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## TABLE OF CONTENTS

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<b>ARTICLE 1</b>	<b>TITLE, PURPOSE, SCOPE AND CONSTRUCTION, VALIDITY &amp; SEVERABILITY, CONFLICT, AND VESTED RIGHT</b>	<b><u>Page</u></b>
Section 1.1	Title .....	1-1
Section 1.2	Purpose.....	1-1
Section 1.3	Scope and Construction of Regulations .....	1-1
Section 1.4	Validity and Severability Clause .....	1-2
Section 1.5	Conflict with Other Laws, Regulations and Agreements .....	1-2
Section 1.6	Vested Right.....	1-2
<b>ARTICLE 2</b>	<b>DEFINITIONS AND RULES APPLYING TO TEXT</b>	
Section 2.1	Rules Applying to Text.....	2-1
Section 2.2	Definitions.....	2-1
<b>ARTICLE 3</b>	<b>ADMINISTRATION AND ENFORCEMENT</b>	
Section 3.1	Zoning Administration.....	3-1
Section 3.2	Duties of the Zoning Administrator.....	3-1
Section 3.3	Zoning Permits.....	3-2
Section 3.4	Special Land Uses.....	3-2
Section 3.5	Site Plan Review .....	3-6
Section 3.6	Site Condominium Project Regulations.....	3-12
Section 3.7	Use of Consultants .....	3-12
Section 3.8	Performance Guarantee.....	3-13
Section 3.9	Fees .....	3-14
Section 3.10	Violations .....	3-14
Section 3.11	Amendments .....	3-15

**ARTICLE 4                      ZONING DISTRICT REGULATIONS**

		<u>Page</u>
Section 4.1	District Designations.....	4-1
Section 4.2	Zoning District Map.....	4-1
Section 4.3	Application of District Regulations .....	4-2
Section 4.4	Schedule of Use Regulations .....	4-4
4.4.1	R, Residential District.....	4-4
4.4.2	M. Multiple-Family District.....	4-6
4.4.3	GC, General Commercial District.....	4-8
4.4.4	CBD, Central Business District .....	4-11
4.4.5	I-1, Light Industrial District.....	4-13
4.4.6	PUD, Planned Unit Development District.....	4-16
Section 4.5	Schedule of Area, Height, Width and Setback Regulations .....	4-17

**ARTICLE 5                      GENERAL AND SPECIAL PROVISIONS**

Section 5.1	Intent .....	5-1
Section 5.2	Access Management .....	5-1
Section 5.3	Accessory Buildings, Swimming Pools and Other Uses .....	5-2
Section 5.4	Adult Foster Care Facilities .....	5-3
Section 5.5	Adult Uses.....	5-5
Section 5.6	Animals .....	5-5
Section 5.7	Apartment Buildings.....	5-6
Section 5.8	Automobile Filling Stations, Repair Garages, Services Stations and Dealerships.....	5-6
Section 5.9	Bed and Breakfast Accommodations.....	5-8
Section 5.10	Day Care Facilities.....	5-8
Section 5.11	Emergency Temporary Buildings .....	5-10
Section 5.12	Essential Services.....	5-11
Section 5.13	Existing Platted Lots .....	5-11
Section 5.14	Garage Sales, Rummage Sales, and Similar Activities.....	5-11
Section 5.15	General, Building and Landscape Contractor’s Offices and Yards .....	5-11
Section 5.16	GC, General Commercial, CBD, Central Business District – Required Conditions .....	5-12
Section 5.17	Home Occupations.....	5-12
Section 5.18	Maximum Setbacks From Road Right-of-Way .....	5-13
Section 5.19	Mobile Home Dwellings Outside of Mobile Home Parks.....	5-13
Section 5.20	I-1, Limited Industrial District – Required Conditions and Performance Standards .....	5-14
Section 5.21	Occupancy.....	5-16
Section 5.22	Open Unoccupied Space or Yard.....	5-16
Section 5.23	Outdoor Displays of Products or Materials Intended for Retail Sale or Rental.....	5-16
Section 5.24	Outdoor Sales.....	5-17

	<b><u>Page</u></b>
Section 5.25	Principal Use.....5-17
Section 5.26	Projections.....5-17
Section 5.27	Restoring Unsafe Buildings .....5-18
Section 5.28	Self-Storage Facilities.....5-18
Section 5.29	Sewer and Water .....5-18
Section 5.30	Sidewalk Café Service .....5-19
Section 5.31	Storage .....5-19
Section 5.32	Swimming Pools .....5-20
Section 5.33	Traffic Visibility .....5-20
Section 5.34	Unclassified Uses Permitted By Right or By Special Use Permit ..5-20
Section 5.35	Yards .....5-20
Section 5.36	Wireless Communication Towers and Antennas .....5-21
Section 5.37	Zoning of Vacated and Annexed Areas .....5-26
Section 5.38	Rear Dwelling Prohibited .....5-26
Section 5.39	Two-Family Dwelling/Conversion of Single-Family Dwelling .....5-26
Section 5.40	Education Institutions .....5-27
Section 5.41	Nursing Homes, Convalescent Centers, Senior and Elderly Housing .....5-27
Section 5.42	Public Buildings.....5-30
Section 5.43	Religious Institutions .....5-31
Section 5.44	Cemeteries.....5-31
Section 5.45	Retail Greenhouses and Nurseries .....5-31
Section 5.46	Kennels .....5-31
Section 5.47	Veterinary Clinics .....5-32
Section 5.48	Funeral Homes and Mortuaries.....5-32
Section 5.49	Motels and Hotels .....5-33
Section 5.50	Public Service Installations.....5-34
Section 5.51	Mobile Home Parks .....5-35
Section 5.52	Mobile Home Subdivision .....5-38
Section 5.53	Public and Private Recreation.....5-39
Section 5.54	Automobile Washes or Car Wash Establishments.....5-40
Section 5.55	Drive Through Facilities.....5-41
Section 5.56	Hospitals, General or Specialty.....5-41

**ARTICLE 6**

**PLANNED UNIT DEVELOPMENT DISTRICT**

		<u>Page</u>
Section 6.1	Purpose and Intent.....	6-1
Section 6.2	PUD Regulations .....	6-1
Section 6.3	Procedure for Review .....	6-2
Section 6.4	Project Design Standards .....	6-5
Section 6.5	Conditions .....	6-7
Section 6.6	Phasing and Commencement of Construction.....	6-7
Section 6.7	Effect of Approval .....	6-8

**ARTICLE 7**

**NON-CONFORMING USES, STRUCTURES AND LOTS**

Section 7.1	Intent .....	7-1
Section 7.2	Non-Conforming Lots.....	7-1
Section 7.3	Non-Conforming Uses of Land .....	7-1
Section 7.4	Non-Conforming Structures.....	7-2
Section 7.5	Non-Conforming Uses of Structures and Land .....	7-2
Section 7.6	Repairs and Maintenance.....	7-3
Section 7.7	Uses Allowed As Conditional Approval Uses, Not Non-Conforming Uses .....	7-3
Section 7.8	Change of Tenancy or Ownership .....	7-3

**ARTICLE 8**

**ENVIRONMENTAL PROTECTION AND DESIGN PROVISIONS**

Section 8.1	Purpose.....	8-1
Section 8.2	Landscaping, Greenbelts and Buffers, and Screening .....	8-1
Section 8.3	Fences, Walls and Screens .....	8-9
Section 8.4	Airborne Emissions.....	8-10
Section 8.5	Use Storage and Handling of Hazardous Substance; Storage and Disposal of Solid, Liquid, and Sanitary Wastes.....	8-10
Section 8.6	Electrical Disturbance, Electromagnetic, or Radio Frequency Interference .....	8-11
Section 8.7	Glare and Exterior Lighting .....	8-11
Section 8.8	Fire Hazard.....	8-12
Section 8.9	Safety .....	8-12
Section 8.10	Stormwater Management .....	8-12
Section 8.11	Building Grades .....	8-13
Section 8.12	Supplemental Design Standards .....	8-14



<b>ARTICLE 9</b>	<b>SIGNS</b>	
		<b><u>Page</u></b>
Section 9.1	Intent .....	9-1
Section 9.2	Sign Definitions .....	9-1
Section 9.3	General Sign Provisions.....	9-3
Section 9.4	Exempted Signs .....	9-4
Section 9.5	Non-Conforming Signs, Illegal Signs, Accessory to Non-Conforming Uses .....	9-5
Section 9.6	Units of Measurement.....	9-5
Section 9.7	Sign Regulations Applicable to All Zoning Districts .....	9-6
Section 9.8	Schedule of Sign Regulations .....	9-9
Section 9.9	Billboards and/or Off-Premise Signs .....	9-11

**ARTICLE 10                    OFF-STREET PARKING AND LOADING**

Section 10.1	Intent and Purpose.....	10-1
Section 10.2	General Provisions .....	10-1
Section 10.3	Off-Street Parking Requirements.....	10-2
Section 10.4	Table of Off-Street Parking Requirements .....	10-3
Section 10.5	Off-Street Parking Lot Design and Construction.....	10-9
Section 10.6	Off-Street Loading Requirements.....	10-10
Section 10.7	Off-Street Stacking Space for Drive-Through Facilities .....	10-11
Section 10.8	Outdoor Storage of Recreational Vehicles .....	10-12
Section 10.9	Truck and Equipment Parking .....	10-13

**ARTICLE 11                    ZONING BOARD OF APPEALS**

		<b><u>Page</u></b>
Section 11.1	Creation.....	11-1
Section 11.2	Membership and Terms .....	11-1
Section 11.3	Meetings.....	11-1
Section 11.4	Appeal .....	11-1
Section 11.5	Jurisdiction.....	11-2
Section 11.6	Exercising Powers.....	11-3
Section 11.7	Notice.....	11-4
Section 11.8	Decision as Final.....	11-5
Section 11.9	Reports to Council .....	11-5

**ARTICLE 12                    REPEAL OF EXISTING AND EFFECTIVE DATE OF NEW  
ORDINANCE**

Section 12.1	Repeal .....	12-1
Section 12.2	Effective Date .....	12-1



# ARTICLE 1

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

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### **Section 1.1 Title.**

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

### **Section 1.2 Purpose.**

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

### **Section 1.3 Scope and Construction of Regulations.**

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

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

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

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

**Section 1.4                    Validity and Severability Clause.**

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

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

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

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

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

**Section 1.6                    Vested Right.**

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

## ARTICLE 2

### DEFINITIONS AND RULES APPLYING TO TEXT

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**Section 2.1 Rules Applying to Text.** The following rules shall apply to the text and language of this Ordinance:

2.1.1 The particular shall control the general.

2.1.2 In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.

2.1.3 The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

2.1.4 Words used in the present tense shall include the future, words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.

2.1.5 The word "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."

2.1.6 Any word or term not defined herein shall be used with a meaning of common or standard utilization.

**Section 2.2 Definitions.**

For the purpose of this Ordinance, certain words and terms are herewith defined.

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

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

(3) **Adult Foster Care Facility.** A state-licensed establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care

facility by the Adult Foster Care Facility Licensing Act, MCL 400.701, et. seq.; MSA 16.610 (61), et. seq., as amended. The following additional definitions shall apply in the application of this Ordinance:

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

(4) **Agriculture.** The use of land for tilling of the soil, the raising of tree and field crops, raising of animals or animal husbandry.

