10.31 Sexually-Oriented Businesses:

- A. Sexually-oriented businesses are permitted by Special Land Use Permit in the C and CBD commercial districts.
- B. Sexually-oriented businesses must meet all requirements of all applicable state, county, and local laws.
- C. All sexually-oriented businesses shall be contained in a freestanding building. Enclosed malls, commercial strip buildings, common wall structures, and a mixture of non-sexually oriented businesses and other businesses within the same structure do not constitute a freestanding building.
- D. No such uses may be permitted in the C or CBD commercial districts within one thousand five hundred feet (1,500') of any district zoned R1, R2, MFR, AR, or MHS, measured from the lot line of the locations of the proposed use.
- E. No such uses may be permitted in the C or CBD commercial districts within one thousand five hundred feet (1,500') of any church or school measured from the lot line of the location of the proposed use.
- F. A sexually-oriented business shall not be located within a one thousand five hundred foot (1,500') radius of any other such use.
- G. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent roadways.
- H. The sexually-oriented business shall conform to all regulations of the zoning district in which it is located unless those regulations conflict with the standards of any other state, county or local law(s), in which case those standards shall control.
- I. All off-street parking areas shall be illuminated during all hours of operation of the sexually-oriented business and until one hour after the business closes.

Article 17
Special Land Use Regulations

- J. No person shall reside in or permit a person to reside in the premises of a sexually-oriented business.
- K. All sexually-oriented businesses shall conform with the following regulations concerning:
 - 1. Disorderly persons, see section 167 of the Michigan Penal Code (Public Act 328 of 1931), as amended;
 - 2. Drugs and medicines, and controlled substances, see the Michigan Public Health Code (Public Act 368 of 1978), as amended;
 - 3. Gambling, see Section 301 of the Michigan Penal Code (Public Act 328 of 1931), as amended;
 - 4. Indecency and immorality, see Section 335a of the Michigan Penal Code (Public Act 328 of 1931), as amended.
 - 5. Intoxicating liquor, generally see the Michigan Liquor Control Code (Public Act 58 of 1998), as amended;
 - 6. Nuisance abatement, see Section 2940 of the Revised Judicature Act (Public Act 236 of 1961), as amended;
 - 7. Prostitution, see Section 448 of the Michigan Penal Code (Public Act 328 of 1931), as amended.
- L. All sexually-oriented businesses which serve alcohol shall comply with the following additional standards:
 - 1. At all times shall remain in conformance with all rules, regulations, license conditions, permits, approvals, sanctions or other requirements of the Michigan Liquor Control Commission;
 - 2. Apply for and receive site plan review and approval from the Village of Port Sanilac Planning Commission before any change of use that requires a new or modified license or permit from the Michigan Liquor Control Commission before such a license or permit has been obtained from the Michigan Liquor Control Commission.

17.10.32 Short-Term Rental:

- A. Short-term rentals shall be permitted by special use permit in the R-1 and R-2 districts.
- B. Intent. It is the intent to establish reasonable standards for short-term rentals as special uses in residential districts to ensure that:
 - 1. The property is suitable for temporary lodging.
 - 2. The use is not incompatible with other allowed uses in the vicinity.
 - 3. Impacts on the neighboring properties are minimized to the extent reasonably possible.
- C. If the subject lot does not meet the district minimum lot area or has other dimensional nonconformities, the Planning Commission may determine that the short-term rental use is not suitable, or it may condition approval on measures that mitigate potential adverse effects of operating a short-term rental on the lot.
- D. If an outdoor area intended for the congregating of guests (e.g., porches, decks, pools and pool decks, gazebos, fire pits, etc.) is provided, it shall be sufficiently setback from the property lines or screened or buffered with a

Article 17
Special Land Use Regulations

fence, wall, or landscape screen to minimize sounds and light, so as not to disturb neighbors. All existing and proposed fire pits shall meet the Village's fire code.

- E. Accessory structures constructed or expanded after the effective date of this section shall not be used as sleeping rooms for short-term rentals, and shall not be counted for purposes of determining the maximum occupancy of a short-term rental use.
- F. A smoke detector in proper working order shall be provided in every sleeping room and in additional locations within the structure as determined by the Village Building Official. A fire extinguisher in proper working order shall be located on every floor in the immediate vicinity of the sleeping rooms.
- G. Short-term rental uses shall comply with the parking requirements of Section 3.20 of this zoning Ordinance.
- H. The driveway and off-street parking areas shall be laid out in a manner so as to minimize on-street traffic congestion to the extent reasonably possible.
- I. The exterior appearance of the dwelling shall have a residential character, and shall not be incompatible with other dwellings in the vicinity. By way of example, the subject property shall not: (i) appear to be a commercial, multi-family, or institutional use; (ii) be altered to add excessive paved or other impermeable surfaces that create an appearance incompatible with other lots in the neighborhood; or (ii) be illuminated or signed in a manner that is out of character with other homes in the vicinity.
- J. The applicant shall submit a site plan of the structure or proposed structure drawn to a scale of not less than 1/8 " = 1' that shows the specific layout of the facility in accord with the provisions of this zoning Ordinance.
- K. The special use permit holder shall secure, maintain, and furnish proof of all required federal, state and local permits.
- L. No separate cooking facilities shall be allowed in sleeping rooms.
- M. Interior features (bedrooms, bathrooms, kitchens, dwelling units, means of ingress and egress, etc.) must be in conformance with the Michigan Construction Code, and all open permits must be finalized prior to occupancy as a short-term rental.

17.10.33 Theaters, Stadiums, or Arenas:

- A. Theaters, stadiums, or arenas are permitted by Special Land Use Permit in the C and CBD districts.
- B. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.
- C. Main buildings shall be set back a minimum of 100 feet from any residential property line.
- D. For uses exceeding a seating capacity of 250 persons, a traffic impact study shall be required to be submitted by the applicant which describes internal circulation and projected impacts on traffic operations, capacity, and access on adjacent and nearby streets which are likely to provide access to the site.
- E. Access driveways shall be located no less than 50 feet from the nearest part of the intersection of any street or any other driveway.

17.10.34 Veterinary Clinics/Animal Hospital:

A. Animal Clinics/Veterinary Clinics shall be subject to the following requirements:

1. Animal wastes, biohazard materials or byproducts shall be disposed of as required by the Sanilac County Health Department, the Michigan Department of Public Health, or other duly appointed authority. All other wastes shall be contained in leak-proof and odor proof containers removed not less frequently than twice per week. No animal wastes, biohazard materials or byproducts shall be buried or incinerated on site.
2. The operator of the veterinary hospital shall maintain at all times, all required State and local licenses and permits for the operation of the hospital. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special use approval for a veterinary hospital.
3. Said use shall be located on a parcel not less than one-half (1/2) acre in size, provided all operations and the housing of animals are contained in one or more completely enclosed buildings.
4. Buildings where animals are kept, dog runs, and exercise areas shall not be located nearer than one hundred (100) feet to any adjacent occupied dwelling and shall be set back at least seventy-five (75) feet from any property in the R-1, R-2, C, or CBD district.
5. Dog runs and exercise areas shall not be located in any front yard or required side or rear yard setback area.
6. All principal use activities, other than outdoor dog runs or exercise areas, shall be conducted within a totally enclosed building.

17.10.35 Communication Towers

A. Communication towers are permitted by Special Land Use Permit in all zoning districts.

B. Minimum Development Standards:

1. A minimum site of point seven five acres (.75) and one hundred twenty feet (120') of road frontage. In the event that a parcel does not have road frontage, a sixty six foot (66') registered easement and an access driveway must be installed per the private road and driveway requirements of Sections 3.20 and 3.34.
2. The use of guide wires is strictly prohibited within Residential districts.
3. The base of the tower and the auxiliary buildings will be surrounded by a six foot (6') high chain link fence with a locked gate.
4. All cable guides will be surrounded with a minimum six foot (6') high chain link fence.

C. Minimum Design Standards

1. The tower must setback from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by

Article 17
Special Land Use Regulations

- the Village that the structural integrity of the tower will withstand high wind and impacts, and the likelihood of a tower failure is minimal. The applicant shall incur all costs associated with Village engineering cost.
2. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to the property line than thirty feet (30').
 3. Accessory structures shall not exceed six hundred square feet (600 sq. ft.) of gross building area.
 4. All greenbelt requirements from Section 3.13 shall be met.
 5. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
 6. A registered structural engineer at applicant's expense shall certify the plans of the tower construction.
 7. The applicant shall provide verification that the antenna-mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
 8. All towers must meet the standards of the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC).
 9. No part of any tower antenna shall be constructed, located or maintained at any time, permanently or temporarily, on or upon required set back area for the district in which the antenna or tower is to be located. In no case shall the tower or antenna be located within thirty feet (30') of a property line.
 10. Metal towers shall be constructed of, or treated with, corrosive resistant material.
 11. Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulation and standards.
 12. Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.
 13. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet (8') above the ground at all points, unless buried underground.
 14. Towers shall be located so that they do not interfere with the reception in nearby areas.
 15. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and or leased by the applicant. The site shall also have adequate off-street parking.
 16. The base of the tower shall occupy no more than five hundred square feet (500 sq. ft.).
 17. Minimum spacing between tower locations shall be one (1) mile in order to prevent a concentration of towers in one area.
 18. Height of the tower shall not exceed one hundred and seventy five feet (175') from grade within a residential district.