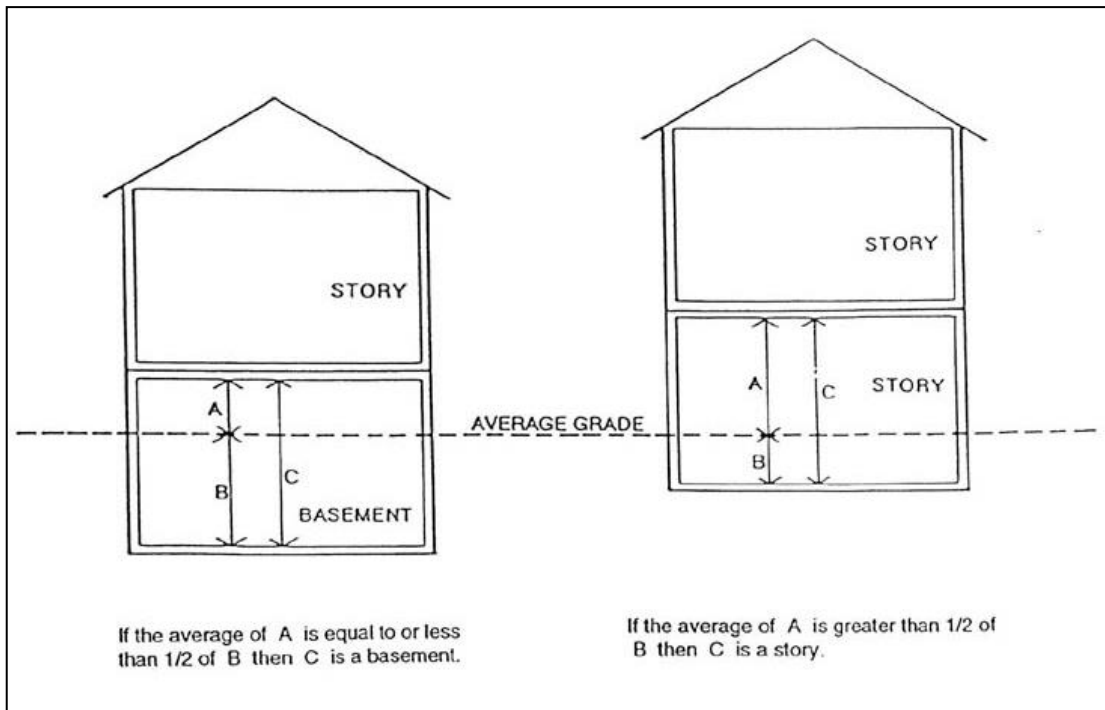
(5) **Alterations.** Any modification, addition, or change in construction or type of occupancy; any change or rearrangement in the structural parts of a building, whether by increasing the height or extension or diminution; or the moving of a building from one location to another. However, this does not include maintenance items such as the one-on-one changing of doors or windows, siding or gutters, or maintenance items such as painting or tuck pointing etc.

(6) **Animals.**

- a. *Class I Animal.* Domesticated animals which are not Class II, III, or IV, or Class V animals and which are customarily considered household pets.
- b. *Class II Animal.* An animal which is normally part of the livestock maintained on a farm, including:
  - 1. bovine and like animals, such as the cow, buffalo, elk, llama, and alpaca;

2. equine and like animals, such as the horse;
  3. swine and like animals, such as the hog which are in excess of six (6) months in age;
  4. bovine and like animals, such as the sheep and goat;
  5. other animals weighing in excess of seventy-five (75) pounds and not otherwise specifically included in Class II such as the ostrich and the emu.
- c. *Class III Animal.* Rabbits which are not maintained or kept as domesticated household pets, animals considered as poultry, and other animals weighing less than seventy-five (75) pounds not specifically treated herein.
- d. *Class IV Animal.* Wild or undomesticated animals which are not of a species customarily used as an ordinary household pet, but one which would ordinarily be confined to a zoo, or one which would ordinarily be found in the wilderness of this or any other country. Such animals would generally weigh less than one hundred (100) pounds and would not cause a reasonable person to be fearful of bodily harm or property damage.
- e. *Class V Animal.* Dangerous wild or undomesticated animal which is not of a species customarily used as an ordinary household pet, but one which would ordinarily be confined to a zoo, or one which would ordinarily be found in the wilderness of this or any other country. Such animals would cause a reasonable person to be fearful of bodily harm or property damage. (Cross Reference: Byron Title IX: General Regulations, Section 90.06, Wild or Exotic Animals.)
- (7) **Automobile Dealer.** A building or premises used primarily for the sale of new or used automobiles.
- (8) **Automobile Repair.** General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair, overall painting, and vehicle rust proofing.
- (9) **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 body work, painting, or refinishing thereof. In addition to automobile service, convenience stores and carry out restaurants may be included.
- (10) **Automobile Washes.** A building, or portion thereof, the primary purpose of which is that of washing vehicles either by automatic or self-service means or by hand detailing performed for a fee.

(11) **Basement.** That portion of a building having more than one-half (1/2) of its height below finished grade (i.e. if A is less than or equal to B, C is a basement, conversely if A is greater than B, C is a story).



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

(13) **Board.** The Village of Byron Zoning Board of Appeals.

(14) **Boarder or Roomer.** A person who is provided with lodging by the family occupying a dwelling unit.

(15) **Building.** A structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, or property. Includes the word “structure.”

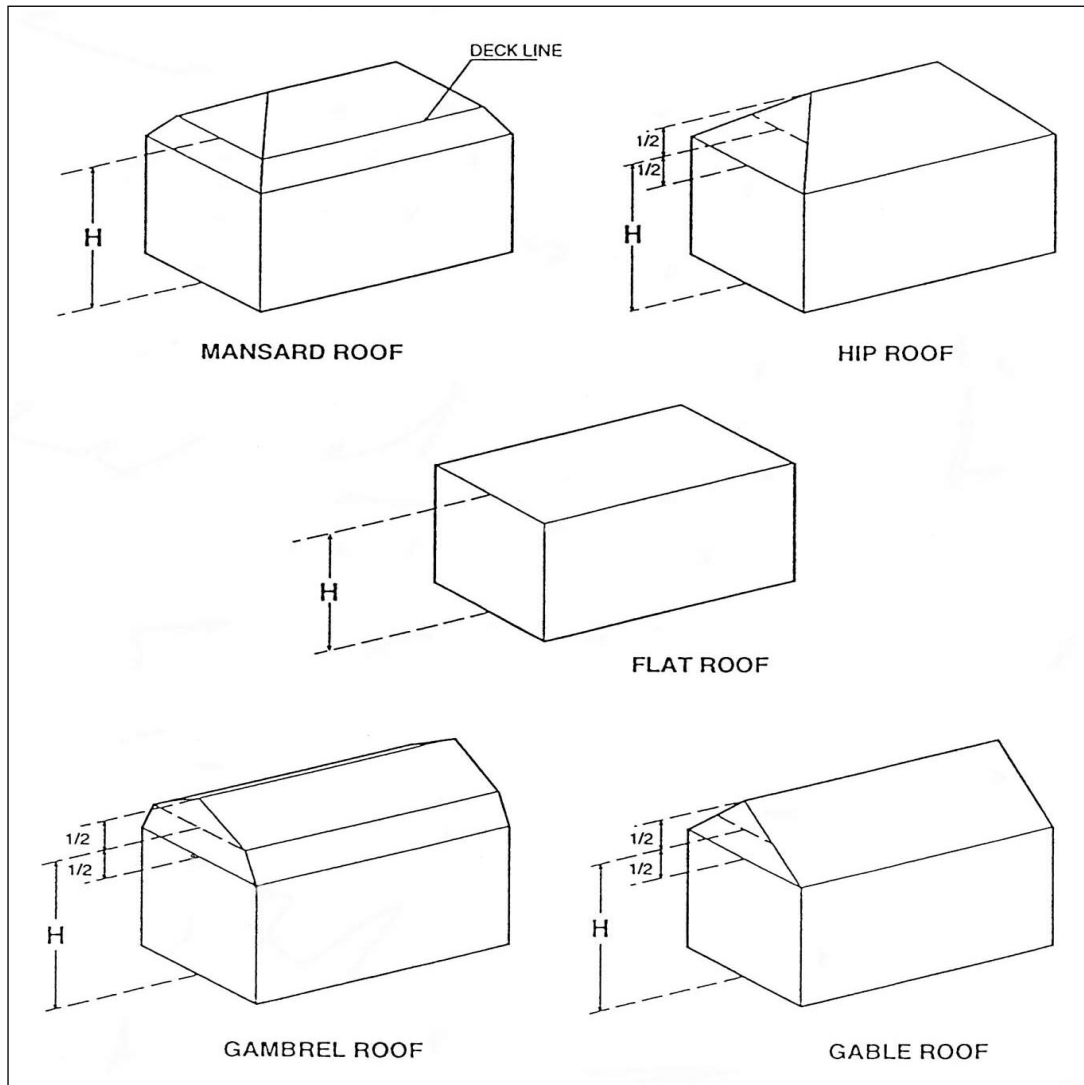
(16) **Building Code.** The Village’s Code(s) regulating building construction, as amended.

(17) **Building Height, Detached Accessory Building.** The building height is the vertical distance measured from the finished grade level to the highest point of the roof surface.

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

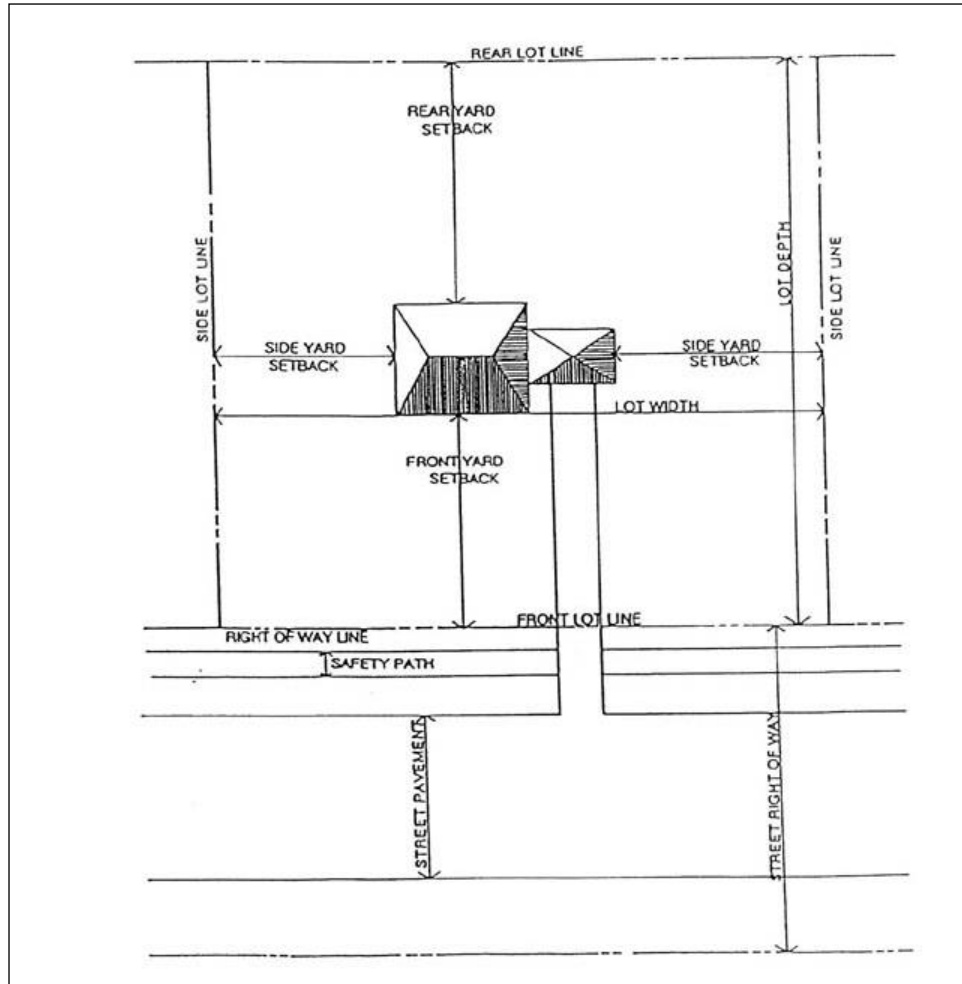


measured from the average level of the finished grade at the building wall (see graphic on the following page).



(19) **Building Inspector.** The person(s) designated by the Shiawassee County Board of Commissioners to enforce the Building Code.

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



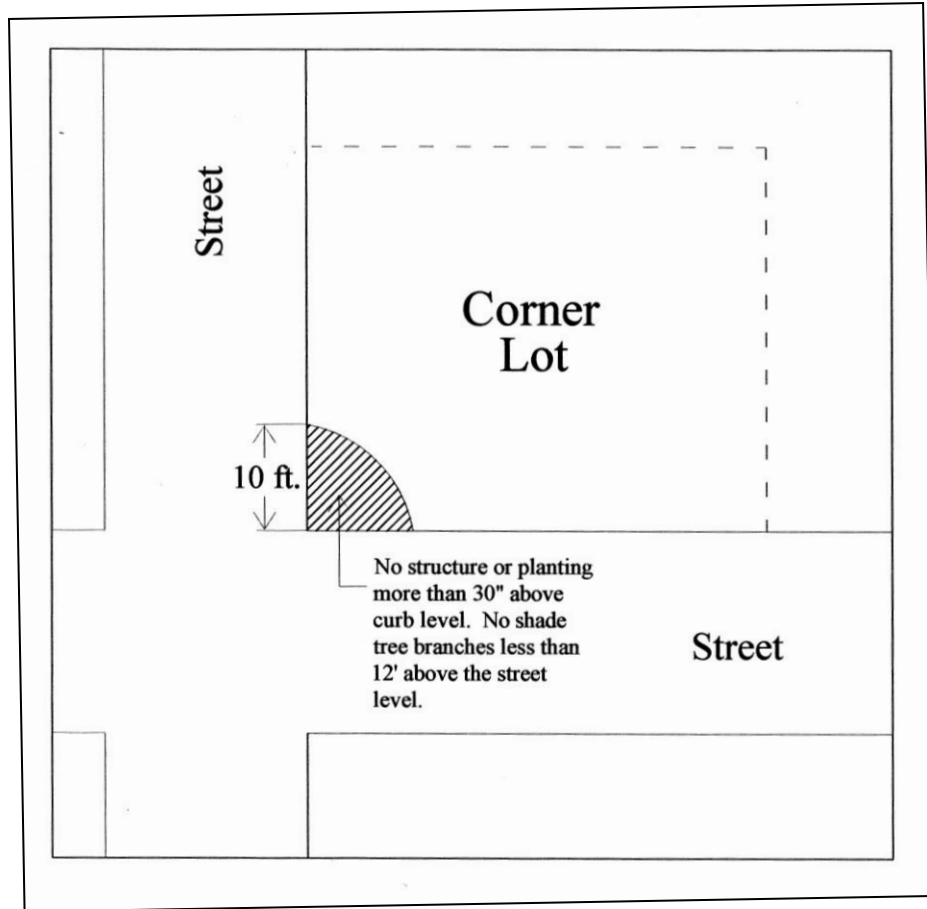
(21) **Commercial Use.** The use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or personal services, and the maintenance or operation of offices.

(22) **Conditional Use.** A use which is subject to conditional approval by the Village Council. A conditional use may be granted only when there is a specific provision in this Ordinance. A conditional use is not considered to be a nonconforming use.

(23) **Convalescent or Nursing Home.** A state licensed facility for the care of adults, of the aged or infirm, or a place of rest for those suffering bodily disorders.

(24) **Convenience Grocery Store.** A 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.

(25) **Corner Clear Zone.** The portion of a corner lot which shall be maintained free of any structures or plantings to ensure sufficient visibility for motor vehicles.



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

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

- c. **Day Care Center:** A state-licensed facility, other than a private residence, receiving more than one (1) or more children for care and supervision for periods less than twenty-four (24) hours, and where the parents or guardians are not immediately available to the child.

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

(28) **Driveway.** A paved or unpaved road intended for vehicular access to an individual lot. A circular and/or continuous drive with up to two (2) access points shall be considered a single driveway.

(29) **Dwelling.** A dwelling is any building, or portion thereof, which is designed or used exclusively for residential purposes.

(30) **Dwelling, Multiple-Family.** A building consisting of three (3) or more dwellings.

(31) **Dwelling, Single-Family.** A building designed for, or occupied exclusively by, one (1) family.

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

(33) **Dwelling Unit.** One (1) or more rooms designated for or occupy by not more than one (1) family and two (2) roomers or boarders, and having cooking facilities.

(34) **Easement.** The right to use the property of another for purposes of ingress, egress, utilities, drainage and similar uses.

(35) **Essential Services.** Services and utilities needed for the health, safety, and general welfare of the community, such as underground, surface, or overhead electrical, gas, telephone, water, sewerage, and other utilities and the equipment and appurtenances necessary for such systems.

(36) **Extractive Operation.** Premises from which any rock, gravel, sand, topsoil, oil, minerals, brine wells, 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.

- (37) **Family.** A family shall be defined by one (1) of the following:
- a. One (1) or more persons related by blood, marriage, adoption, or guardianship, plus not more than two (2) persons not so related, who are either domestic employees, caregivers, including, but not limited to a nurse, nanny, or physical therapist, or persons who occupy rooms for which compensation may or may not be paid, living together as a single housekeeping unit.
  - b. Two (2) persons and their children by natural birth or adoption, plus not more than two (2) persons not so related, who are either domestic employees, caregivers, including, but not limited to a nurse, nanny or physical therapist, or persons who occupy rooms for which compensation may or may not be paid.
  - c. A functional family living together as a single housekeeping unit.
- (38) **Family, Functional.** A group of no more than four (4) persons, plus their minor children, having a relationship which is functionally equivalent to a family. The relationship must be of a permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive unit. A functional family shall not include any society, club, fraternity, sorority, association, lodge, organization or group of students or other individuals, exceeding four (4) persons in number, where the common living arrangement or basis for the establishment of the housekeeping unit is temporary.
- (39) **Family, Immediate.** An immediate relative related by blood, marriage, adoption or guardianship, including a parent, child, grandparent or grandchild.
- (40) **Farm.** Land used for tillage of soil and the growing of vegetables, fruits, grains and other staple crops including livestock raising, dairying, or woodlots. A farm also includes buildings, and machinery used in the commercial production of farm products.
- (41) **Farm market:** The sale of agricultural products or value-added agricultural products, directly to the consumer from a site or a working farm or any agricultural, horticultural or agribusiness operation or agricultural land, including temporary roadside stand markets.
- (42) **Farm Operation.** A condition or activity which occurs in the community in connection with the production or sale of farm products, and includes, but is not limited to: noise; odors; dust; fumes; operation of machinery and irrigation pumps; grazing by animals; ground and aerial seeding and spraying; the application of fertilizers, insecticides, and herbicides; and the employment of labor.
- (43) **Farm Product.** Farm product means, but is not limited to the following: livestock, poultry, eggs, grains, grasses, fibers, fruits, wood, trees, plants, shrubs, flowers, seeds, and honey.

(44) **Farm Supply, Wholesale/Retail.** A building, structure or area where farm equipment and farm supplies are kept for sale, but shall not include any other establishment defined or classified herein.

(45) **Fence.** A temporary or permanent barrier composed of materials suitable for marking the boundary of, containing, or preventing access to, a plot of land or portion thereof.

(46) **Floor Area.** For the purpose of computing, the minimum allowable floor area in a residential dwelling unit, which is the sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, non-habitable attached accessory buildings (garages), breezeways and enclosed and unenclosed porches.

(47) **Floor Area, Gross (GFA).** The sum of the gross horizontal areas of the several floors of the building measured from the exterior face of the exterior walls or from the centerline of walls separating two (2) dwelling units. The gross floor area of a building shall include the basement (see definition) floor area when more than one half (1/2) of the basement height is above the established curb level or finished lot grade and of interior finished construction similar to first or main floor. Any space devoted to off-street parking or loading shall not be included in gross floor area. Areas of dwelling basements, unfinished attics, breezeways, porches (enclosed or unenclosed) or attached garages are not included.

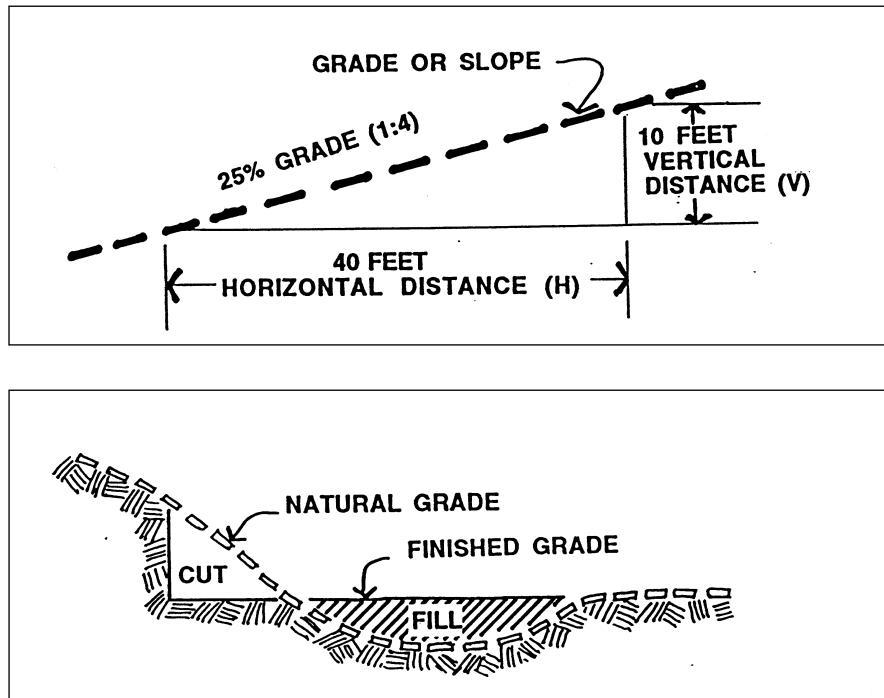
(48) **Floor Area, Usable (UFA).** The measurement of usable floor area shall be as follows:

- a. *Nonresidential.* The measurement of usable floor area for nonresidential uses shall be the sum of the area of the first floor, as measured by the exterior face of the exterior walls plus that area similarly measured, of all other stories that are accessible by the fixed stairway, ramp, escalator or elevator, which may be made fit for use, the measurement shall include the floor area of all accessory buildings measured similarly.
- b. *Residential.* The measurement of usable floor area for residential uses shall be the sum of the area of the first floor, as measured by the exterior face of the exterior walls plus the area, similarly measured, of all other stories having more than ninety (90) inches of headroom, that are accessible by the fixed stairway and which may be usable for human habitation, but excluding the floor area of uninhabitable basements, cellars, garages, accessory buildings, attics, breezeways and unenclosed porches.