Article 17
Special Land Use Regulations

19. Towers will not be artificially lighted unless required by the Federal Aviation Administration. If lighting is required, clear strobe lights are permissible during day light hours only. Red lights are required to take over for the clear strobe light from dusk to daylight hours.
20. Existing on site vegetation shall be preserved to the maximum extent practical.
21. There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
22. The antenna shall be painted to match the exterior treatment of the tower. The chosen paint scheme should be designed to minimize off site visibility of the antenna.
23. Structures shall be subject to any state or federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state and federal standards are adopted in the future, the antenna shall be made to conform to extent required by such standard or the Special Use approval will be subject to revocation by the Village Council following a hearing. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
24. There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
25. All parking and drive areas must meet specifications and requirements for private roads and driveways, detailed in Section 3.20 of this Ordinance.
26. Where the property adjoins any residentially zoned property or land use, the developer shall plant two alternating rows of evergreens trees with the minimum height of five feet (5') on twenty foot (20') centers along the entire perimeter of the tower and any related structures. In no case shall the evergreens be any closer than ten feet (10') to any structure.
27. Once the tower is no longer in use for its original intent, the property owner or lessee shall remove the tower within three (3) months. Under unusual circumstances (i.e., long period of bad weather as might occur in the winter or spring months) the applicant may apply to the Planning Commission for one (1) extension of three (3) months.
28. There shall be no outdoor storage of equipment and/or materials which are not necessary for daily operations of any utility building site, except those which are necessary for safety of emergency repairs at that particular utility transmission structure site.

D. Requirements for Collocation:

1. A Special Land Use Permit for construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that collocation is not feasible.
2. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.

Article 17
Special Land Use Regulations

3. The policy of the Village of Port Sanilac is "pro collocation." If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to permit a feasible collocation, and this requires the construction and or use of a new wireless communication facility, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the Village and consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the Village for a period of five (5) years from the date of the failure or refusal to permit the collocation. Applicants to the Zoning Board of Appeals regarding this provision must demonstrate that enforcement of the five (5) year prohibition would unreasonably discriminate among the providers of functionally equivalent wireless communication service, or would have effect of prohibiting the provision of personal wireless communication services.

(amended numbering 2/16/2021)

ARTICLE 18 AMENDMENTS

SECTION 18.1: PURPOSE

18.1.1 Purpose: The Village Council may from time to time, on recommendation of committee, commission, or on petition, amend, supplement, or change the district boundaries or the regulations of this Ordinance. Such action shall be pursuant to and in accordance with the provisions of the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.

SECTION 18.2: INITIATION OF AMENDMENTS

18.2.1 Initiation of Amendments:

- A. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Village of Port Sanilac Zoning Map may be amended pursuant to the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.
- B. Amendments may be initiated by the Village Council, the Planning Commission or by petition of one or more persons having an interest in the property to be affected by the proposed amendment.
- C. Prior to any amendments to this Ordinance a public hearing shall be conducted by Planning Commission, notification of which shall be in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and Section 4.10 of this Ordinance.
- D. Applications for amendment shall be submitted by the property owner seeking such change or by his legally authorized representative as provided below.
- E. Applications shall be made to the Village Clerk on forms provided and shall be accompanied by a nonrefundable fee annually set by Council to cover cost of public action and other charges.

SECTION 18.3: FEES

18.3.1 Fees:

- A. The Village Council shall establish fees for zoning amendment petitions.
- B. Such fee shall be paid in full at the time of application, and no portion of such fee shall be returnable to the petitioner.
- C. Fees shall not be required for amendments proposed or requested by the Village Council or the Planning Commission.

SECTION 18.4: AMENDMENT PROCEDURES

18.4.1 Amendment Procedures: All petitions for amendment shall be submitted as provided herein:

- A. Not less than forty-five (45) days before any regular meeting of the Planning Commission, the petitioner shall deliver to the Zoning Administrator:
 1. Two (2) copies of the petition for amendment accompanied by two (2) copies of such documents as prescribed therein.
 2. A petition shall be made for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same type amendment.

**Article 18
Amendments**

- B. The Zoning Administrator shall review each petition to insure it is complete and in compliance with the provisions of this Ordinance.
 - 1. Any petition not complete or not in compliance with this Ordinance shall be returned to the petitioner.
 - 2. Any petition returned as not complete or not in compliance with this Ordinance shall not constitute filing to commence the running of time for processing the petition.
 - 3. Any petition meeting the requirements of this Ordinance shall be scheduled for public hearing by the Zoning Administrator, within forty-five (45) days of acceptance of the petition, pursuant to subsections A. and B. above.
- C. Any person having an interest in any amendment may reasonably present testimony or evidence in support of or opposition thereto.