(49) **Generally Accepted Agricultural and Management Practices (GAAMPS).** Those practices as defined by the Michigan Commission of Agriculture.

(50) **Garage.** A structure which is accessory to a principal building and which is used for the parking and storage of vehicles.

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



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

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

(54) **Home Occupation.** An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood. Recreational or Medical Marihuana is prohibited as a home occupation.

(55) **Hotel or Motel.** A building or group of buildings in which lodging is provided to the transient public.

(56) **Institutional or Public Use.** Churches, schools teaching academic subjects, hospitals, convalescent or nursing homes, child care centers, parks, recreation buildings, civic centers, libraries and similar public, quasi-public or non-profit uses, but not including uses by such institutions or public agencies as material storage, vehicular or equipment repair, clerical processing or similar activities of an industrial or business nature.

(57) **Junk Yard.** Any land or building used for abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metals, or other scrap or discarded materials, or for

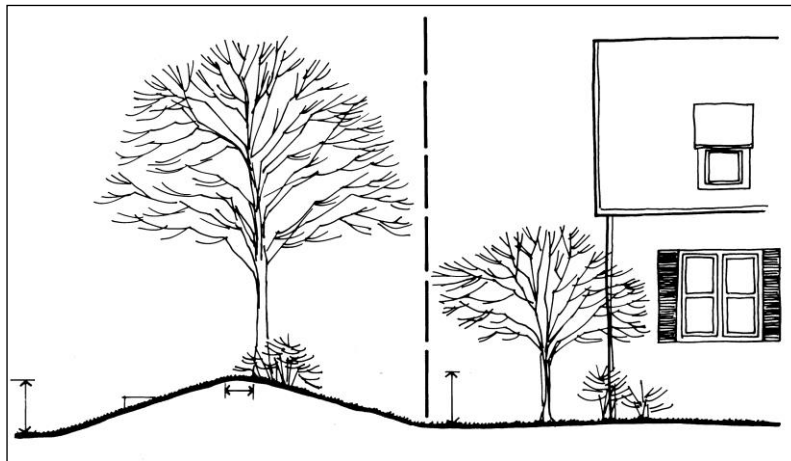
abandonment, demolition, dismantling, storage, or salvaging of automobiles or other vehicles not in normal running condition, or machinery or parts thereof.

(58) **Kennel, Commercial.** An establishment wherein or whereon three (3) or more dogs, cats or other domestic animals are confined and kept for sale, boarding, breeding or training purposes, for remuneration.

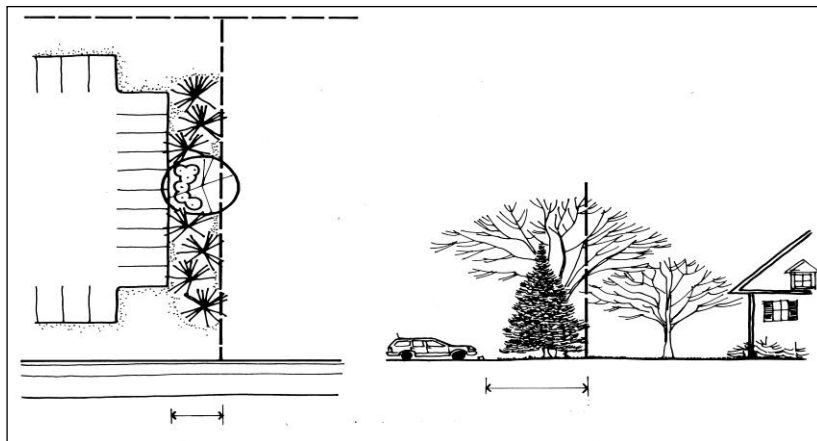
(59) **Kennel, Private.** Any building and/or land used, designed or arranged for the boarding, breeding, training or care of dogs, cats, or other domestic animals belonging to the owner thereof and kept for purposes of show, hunting, or as pets (but not to include riding stables, or animals raised for agricultural purposes), provided that no more than three (3) such animals six (6) months old or older are kept on the premises either permanently or temporarily. The keeping of such animals shall be strictly incidental to the principal use of the premises and shall not be for the purposes of remuneration or sale.

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

- a. **Berm:** A landscaped mound of earth which blends with the surrounding terrain.



- b. **Buffer:** A landscaped area composed of living material, wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of land uses.





- c. *Conflicting non-residential land use:* Any non-residential use, such as office, commercial, industrial, research, parking or public road right-of-way land use which abuts a residential land use.
- d. *Conflicting residential use:* Any residential land use developed at a higher density which abuts a residential land use developed at a lower density.
- e. *Greenbelt:* A landscaped area, established at a depth of the minimum required front yard setback within a Zoning District, which is intended to provide a transition between a public road right-of-way and an existing or proposed land use and/or between a conflicting land use and an existing or proposed land use.
- f. *Opacity:* The state of being impervious to sight.
- g. *Plant material:* A collection of living evergreen and/or deciduous, woody-stemmed trees, shrubs, vines and ground cover.

(61) **Legislative Body.** The county board of commissioners of a county, the board of trustees of a Village, or the council or other similar governing body of city or village

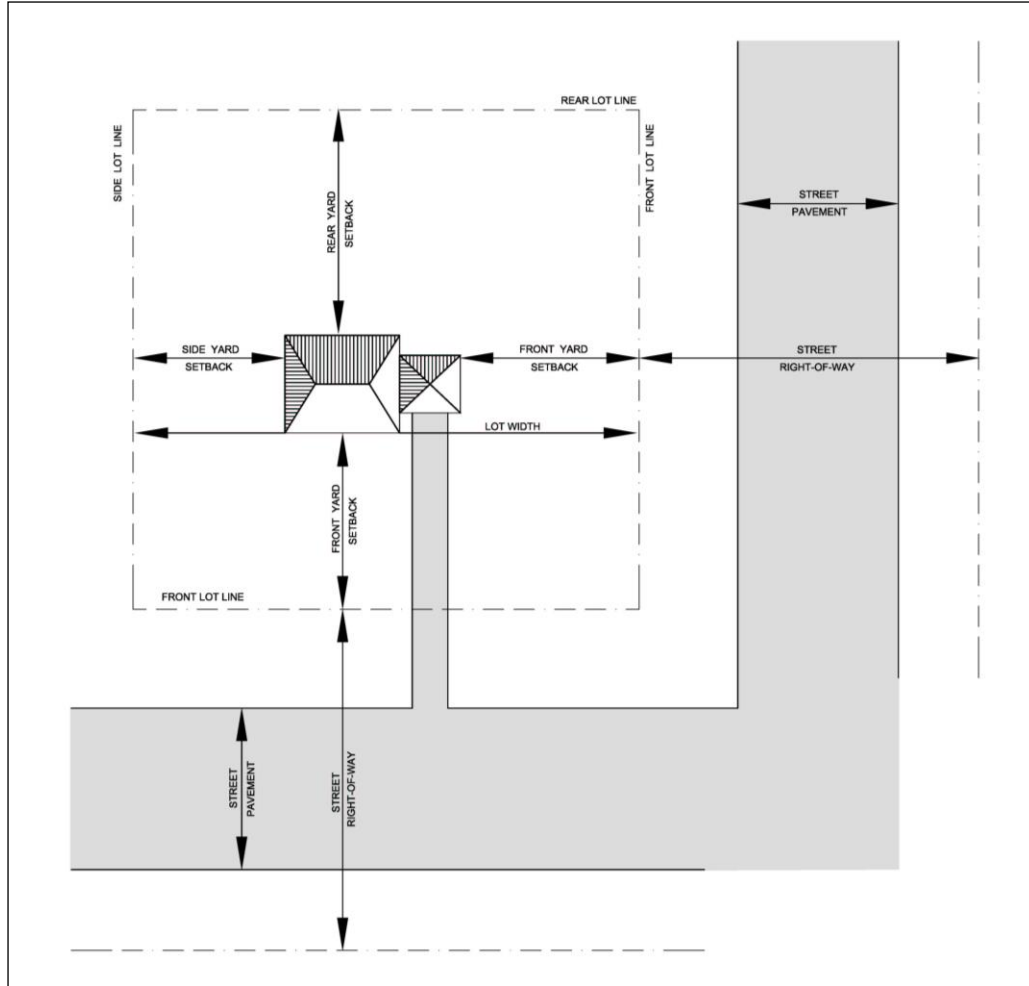
(62) **Loading Space.** An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading and/or unloading merchandise or materials.

(63) **Lot.** A lot is 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.

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

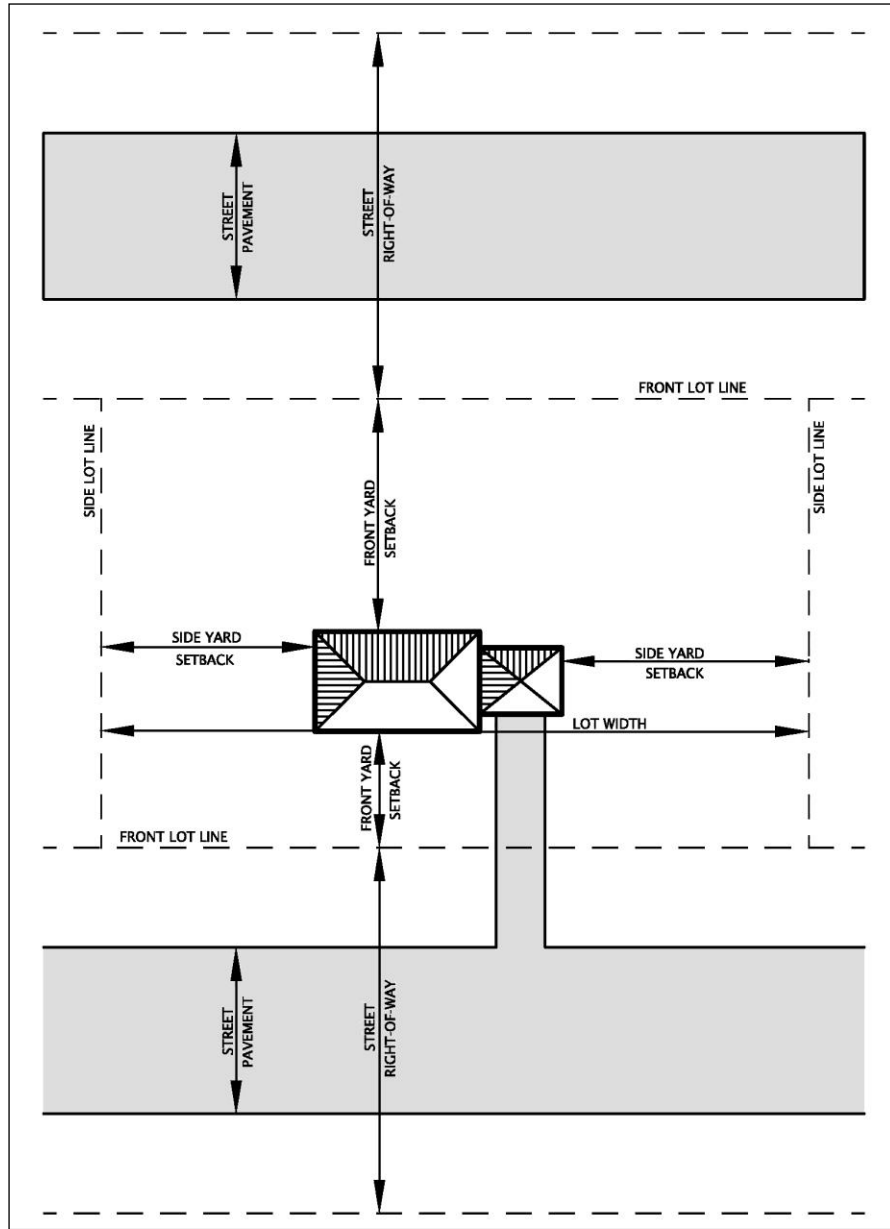
(65) **Lot, Corner.** A lot with frontage on two (2) intersecting streets.



(66) **Lot Coverage.** Lot coverage means the part of a lot occupied by buildings or structures, including accessory buildings or structures, but excludes drives and uncovered surface parking areas. Lot coverage is expressed as a percentage of the lot area.

(67) **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.

(68) **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.



(69) **Lot, Interior.** A lot other than a corner lot.

(70) **Lot, Width.** The 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.

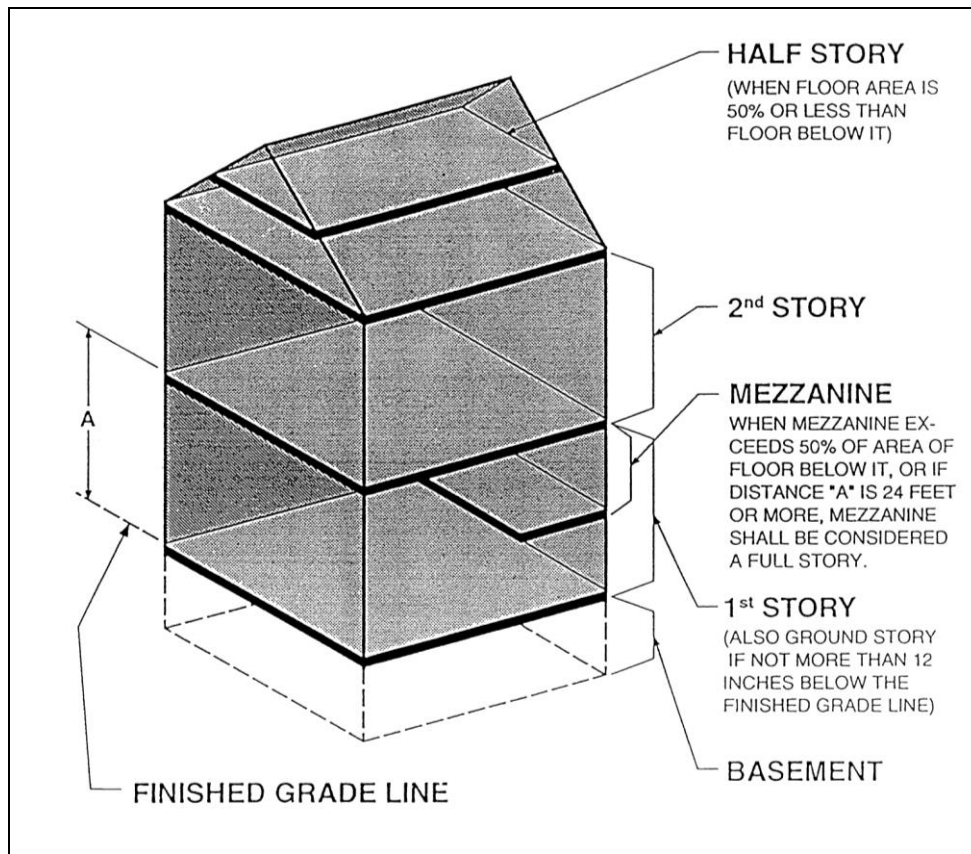
(71) **Lot Lines.** Any line dividing one lot from another or from a public right-of-way.

(72) **Lot of Record.** A lot of record is a lot, the dimensions of which are shown on a subdivision plat recorded in the Office of the Register of Deeds for Shiawassee County, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a Professional Engineer or Registered Surveyor, so designated by the State of Michigan, and said description so recorded or on file with the County. Further, a lot of record can be created by a division. Divisions of land which result in the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent.

(73) **Manufactured and Modular Homes.** A factory fabricated transportable building unit designed to be assembled as a residential structure on a foundation as required for a conventional residence.

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

(75) **Mezzanine.** Is an intermediate floor in any story occupying but not to exceed more than one-half (1/2) of the floor area of such story.



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

(77) **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.

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

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

(80) **Occupied.** The use of any structure, parcel or property for human endeavor, but not including the preparation of any structure of land for occupancy.

(81) **Off-Street Parking Area.** A land surface or facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of automobiles.

(82) **Ordinary High Water Mark.** Ordinary high-water mark means the line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

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

(84) **Planned Unit Development.** A land area of at least fifteen (15) acres having both building sites and open spaces such as parks held in common ownership and which is developed by one proprietor as a separate neighborhood.

(85) **Person.** An individual, partnership, corporation, association, governmental entity, or other legal entity.

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

(87) **Principal Use.** The primary or predominant use of the premises.

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

(89) **Recreational Vehicle.** "Recreational Vehicles" shall include the following:

- a. *Boats and Boat Trailers:* "Boats" and "boat trailers" shall include boats, kayaks, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
- b. *Folding Tent Trailer:* A canvas folding structure mounted on wheels and designed for travel and vacation use.
- c. *Motor Home:* A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.
- d. *Other Recreational Equipment:* Other recreational equipment includes snowmobiles, all-terrain or special terrain vehicles, utility trailers, plus the normal equipment to transport them on the highway.
- e. *Pickup Camper:* A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
- f. *Travel Trailer:* A portable vehicle such as a 5<sup>th</sup> wheel on a chassis which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.

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

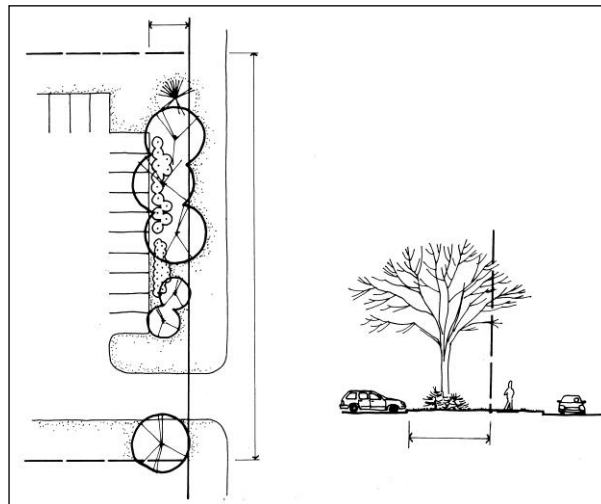
- a. *Restaurant, Carry-Out:* A carry-out restaurant is a restaurant whose method of operation involves sale of food, beverages, and/or frozen deserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off of the premises.

- b. *Restaurant, Drive-In/Drive-Through.* A drive-in/drive-through restaurant shall be deemed to be any restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages, or other food served directly to or permitted to be consumed by patrons in cars or other vehicles parked on the premises, or permitted to be consumed by patrons elsewhere on the site outside the main building.
- c. *Restaurant, Fast-Food:* A fast-food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside or outside of the structure, or for consumption off the premises, but not in a motor vehicle at the site.
- d. *Restaurant, Standard/Sit Down:* A standard restaurant is a restaurant whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.
- e. *Bar/Lounge:* A bar or lounge is a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

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

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

(93) **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.

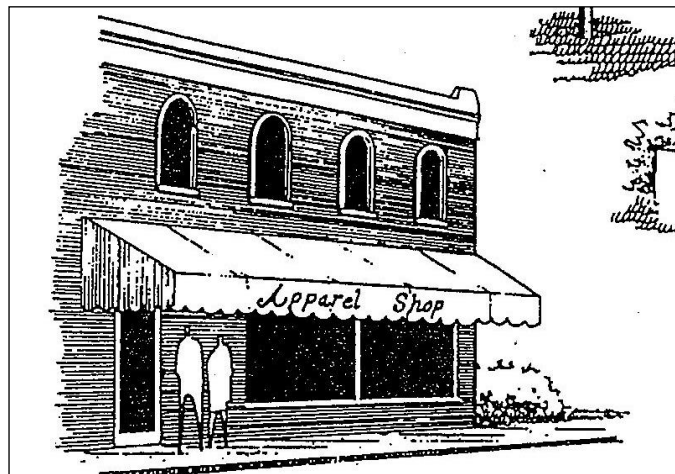


(94) **Setback.** The minimum required horizontal distance between the building or structure and the front, side, and rear lot lines and natural features (i.e. woodlands, wetlands, etc.).

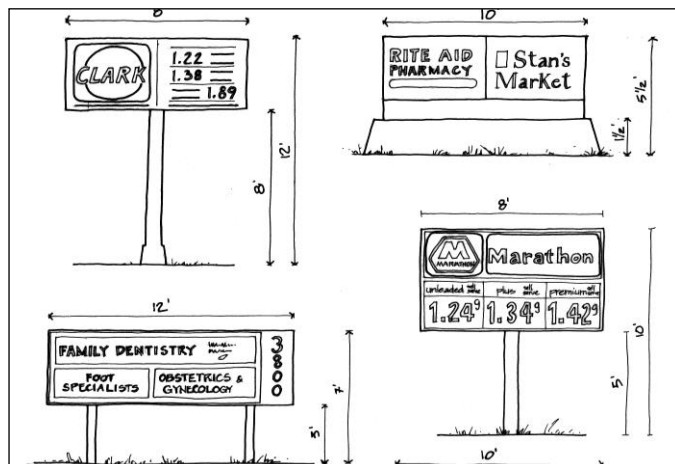
(95) **Shopping Center.** More than one (1) commercial establishment, planned, developed, owned, and managed as a unit, with off-street parking provided on the property.

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

- a. *Canopy Sign:* Means a sign displayed and affixed flat on the surface of a canopy and does not extend vertically or horizontally beyond the limits off the canopy.

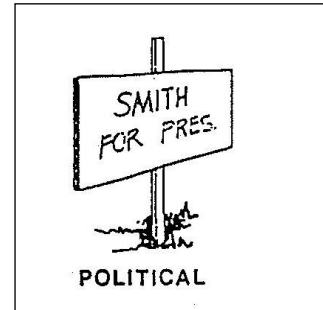
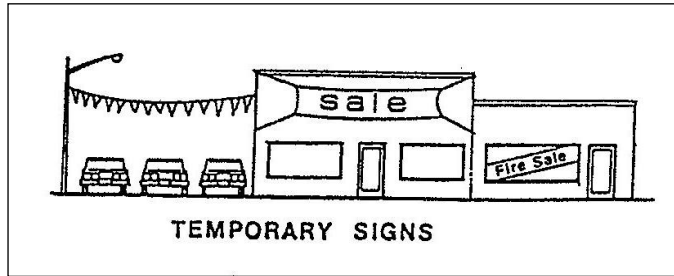


- b. *Ground Sign:* A sign which is attached to or part of a completely self-supporting structure. The supporting structure shall be placed in or below the ground surface and not attached to any building or any other structure whether portable or stationary.