SECTION 18.5: FINDINGS OF FACT REQUIRED

18.5.1 Findings of Fact Required: In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings in full along with its resulting recommendations for the proper disposition of the petition to the Village Council. The facts to be expressly considered by the Planning Commission shall include, but shall not be limited to the following:

- A. What, if any, identifiable conditions related to the petition have changed which justify the petitioned change in zoning?
- B. What, if any, error in judgment, procedure, or administration was made in the original Ordinance which justifies the petitioned change in zoning?
- C. What are the precedents and the possible effects of precedent which might result from the approval or denial of the petition?
- D. What is the impact of the amendment on the ability of the Village and other governmental agencies to provide adequate public services and facilities and/or programs that might reasonably be required in the future if the petition is approved?
- E. Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?
- F. Does the petitioned zoning change generally comply with the adopted Village of Port Sanilac Master Plan?
- G. Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:
 - 1. Surface water drainage problems?
 - 2. Waste water disposal problems?
 - 3. Adverse effect on surface or subsurface water quality?
 - 4. The loss of valuable natural resources such as forest, wetland, historic sites, wildlife, mineral deposits, or valuable agricultural land?

SECTION 18.6: PUBLIC HEARING

18.6.1 Public Hearing: Upon receipt of an application for a use requiring special condition approval, the Planning Commission shall hold at least one (1) public hearing, in accordance with the public hearing and public notice requirements set forth in the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and the public notification requirements detailed in Section 4.10 of this Ordinance.

**Article 18
Amendments**

SECTION 18.7: PLANNING COMMISSION RECOMMENDATIONS

18.7.1 Planning Commission Recommendations:

- A. All findings of fact shall be made a part of the public records of the meeting of the Planning Commission and the Village Council.
- B. After the public hearing, the Planning Commission shall submit a summary of the comments received at the public hearing its findings of fact and the proposed amendment (including any zoning maps and other related material) to the Village Council.
- C. The Planning Commission shall not forward a recommendation to the Village Council unless all of the aforementioned and other factors identified by the Ordinance are affirmatively resolved.

SECTION 18.8: CONSIDERATION BY THE VILLAGE COUNCIL

18.8.1 Consideration by the Village Council:

- A. After receiving the recommendations of the Planning Commission, the Village Council, at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the petitioned amendment. Such action shall be by Ordinance requiring a roll call vote. The amendment shall be approved by a majority vote of the members of the Village Council.
- B. The Village Council may hold additional public hearings if it considers it necessary. Notice of a public hearing held by the Village Council shall be in accordance with the public hearing and public notice requirements set forth in the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and the public notification requirements detailed in Section 4.10 of this Ordinance.
- C. Further, the Village Council shall make no change in the proposed amendment without first referring the petition back to the Planning Commission, which shall have thirty (30) days from and after such referral in which to make a further recommendation to the Village Council, after which the Village Council shall take such action as it determines necessary. In the event that a petition is referred back to the Planning Commission, the Village Council shall make specific mention of their objections to results of the Planning Commission's findings and recommendations.

SECTION 18.9: NOTICE OF ORDINANCE ADOPTION

18.9.1 Notice of Ordinance Adoption:

- A. Following the adoption of a Zoning Ordinance and any subsequent amendments by the Village Council, the Zoning Ordinance or subsequent amendments shall be filed with the Village Clerk, and a notice of Ordinance adoption shall be published in a newspaper of general circulation in the Village of Port Sanilac within fifteen (15) days after adoption, pursuant to the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.
- B. The notice required as detailed in subsection A above shall include all of the following information:
 - 1. In the case of a newly adopted Zoning Ordinance, the following statement: "A Zoning Ordinance regulating the development and use of land has been adopted by the Port Sanilac Village Council."

**Article 18
Amendments**

2. In the case of an amendment to an existing Zoning Ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
3. The effective date of the Ordinance or amendment.
4. The place and time when a copy of the Ordinance or amendment may be purchased or inspected.

ARTICLE 19
PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS

SECTION 19.1: PURPOSE

19.1.1 Purpose: It is the purpose of this Article to encourage innovation and variety in land use, design, layout, and type of structures constructed; to achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage useful open space, and provide better housing opportunities particularly suited to the needs of the residents of the Village of Port Sanilac, provided such opportunities do not unreasonably create any adverse economic, social or environmental impact on surrounding land uses.