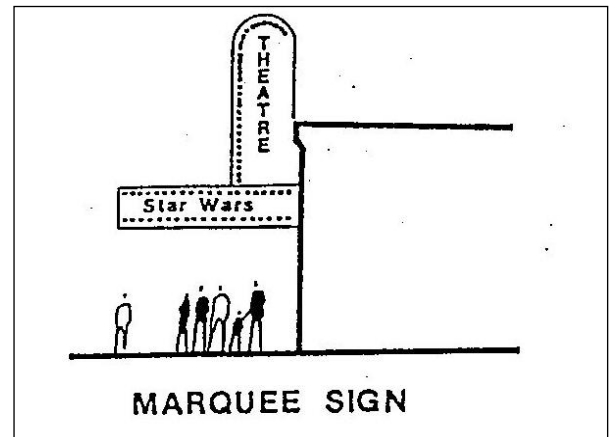
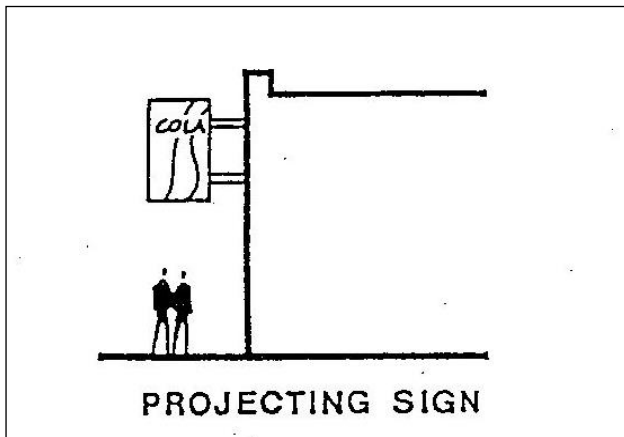




- c. *Portable Temporary Sign:* A single or double surface painted or poster panel type sign or some variation thereof, which is temporary in nature, easily movable, and not permanently attached to the ground or a building. Political signs are included within the definition for portable temporary signs.



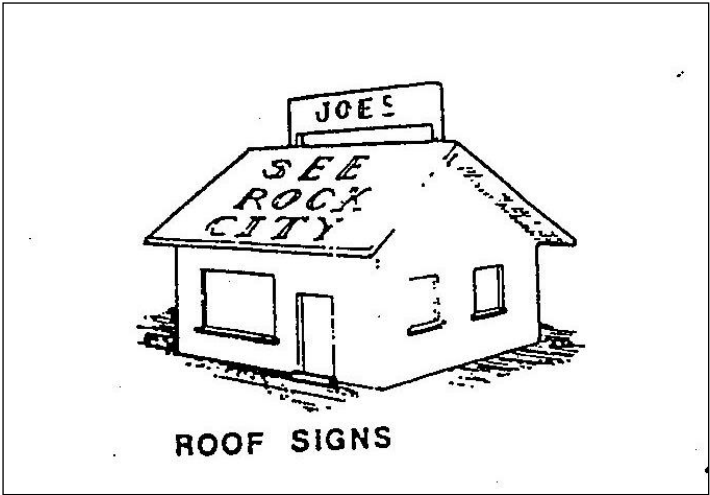
- d. *Projecting Sign:* A sign other than a wall sign, which is perpendicularly attached to, and projects from a structure or building wall not specifically designed to support the sign. Marquee signs are included within the definition for projecting signs.



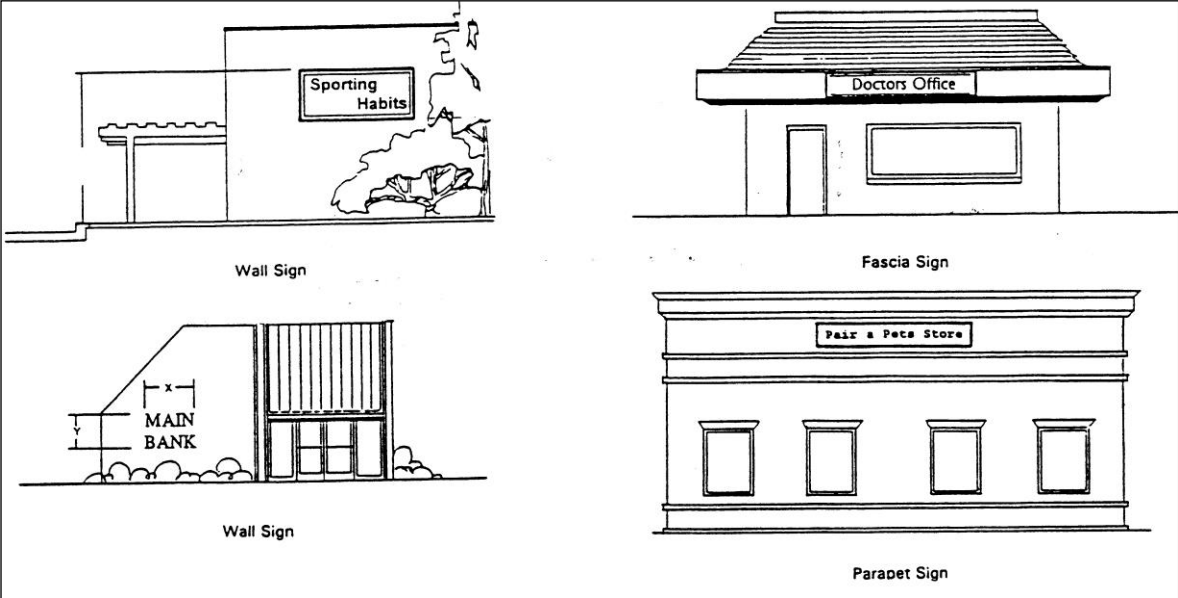
- e. *Real Estate Sign:* A temporary sign placed upon property for the purpose of advertising to the public the sale or lease of said property.



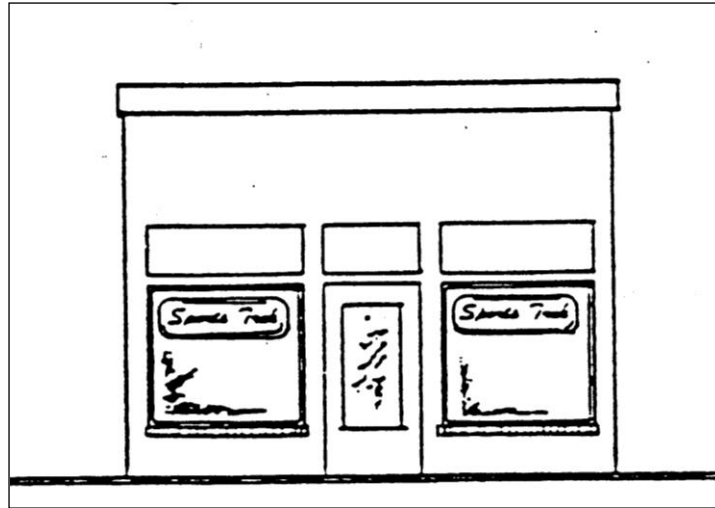
- f. *Roof Sign:* Any sign wholly erected, constructed/or maintained on the roof structure of any building.



- g. *Sign Surface:* That part of the sign upon, against, or through which the message is displayed or illustrated.
- h. *Wall Sign:* Any sign that shall be affixed parallel to the wall or printed or painted on the wall of any building; provided, however, said wall sign shall not project above the top of the wall or beyond the end of the building. For the purpose of this ordinance, any sign display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a wall sign.



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



(97) **Single Ownership.** Ownership of a real property by one (1) person or by two (2) or more persons jointly, as tenants by the entirety, as tenants in common.

(98) **Site Condominium.** A condominium development containing residential, commercial, office, industrial, or other structures or improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed. The following additional definitions are provided:

- a. **Condominium Act:** Act 59, Public Acts of 1978, as amended.
- b. **Condominium Documents:** The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.
- c. **Condominium Lot:** The condominium unit and the contiguous limited common element surrounding the condominium unit, which shall be the counterpart of "lot" as used in connection with a project developed under the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended.
- d. **Condominium Unit:** The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.
- e. **General Common Elements:** The common elements other than the limited common elements.

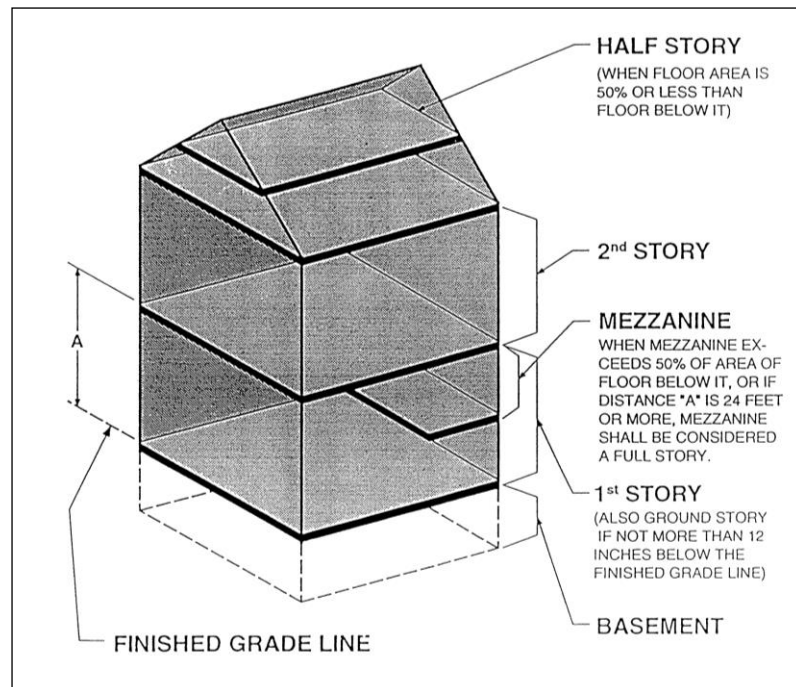
- f. **Limited Common Elements:** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.
- g. **Master Deed:** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by Section 8 of the Condominium Act.

(99) **Site Plan.** A scaled drawing which shows the intended and/or existing location and dimensions of improvement or structures upon a parcel of property, including buildings, driveways, parking areas, parking spaces, landscaping, landscaped areas, sidewalks, signs, drainage facilities, utilities or similar physical improvements.

(100) **Stable, Commercial.** A structure that is used for the shelter and care of horses, llamas, mules or donkeys which are rented, hired, or used on a commercial basis for compensation, also to include the renting of stable space, for the above mentioned animals not owned by the owner/proprietor(s) of a commercial stable.

(101) **Stable, Private.** A structure that is used for the shelter and care of horses, llamas, mules or donkeys which are kept or boarded for the sole enjoyment of the owners, and does not include the renting or hiring of the above mentioned animals on a commercial basis or the renting of stable space.

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



(103) **Story, One-Half.** A story under the gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story and the floor area shall not exceed one-half (1/2) of the area of the floor below.

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

- a. *Arterial:* Provides the highest level of service at the greatest speed for the longest uninterrupted distance, with some degree of access control.
- b. *Collector:* Provides a less highly developed level of service at a lower speed for shorter distances by collecting traffic from local roads and connecting them with arterials.
- c. *Local:* Consists of all roads not defined as arterials or collectors; primarily provides access to land with little or no through movement.

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

(105) **Structure.** Anything constructed or erected above ground level or which is attached to something located on the ground. Structures typically include such things as buildings, amateur radio towers, sheds, and decks. This does not include fences.

(106) **Swimming Pool.** Any structure intended for swimming, recreational bathing or wading that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground pools; hot tubs, spas and fixed-in-place wading pools. All such structures shall be designed and screened in accordance with the Michigan Building Code.

(107) **Wireless Communication Facilities.** Shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, micro-wave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave facilities; ham amateur radio facilities; satellite dishes; and, governmental facilities which may be subject to state or federal law or regulations which preempt municipal regulatory authority. For purposes of this Ordinance, the following additional terms are defined:

- a. *Attached Wireless Communications Facilities.* Wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.
- b. *Wireless Communication Support Structures.* Structures erected or modified to support wireless communication antennas. Support structures within this

definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

- c. *Collocation.* The location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

(108) **Yard.** An open space which is unoccupied except for certain structures which are specifically permitted by the Ordinance.

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

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

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

(112) **Zone or District.** Any part of the Village as designated on the Zoning Map for which there are uniform regulations governing the use, location, height, area or size of structures and premises.

## ARTICLE 3

### ADMINISTRATION AND ENFORCEMENT

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**Section 3.1 Zoning Administration.** The Zoning Administrator, or such deputies, shall be appointed by the Village Council and designated to administer and enforce the provisions of this Ordinance.

**Section 3.2 Duties of the Zoning Administrator.** The Zoning Administrator shall:

3.2.1 Issue, receive and review for completeness applications for zoning permits and certificates of occupancy when all applicable provisions of this ordinance have been complied with.

3.2.2 Receive and review for completeness all applications for site plan review and special use permits which the Planning Commission/DDA and Village Council are required to consider under this Ordinance and refer such applications to the Planning Commission/DDA and Village Council for determination.

3.2.3 Receive and review for completeness all applications for appeals, variances, or other matters which the Zoning Board of Appeals is required to decide under this Ordinance and refer such applications to the Zoning Board of Appeals for determination.

- a. Receive and review for completeness all applications for amendments to this Ordinance and refer such applications to the Planning Commission/DDA and Village Council for determination.
- b. The Zoning Administrator shall maintain files of all applications for zoning permits building permits and for certificates of occupancy and shall keep records of all certificates of occupancy issued; these shall be filed in the office of the Village Clerk, which files and records shall be open to public inspection. Copies shall be furnished at cost upon the request of any person having a proprietary or tendency interest in the property involved.
- c. Make periodic site inspections of the Village to determine Ordinance compliance, and answer complaints on Zoning Ordinance violations.
- d. The Zoning Administrator shall keep a record of every identifiable complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each such complaint, which records shall be public records.
- e. Implement the decisions of the Planning Commission/DDA and Village Council.

**Section 3.3 Zoning Permits.** The following shall apply in the issuance of any permit.

3.3.1 **Generally.** Exclusive of farm service buildings, the excavation for any building or structure shall not be commenced; the erection of, addition to, alteration of, or moving of any building or structure shall not be undertaken; or any land shall not be used, or an existing use of land shall not be changed to a use of a different type or class, until a building permit or a certificate of occupancy has been secured from the Zoning Administrator. Except upon a written order of the Board of Appeals, no such building permit or certificate of occupancy shall be issued for any of the lot; building or use of land where the construction, addition, alteration, or use thereof would be in violation of any of the provisions of this Ordinance.

3.3.2 **Application requirements.** There shall be submitted with all applications for zoning permits three copies of a site layout or plat plan, drawn to scale, showing:

- a. The location, shape, area and dimension
- b. The yard, open space and parking space.
- c. Any other information deemed necessary by the Zoning Administrator to determine and provide for the enforcement of this Ordinance.

3.3.3. **Voiding of permit.** Any permit granted under this section shall become null and void after one (1) year from the date of granting such permit unless the development proposed shall have passed its first building inspection. Before voidance is actually declared, the Zoning Administrator shall notify the applicant of such 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.

**Section 3.4 Special Land Uses.**

3.4.1 **Authority to Grant Special Use Permits.** The Village Council shall have the authority to review and to approve or reject all special use requests following a recommendation from the Planning Commission/DDA.

3.4.2 **Application.** Applications for special land use permits authorized in this Ordinance shall be submitted to the Zoning Administrator on a form provided by the Village. In addition to a complete application form, the applicant is required to submit a preliminary site plan prepared in accordance with Section 3.5, Site Plan Review. This must be requested in writing to the Planning Commission/DDA prior to making application for a special use. Incomplete submittals shall not be accepted by the Zoning Administrator.

3.4.3 **Procedures.** An application for a special use permit for any land or structure use permitted under this Ordinance shall be submitted and processed under the following procedures:

- a. **Submission of Application.** An application shall be submitted to the Zoning Administrator on a form provided for that purpose. Each application shall be



accompanied by an application fee, escrow and consultant fees, if any, as established by the Village Council to cover costs of processing and review of the application. No part of the application fee shall be refundable. That portion of consultant fees not used in the review of the application shall be returned, however, the applicant shall pay all consultant fees over and above the consultant fees required by the Village.

- b. **Data Required.** Every application shall be accompanied by the following information and data:
1. The application form filled out in full by the applicant, including a statement of supporting evidence concerning the required findings specified in Section 3.4.9, Basis of Determination.
  2. Preliminary site plan and specifications of the proposed development and for all construction (See Section 3.5.2.b, Preliminary Site Plan, Information Required).
  3. All interested parties (identified by name, address and telephone number) shall sign the application for special use permit. "Interested parties" shall, at a minimum, include the owner(s) of record of the land involved, all persons identified on the Village tax rolls, and all persons seeking the permit.

3.4.4 **Planning Commission/DDA Review and Recommendation.** The application, along with all required data, shall be transmitted to the Planning Commission/DDA for review and recommendation to the Village Council. On completion of its review, the Planning Commission/DDA shall recommend to the Village Council either approval, denial, or approval with conditions.

3.4.5 **Village Council Review and Public Hearing.** Upon receipt of the Planning Commission/DDA's findings and recommendation the Village Council shall consider the special use permit application within a reasonable amount of time and shall hold a public hearing.

3.4.6 **Notice of Public Hearing.** The Village Council shall publish one (1) notice in a news paper of general circulation that a request for special land use approval has been received. In addition, notice must be sent by certified mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed and to the occupants of all structures within three hundred (300) feet of the property for which the special land use is being sought regardless of whether the property or occupant is located in the Village. If the name of the occupant is not known, the term "occupant" may be used in making notification.

The notice shall be given not less than fifteen (15) days before the date the application will be considered. The notice shall:

- a. Describe the nature of the special land use request.
- b. Indicate the property which is the subject of the special land use request. The notice shall include a listing of all existing street addresses within the 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.
- c. State when and where the special land use request will be considered.
- d. Indicate when and where written comments will be received concerning the request.
- e. Indicate that a public hearing on the special land use request may be requested by a property owner or the occupant of a structure located within three hundred (300) feet of the boundary of the property being considered for a special use.

**3.4.7 Village Council Action.** After receipt of, and consideration of the Planning Commission/DDA's recommendation and findings, and after the public hearing, the Village Council shall consider the special use permit application, including the site plan and may deny, approve, or approve with conditions a request for a special land use. The decision of the Village Council shall be incorporated in a statement of conclusions relative to the special land use under consideration. Any decision which denies a request or imposes conditions upon its approval shall specify the basis for the denial or the conditions imposed.

**3.4.8 Conditions and Safeguards.** The Village Council may impose additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the purposes of this Ordinance and the general spirit and purpose of the district in which the special land use is proposed will be observed. If the preparation of a final site plan is one of the conditions of the Village Council, then approval of the special use is conditioned upon the approval of a final site plan. If a final site plan is not submitted by the applicant within (90) days of the conditional approval of the special use for review and recommendation by Planning Commission/DDA to the Village Council, or if the final site plan is rejected by the Village Council the process is terminated. Final site plans shall follow the procedures in Section 3.5, Site Plan Review.

**3.4.9 Basis of Determination.** The Planning Commission/DDA and Village Council shall review the proposed special land use in terms of the standards stated within this Ordinance and shall establish that such use and the proposed location:

- a. Will be harmonious with and in accordance with the goals and objectives of the Comprehensive Plan of the Village.
- b. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.

- c. Will not be hazardous or disturbing to existing uses or uses reasonably anticipated in the future.
- d. Will be an improvement in relation to property in the immediate vicinity and to the Village as a whole.
- e. Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.
- f. Will not create excessive additional public costs and will not be detrimental to the economic welfare of the Village.
- g. Will not involve uses, activities, processes, materials, and equipment in conditions of operation that will be detrimental to any person's property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odor
- h. Will be consistent with the intent and purposes of this Ordinance.

**3.4.10 Duration, Voiding and Extensions of Permit.** Unless otherwise specified by the Village Council, any special land use permit granted under this section shall be null and void unless the development proposed shall have its first building inspection within one (1) year from the date of the granting of the permit. The Zoning Administrator shall give notice by certified mail to the holder of a permit before voidance is actually declared. Said notice shall be mailed to the permit holder at the address indicated on said permit. Within thirty (30) days of receipt of notice of voiding of the permit, the applicant shall have the right to request an extension of the permit from the Village Council. The Village Council may grant an extension thereof for good cause for a period not to exceed one (1) year.

**3.4.11 Revocations by the Village Council.** The Village Council shall have the authority to revoke any special use permit if the holder of the permit has failed to comply with any of the applicable requirements of this Article or the terms of the permit. After a revocation notice has been given, the use for which the permit was granted shall cease.

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

**Section 3.5 Site Plan Review.** The Village Council shall have the authority to review and to approve or reject all site plans following a recommendation from the Planning Commission/DDA. Prior to the issuance of building permits or commencement of construction for new structures and for additions that expand floor area, site plan review and approval is

required in accordance with the procedures contained in this section. Preliminary and final site plan review may be combined at the discretion of the Village Council. This must be requested in writing with the application.

**3.5.1 Site Plan Required.** Site plan review is required for the following:

- a. Site plan review is required for all proposed uses and certain existing uses within the Village where an alteration, addition, expansion, change or conversion constitutes an increase or reduction to the existing structure or use of more than five hundred (500) square feet or ten (10%) percent, whichever is less; or would require a variance from the provisions of this Ordinance, regardless of its size. Site plan review shall also be required prior to the paving of any off-street parking for any use for which off-street parking is required by this Ordinance.
- b. Special land uses shall require site plan review.
- c. Site plan review shall not be required for individual single-family dwellings, or residential accessory storage buildings.
- d. No grading, removal of trees or other vegetation, land filling or construction of improvements shall commence for any development which requires site plan approval until a final site plan is approved and is in effect, except as otherwise provided in this Article.

**3.5.2 Site Plan Process**

- a. **Application.** Any applicant may submit a request for preliminary site plan review by filing with the Zoning Administrator completed forms, payment of the review fee, and fourteen (14) copies of the preliminary site plan drawing(s). The Zoning Administrator, upon receipt of the application, shall meet with the applicant to discuss the technical aspects of the project. The purpose of such preliminary review is to confirm general compliance with Village standards as well as to suggest changes, if necessary, for final site plan approval.
- b. **Information Required.** A Site Plan submitted for review and approval shall contain all of the following data presented in a clear and legible format. Site Plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" x 36" with plan view drawn to a scale of no greater than 1" = 50' for property less than three (3) acres or no greater than 1" = 100' for property three (3) or more acres.
  1. Legal description, together with proof of ownership or a certified letter from the owner agreeing to the request.