The use, area, height, bulk and placement regulations of this Ordinance are primarily applicable to the usual situation of one principal building on a lot. In certain developments, including but not limited to condominium, townhouse, and apartment developments, these requirements might result in design and land use arrangements with multiple buildings on a lot and a design less in the interest of public health, safety and welfare than if a controlled degree of flexibility in the regulation of land development were allowed. The PUD (Planned Unit Development) is intended to permit and control the development of preplanned areas for various compatible uses allowed by the Village Zoning Ordinance and for other uses not so provided. It is a discretionary review and approval procedure that results in an approved development if all standards of this Article are met and denial if they are not. The zoning district does not change if a PUD is approved, but like a special approval land use, an approved PUD has all the rights and privileges of an approved use by right as long as all conditions attached to the approval are complied with.

It is intended that uses in a PUD shall afford each type of land use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to a PUD.

SECTION 19.2: OBJECTIVES

19.2.1 Objectives: The following objectives shall be met by any application for any PUD in order to realize the inherent advantages of coordinated, flexible, comprehensive, long-range planning and development of such Planned Unit Development:

- A. To provide more desirable living, shopping and working environments by preserving as much of the natural character of the property as possible, including but not limited to: open space, stands of trees, brooks, ponds, riparian areas, floodplains, hills, and similar natural assets;
- B. To encourage the provision of open space and the development of recreational and, where included in the site plan, other support facilities in a generally central location within reasonable distance of all living units;
- C. To encourage developers to use a more creative and imaginative approach in the development of areas;
- D. To encourage underground utilities which can be more efficiently designed when master planning a larger area;

Article 19
Planned Unit Development (PUD) Regulations

- E. To allow phased construction with the knowledge that subsequent phases will be approved as originally planned and subsequently approved by the Village;
- F. To promote flexibility in design and permit planned diversification in the location of structures;
- G. To promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land uses, and utilities;
- H. To combine and coordinate architectural styles, building forms, and building relationships within the Planned Unit Development;
- I. To ensure a quality of construction commensurate with other new developments within the Village of Port Sanilac;
- J. To ensure that there is a recognizable and substantial benefit to the community achieved by the PUD.

SECTION 19.3: DEFINITIONS

19.3.1 Definitions: The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. **“Agreement”** means prepared by the landowner, reviewed by the Village Attorney and approved by the Village Council which specifically details the development plans of the PUD, the covenants and restrictions proposed for the PUD, the staging of developments and the improvements to be placed in the development.
- B. **“Common open space”** means a parcel of land, an area of water, or a combination of land and water within the site designated for a PUD, designed and intended for the use and enjoyment of residents of the PUD. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefits and enjoyment of residents of the PUD.
- C. **“Developer”** means synonymous with the term "landowner" for the purposes of this article.
- D. **“Homeowners' association”** means an association to which all residents are required to belong as a condition of the deed, and which is set up with its own rules for self-government and assessment of dues for purposes related to maintenance of open space and provisions of other necessary internal services.
- E. **“Landowner”** means the legal or beneficial owner of all the land proposed to be included in a PUD. The holder of an option or contract to purchase, a lessee having a remaining term of not less than 40 years, or other person having an enforceable proprietary interest in such land shall be deemed to be a landowner for the purposes of this chapter. (See “Developer”).
- F. **“Plan”** means any or all of the three (3) possible plan stages of a planned unit residential development, which are defined as follows:
 - 1. Proposal for PUD designation. The proposal of a landowner for the designation of an area for planned unit development.
 - 2. Tentative development plan. Any plan submitted for approval to the Council subsequent to or together with the submission of an application for PUD and prior to submission of a final development plan for approval.
 - 3. Final development plan. That plan for development of a PUD or divisible geographic section thereof, approved subsequent to the approval of the proposal for PUD designation and the tentative development plan by the Council under the provisions of this chapter.

Article 19
Planned Unit Development (PUD) Regulations

- G. **“Planned Unit Development”** means an area of land controlled by a landowner, to be developed as a single entity containing a minimum of two (2) acres, the development plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage or required open space to the regulations in any one residential district of this chapter. (Amended 12-6-2022)
- H. **“Single ownership”** means the proprietary interest of a single individual, partnership, or corporation, or other legally recognized entity in the state.
- I. **“Tentative preliminary plat”** means a map showing the salient features of a proposed subdivision of land submitted to the Planning Commission for the purposes of preliminary consideration in accordance with the Village Subdivision Regulations.

SECTION 19.4: MINIMUM REQUIREMENTS

19.4.1 Minimum Requirements:

- A. A Planned Unit Development shall be considered a unique use of land, which, although comprised of numerous structures of varying types, shall be accorded regulatory treatment under this Ordinance as a single entity. Subject to the limitations and requirements in this Article, the Village Planning Commission may, upon application, approve a Planned Unit Development through issuance of a special approval use permit. Within each Planned Unit Development, the use, area, height, bulk and placement regulations of the zoning district may be modified, provided that such modifications shall comply with the provisions of this Article and the standards established in Article 3 “General Provisions.” While it is the intent of the Article to promote diverse and innovative design, and it is to be anticipated that each Planned Unit Development will possess a unique and distinctive design, all Planned Unit Developments shall promote the spirit and intent of this Ordinance as well as the public health, safety and welfare, and each shall be given equal regulatory consideration, recognizing the principles of due process, in accord with the procedures specified in this Article.
- B. A Planned Unit Development must be designed as an entity and shall be at least fifty percent (50%) completed within two (2) years. The time span for completion of the entire development and commencement date for each section thereof may be modified from time to time by the Village Council upon the showing of good cause by the landowner, provided that in no case shall extension of time exceed twelve (12) months.

SECTION 19.5: ELIGIBILITY REQUIREMENTS

19.5.1 Eligibility Requirements: No Planned Unit Development shall be approved unless the applicant, through written submittal, and the Village Council, through certification of written findings of the Village Planning Commission, demonstrates that the land use and development meet the following eligibility requirements and the standards set forth in Section 19.8:

- A. Compliance with the dimensional and open space standards in Section 19.6 and the use standards of the district in which it is located, along with such other uses as may be approved through the PUD review and approval process.
- B. The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the Village of Port Sanilac. Such benefit must otherwise be unfeasible or unlikely to be achieved by development under a single zoning district

Article 19
Planned Unit Development (PUD) Regulations

taking into consideration the reasonably foreseeable detriments of the proposed development and use(s); including, without limitation:

1. The long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis.
 2. Reducing to a significant extent the nonconformity of a nonconforming use or structure, i.e., modification of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.
 3. The provision of additional amenities which would not otherwise be provided in a conventional development, including but not limited to more usable open space.
- C. All land for which application is made must be owned or under control of the applicant(s) and the parcel must be capable of being planned and developed as one integral land use unit. Noncontiguous parcels may be considered where other benefits to the public are sufficiently great to warrant such consideration in the opinion of the Planning Commission and Village Council.
- D. The PUD shall remain under the control or authority of a single individual, corporate or organizational owner who is authorized to administer the PUD. Elimination of a single authority, such as by sale of part of the PUD shall not occur without approval of a site plan amendment.

SECTION 19.6: DISTRICT REQUIREMENTS AND CRITERIA

19.6.1 District Requirements and Criteria: All Planned Unit Developments shall be in compliance with the following requirements:

- A. All Planned Unit Developments shall be compatible with the objectives and specific elements of the Village of Port Sanilac Master Plan;
- B. The Planned Unit Development concept may be applied in the following zoning districts: R-2, A-R, and C.
- C. 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 for the purpose of effectively dividing varied land uses which have been joined in and/or are adjacent to the development;
- D. A building devoted primarily to office or commercial use shall be built or established prior to the residential buildings or uses for which it is developed or intended to serve;
- E. The minimum area, dimensions, and setbacks of individual buildings and lots may be reduced, provided the total number and density of dwellings shall be increased by no more than twenty percent (20%) greater than that which would ordinarily result under the district regulations;
- F. The maximum density allowed shall be based on the Sanilac County District Health Department requirements for septic systems and residential water wells;
- G. A minimum of five percent (5%) of the land developed in any Planned Unit Development shall be reserved for common open space and noncommercial recreational facilities, not including parking lots, for the residents and users of the area being developed;
- H. The developer shall establish a homeowners' association to which all residents of the PUD must belong and shall relinquish control of the platted common open space to

Article 19
Planned Unit Development (PUD) Regulations

the homeowner's included in the homeowners' association are sold to the general public or within three (3) years of the commencement of construction, whichever occurs first;

- I. All Planned Unit Developments shall be compatible with existing adjacent developments;
- J. All Planned Unit Developments shall be of population density which will not overburden existing or immediately projected schools, parks, roadways, public utilities, and other public facilities;
- K. All Planned Unit Developments shall incorporate a transportation pattern consistent and complementary with existing and immediately projected transportation systems in the Village;
- L. All Planned Unit Developments shall be designed in a manner to ensure healthy living conditions and adequate light, air, and accessibility for fire and police protection for the inhabitants and users of the development as well as adjacent Village and/or Township residents;
- M. All portions of the PUD, including one-family lots, multiple-family projects, commercial areas, and public and private open spaces shall be platted in conformance with the requirements of the Land Division Act (Public Act 288 of 1967), as amended, and with the Village Subdivision Regulations.

SECTION 19.7: APPLICATION, REVIEW AND APPROVAL PROCEDURES

19.7.1 Application: Applications for a Planned Unit Development shall be submitted sixty (60) days prior to the next scheduled Planning Commission meeting through the Zoning Administrator who will review the application for completeness, then transmit to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with Section 4.8.

19.7.2 Required Information: An application for Planned Unit Development shall be accompanied by the following documents and information:

- A. A Planned Unit Development application form supplied by the Zoning Administrator which has been completed in full by the applicant;
- B. A site plan as specified in Article 16 "Site Plan Requirements;"
- C. The plan shall contain proposed covenants, easements and other provisions relating to the bulk, location and density of such residential units, nonresidential uses and public facilities and provisions for the ownership and maintenance of the common open space as are necessary for the welfare of the PUD and are consistent with the best interests of the entire Village. Such covenants, easements and other provisions, which are a part of the plan as finally approved, shall insure the benefit of the Village for all purposes;
- D. A statement with regard to compliance with the objectives of a PUD stated in Section 19.2 above, the eligibility requirements of Section 19.5, the criteria for approval in Section 19.8, and other criteria imposed by this Ordinance affecting the PUD under consideration.

19.7.3 Public Hearing: Upon receipt of an application for a Planned Unit Development approval, the Planning Commission shall hold at least one (1) public hearing, in accordance with the public hearing and public notice requirements set forth in the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and the public notification requirements detailed in Section 4.10 of this Ordinance.

Article 19
Planned Unit Development (PUD) Regulations

19.7.4 Review and Approval: Within forty-five (45) days following the public hearing, provided all materials are complete, the Planning Commission shall review the application for a Planned Unit Development, comments received at the public hearing, the site plan, and other materials submitted in relation to the application, and make a recommendation to the Village Council to either deny, approve, or approve with conditions, the Planned Unit Development application in accordance with the purpose and objectives of this Article, the eligibility requirements of Section 19.5, the criteria for approval stated in Section 19.8, the open space requirements of Section 19.6, as well as such other standards contained in this Ordinance which relate to the Planned Unit Development under consideration. The Planning Commission shall prepare a written report stating its findings and conclusions on the request for a Planned Unit Development, any conditions relating to an affirmative decision, and submit the same to the Village Council for final action. Upon the approval, or approval with conditions, by the Village Council, the applicant may apply for Preliminary Plat approval, if applicable.

19.7.5 Continuing Adherence to Approved Site Plan: Any property owner who fails to develop and maintain an approved PUD according to the approved site plan shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties for same.

19.7.6 Recording of Action: The applicant shall record an affidavit which has received the approval of the Village Attorney with the Sanilac County Register of Deeds, containing the full legal description of the project site, specifying the date of final Village approval, and declaring that all improvements will be carried out in accordance with the approved PUD site plan unless an amendment is adopted by the Village. In addition, all deed restrictions and easements shall be duly filed with the Sanilac County Register of Deeds and copies of recorded documents presented to the Village Clerk.

19.7.7 Amendments: Amendments to an approved site plan for a PUD shall be processed according to the procedure in Article 16 "Site Plan Requirements."

19.7.8 Scheduled Phasing: When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the open space development and the residents of the surrounding area.

19.7.9 Timing of Phases: Each phase of the project shall be commenced within twelve (12) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, an extension may be granted, following review of a formal request for extension by the developer and approval of same by the Village Council. Such approval may be withheld only where harm to adjacent lands or uses would occur, there have been significant changes to conditions in the area, or in the case of fraud or violation of the terms of the original approval.

Article 19
Planned Unit Development (PUD) Regulations

SECTION 19.8: BASIS OF DETERMINATION

19.8.1 Basis of Determination: Prior to approval of a Planned Unit Development application, the Planning Commission shall insure that the standards specified in this Section, as well as the applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion of the Planned Unit Development under consideration.

- A. General Standards: The Planning Commission shall review the particular circumstances of the Planned Unit Development application under consideration in terms of the following standards and shall approve a Planned Unit Development only upon finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:
1. The Planned Unit Development shall be consistent with the Village of Port Sanilac Master Plan;
 2. The Planned Unit Development shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area. Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will create a pleasant pedestrian scale outdoor environment;
 3. The Planned Unit Development shall not change the essential character of the surrounding area;
 4. The Planned Unit Development shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance;
 5. The Planned Unit Development shall not place demands on public services and facilities in excess of current capacity, unless planned improvements have already been scheduled for completion;
 6. The Planned Unit Development shall be designed to preserve public vistas and existing important natural, historical, and architectural features of significance within the development;
 7. The Planned Unit Development shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems;
 8. The Planned Unit Development shall insure that vehicular and pedestrian traffic within the site be safe and convenient and that the parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles and adequate space for turning around shall be provided;
 9. The Planned Unit Development shall not result in any greater storm water runoff to adjacent property after development than before. The open space shall be provided with ground cover suitable to control erosion and all vegetation shall be maintained continuously in a healthy living condition;
 10. The design of the Planned Unit Development shall exhibit a reasonable harmonious relationship between the locations of buildings on the site relative to buildings on lands in the surrounding area, and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use or façade materials is to be discouraged, but care

Article 19
Planned Unit Development (PUD) Regulations

- shall be taken so that any such contrasts will not be so out of character with existing building designs and façade materials so as to create an adverse effect on the stability and value of the surrounding area;
11. The design of the Planned Unit Development shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties;
 12. The Planned Unit Development shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, and drainage or erosion control;
 13. The Planned Unit Development shall meet the standards of other governmental agencies, where applicable.
- B. Conditions: The Planning Commission may impose conditions with the approval of a Planned Unit Development which are necessary to ensure compliance with the standards for approval stated in this Section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the Planned Unit Development approval and shall be enforced by the Zoning Administrator and Building Inspector.
- C. Special Exception of Planned Unit Development Standards: The Village Council, following the recommendation of the Planning Commission, may grant a special exception to any of the standards for a Planned Unit Development contained in this Article where all of the following findings are documented, along with the rationale for the decision:
1. No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived;
 2. The spirit and intent of the Planned Unit Development provisions will still be achieved;
 3. No nuisance will be created.
- D. Fees: Fees for the review of PUD shall be established by resolution of the Village Council. Review fees shall apply to PUD plans undergoing administrative review and approval as well as those which require the approval of the Planning Commission or Village Council.
- E. Appeal to Circuit Court: An appeal on a decision by the Village Council to approve, deny or approve with conditions a Planned Unit Development may be taken to Circuit Court, and may not be appealed to the Zoning Board of Appeals.

**ARTICLE 23
VIOLATIONS AND PENALTIES**

SECTION 23.1: PURPOSE

23.1.1 Purpose: Enforcement of the provisions of this Ordinance and any entitlements granted by the Village of Port Sanilac shall be diligently pursued in order to provide for their effective administration, to ensure compliance with any conditions of approval, to promote the Village's planning efforts and implementation of the Village of Port Sanilac Master Plan, and to protect the public health, safety, and welfare.

SECTION 23.2: VIOLATIONS AND PENALTIES

23.2.1 Officials Authorized to Write Citations: The Zoning Administrator, together with officers of the Village of Port Sanilac Department of Public Safety, is authorized to issue municipal civil infraction citations and municipal civil infraction violation notices for any violations of this Ordinance.

23.2.2 Violations are a Nuisance Per Se: The Zoning Administrator shall enforce the provisions of this Ordinance. Violations of any provisions of this Ordinance are declared to be nuisance per se. Any and all building or land use activities considered possible violations of the provisions of this Ordinance observed or communicated to the Department of Public Safety or to any Village officials shall be reported to the Zoning Administrator.

23.2.3 Violations and Penalty: Unless a section of this Ordinance specifically provides otherwise, any person, firm, corporation, trust, partnership or other legal entity who violates, or refuses to comply with any provision, or any condition imposed by the Planning Commission or Zoning Board of Appeals in pursuance thereof, of this Ordinance shall be responsible for a municipal civil infraction and shall be punished by a civil fine according to the schedule of fines set by the resolution of the Village Council.

**ARTICLE 24
ENACTMENT AND EFFECTIVE DATE**

SECTION 24.1: ENACTMENT AND EFFECTIVE DATE

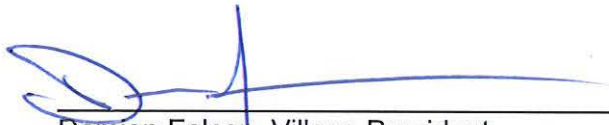
24.1.1 Enactment and Effective Date: The provisions of this Ordinance are hereby declared to be necessary for the preservation of the public peace, health, safety, welfare and moral well-being of the people of the Village of Port Sanilac and are hereby ordered to be effective twenty days after passage.

Motion by: See Approved Meeting Minutes dated December 6, 2022 (attached)

Second by:

Ayes:

Nays:



Damien Falcon, Village President

2-8-23

Date

I, BARBARA RABINEAU, the Village Clerk of Port Sanilac, do hereby certify that these Ordinance Amendments were adopted by the Village Council at a meeting of the Village Council held at the Village Hall on December 6, 2022.

I do further certify that the Zoning Map and other information approved as a part of this Ordinance are on file in the Village Hall and may be examined at any reasonable time.



Barbara Rabineau, Village Clerk

2/8/2023

Date

I do hereby certify that the required Notice of Planning Commission Hearing was published on NOVEMBER 2, 2022 in the Sanilac County News and the Notice of Adoption was published in the Sanilac County News on FEBRUARY 15, 2022.



Barbara Rabineau, Village Clerk

2/15/2023

Date

(Attach proof of publication for Planning Commission hearings & Notice of Adoption to original Ordinance.)