2. Location, description, dimensions, and area of the site; zoning classification; and, demonstration of compliance with lot area, width, coverage and setback requirements.
  3. General topography and soils information and existing natural and man-made features to be retained or removed;
  4. Location and dimensions of proposed buildings/structures; including floor area, number of floors, height, number and type of dwelling units (where applicable);
  5. Proposed streets/drives; including general alignment, right of way, surface type, and width;
  6. Proposed parking; including location and dimensions of spaces and aisles, and surface type; (In accordance with Article 10, Off-Street Parking and Loading).
  7. Adjacent land uses, property owners, and zoning and location of adjacent buildings and drives/streets;
  8. Proof of adequate facilities, including water, sanitary sewers and storm drains;
  9. Adequate fire safety requirements, including location of fire hydrants;
  10. A written acknowledgement that the site plan has been examined and approved by the Shiawassee County Drain Commissioner, the Village Engineering Consultant and Planning Consultant;
  11. A sequenced scheduling plan for the project showing timing and various phases of construction, including dwelling units, non-dwelling structures, recreation and other common facilities and open space improvements;
- c. **Standards for Review.** In reviewing a site plan the Planning Commission/DDA shall consider the following standards:
1. That all required information has been provided.
  2. That the proposed development as shown in the preliminary site plan conforms to all regulations of the zoning ordinance for the district(s) in which it is located.
  3. That the applicant may legally apply for the site plan review.

4. That the movement of the vehicular and pedestrian traffic within the site and in relation to access streets and sidewalks will be safe and convenient.
5. That the proposed development described by the site plan will be harmonious with, and not harmful, injurious, or objectionable to, existing and future uses in the immediate area.
6. That natural resources will be preserved to a maximum feasible extent, and that the development as proposed will not cause soil erosion or sedimentation.
7. That the proposed development is adequately coordinated with improvements serving the subject property and other neighboring or adjacent developments.
8. That the proposed development respects natural topography to the maximum feasible extent, and minimizes the amount of cutting and filling required.
9. That organic, wet, or other soils that are not suitable for development, will be undisturbed, or will be modified in an acceptable manner.
10. That the proposed development properly respects floodways and flood plains on or in the vicinity of the subject property.
11. That phases of development are in logical sequence so that any phase will not depend upon a subsequent phase for adequate access, public utility services, drainage, or erosion control.

**3.5.3.1 Planning Commission/DDA Review and Recommendation.** The Planning Commission/DDA shall study the plan and shall, within a reasonable amount of time recommend approval, approval with conditions, or denial of the preliminary site plan to the Village Council. The Planning Commission/DDA may require changes in the plan, and may attach conditions to its approval. The Planning Commission/DDA shall advise the applicant in writing of its actions on a preliminary site plan.

**3.5.3.2 Village Council Review and Action.** The Village Council shall study the plan and consider the recommendation and findings of the Planning Commission/DDA and shall, within a reasonable amount of time recommend approval, or denial of the preliminary site plan. The Village Council may require changes in the plan, and may attach conditions to its approval. The Village Council shall advise the applicant in writing of its actions on a preliminary site plan.

- a. **Effect of Approval.** Approval of a preliminary site plan by the Village Council shall indicate its acceptance of the general character of the proposed development, and of the proposed layout of buildings, streets, drives, parking areas, and other

facilities and areas. The Village Council may, at its discretion, and with appropriate conditions attached, authorize issuance of permits by the Zoning Administrator and Building Official for grading and foundation work on the basis of an approved preliminary site plan. The conditions to be attached to such permit issued for grading and foundation work shall include, but are not limited to, provisions for control of possible erosion, for exempting the Village from any liability if a final site plan is not approved, and for furnishing a bond for restoration of the site if work does not proceed to completion.

- b. **Expiration of Approval.** Approval of a preliminary site plan shall be valid for a period of one hundred eighty (180) days from the date of approval and shall expire and be of no effect unless an application for a final site plan for all or part of the area included in the approved preliminary site plan is filed with the Village Clerk within that time period. The Village Clerk, shall, within ten (10) days of the date of approval of the preliminary site plan, transmit a written certification of such approval to the applicant. If a final site plan is submitted for only a part of the area included in the approved preliminary site plan, successive final site plans shall be filed at intervals no longer than two (2) years from the date of approval of the previously approved final site plan. If such period is exceeded, the Village Council may declare the approved preliminary site plan invalid with respect to the remaining parts of the site. In such case the Village Council may require a new preliminary site plan be submitted, unless good cause can be shown for the delay.

3.5.4 **Minor Amendment of Approved Site Plan.** Amendments to an approved final site plan may occur only under the following circumstances:

- a. An applicant or property owner who has been granted approval shall notify the Zoning Administrator of any proposed amendment to such approved site plan.
- b. Minor changes may be approved by the Zoning Administrator upon certification in writing to the Village Council that the proposed revision does not alter the basic design, compliance with the standards of Section 3.5, Site Plan Review, nor any specified conditions of the plan as agreed upon by the Village Council. In considering such a determination, the Zoning Administrator shall consider the following to be a minor change:
  - 1. For residential buildings, the size of structures may be reduced, provided that the overall density of units does not increase.
  - 2. Square footage of non-residential buildings may be decreased.
  - 3. Change of building height may be altered by up to five (5%) percent, but in no case exceed height limitations.
  - 4. Movement of a building or buildings by no more than five (5) feet provided required setbacks are met.

5. Designated "Areas not to be disturbed" may be increased.
  6. Plantings approved in the Site Plan landscape plan may be replaced by similar types and sizes of landscaping which provides a similar screening effect on a one (1) to one (1), or greater basis.
  7. Improvements to site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.
  8. Changes in floor plans, which do not alter the character of the use.
  9. Slight modification of sign placement or reduction of size.
  10. Relocation of sidewalks and/or refuse storage stations.
  11. Internal rearrangement of a parking lot, which does not affect the number of parking spaces or alter access locations or design. This shall assume that all parking regulations are met.
- c. Changes required or requested by the local law enforcement or local fire officials for safety reasons, which do not affect site layout, shall be considered a minor change.
- d. Should the Zoning Administrator determine that the requested modification to an approved plan is not minor; the Village Council shall be notified in writing that the site plan has been suspended, and, if construction has been initiated, a stop work order shall be issued for the section of the project deemed not to be in compliance. Thereafter, the applicant may revise the final site plan and submit it to the Zoning Administrator for re-submission to the Village Council. The Village Council may request the help of the Village engineering consultant, planner or any other expert to aid the Council in their review and determination on the proposed change(s) to the final site plan.
- e. Should the Village Council determine that the modifications to the site plan significantly alter the intent of the site plan; a new submittal shall be required in accordance with final site plan review, Section 3.5.3, Final Site Plan Process.
- f. The above approval of minor change shall not apply to site plans approved as part of a special use permit or site plans associated with a Planned Unit Development (PUD).

**3.5.5 Minor Site Plan Application Review and Approval by Zoning Administrator.** The Zoning Administrator may approve minor site plan applications when the change will have no effect on the movement of vehicles and persons to and from the property and will not require additional parking spaces. This is subject to concurrence of the Village's Engineering



Consultant, Village President, Chairperson of the Planning Commission/DDA and the Village's Planning Consultant. A minor site plan may be applied for, for any of the following site modifications:

- a. The proposed addition constitutes less than one thousand (1,000) square feet or not more than twenty (20%) percent of the existing floor area.
- b. The building modification or change of use does not require additional off-street parking.
- c. The building or site modification does not encroach upon an existing parking lot.
- d. The building or site modification is not adjacent to a district that permits a dwelling, is zoned residentially, or is currently in residential use.
- e. A minor building or site modification will not have a significant impact upon adjoining land uses.

**3.5.6 Inspection.**

- a. The Zoning Administrator and/or Building Official shall be responsible for inspecting all improvements for conformance with the approved final site plan. All sub-grade improvements such as utilities; sub-base installations for drives and parking lots, and similar improvements shall be inspected and approved prior to covering. The applicant shall be responsible for requesting the necessary inspection.
- b. The Zoning Administrator and/or Building Official shall obtain inspection assistance from the local Fire Chief, the Building Official and the Engineering Consultant, where applicable. The Zoning Administrator and/or Building Official shall notify the Village Council and Planning Commission/DDA, in writing, when a development for which a final site plan is approved has passed inspection with respect to the approved final site plan. The Zoning Administrator and/or Building Official shall notify the Village Council and the Planning Commission/DDA of any development for which a final site plan was approved, which does not pass inspection with respect to the approved final site plan, and shall advise the Village Council, Planning Commission/DDA of steps taken to achieve compliance. In such case, the Zoning Administrator and/or Building Official shall periodically notify the Village Council, Planning Commission/DDA of progress towards compliance with the approved final site plan and when compliance is achieved.

**3.5.7 Performance Guarantees.**

- a. Performance bonds, irrevocable bank letters of credit, certificates of deposit, cash deposits, or other forms of security payable to the Village shall be provided by the applicant to the Village Clerk. The guarantee shall be provided after a final site

plan is approved but prior to issuance of a certificate of occupancy for any building covered by the site plan. The guarantee shall cover site improvements shown on the approved final site plan, which will not be completed prior to issuance of the certificate of occupancy. Site improvements shall mean streets and drives, parking lots, sidewalks, grading, required landscaping, required screens, storm drainage, exterior lighting and utilities.

- b. The applicant shall provide a cost estimate of the improvements to be covered by the guarantee and the Village Engineer shall verify such estimate as to amount. The Village Attorney may approve the form of the guarantee.
- c. If the applicant fails to provide any site improvements according to the approved plans within the time period specified in the guarantee, the Village Council shall have the authority to have such work completed. The Village Council may reimburse itself for the cost of such work, including administrative costs, by appropriating funds from the deposited security, or may require performance by the bonding company.
- d. If a cash deposit is used, the applicant and Zoning Administrator and/or Building Official shall decide at the time of deposit on the means of rebating portions of the deposit in proportion to the amount of work completed on the covered improvements. All required inspections for improvements for which the cash deposit is to be rebated shall have been made before any rebate shall be made.
- e. The Building Official may refuse to sign a certificate of occupancy in order to achieve compliance with the approved final site plan, and approved engineering plans related thereto. In such cases, a certificate of occupancy shall be signed by the Building Official upon compliance with the approved plans or upon provision of adequate security to guarantee compliance following occupancy.

**Section 3.6 Site Condominium Project Regulations.**

3.6.1 **Intent.** Pursuant to the authority conferred by the Condominium Act, and site plans shall be regulated by the provisions of this Ordinance as a special use and subject to the review and recommendation by the Planning Commission/DDA and approval by the Village Council.

**Section 3.7 Use of Consultants.** From time to time, the Village Council and/or Planning Commission/DDA may employ planning, engineering, legal, traffic/transportation or other special consultants to assist in the review of special use permits, site plans, rezoning's or other matters related to the planning and development of the Village.

**Section 3.8 Performance Guarantee.** In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety, and welfare

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

3.8.1 Performance guarantee as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit or corporate surety bond in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Village. The Village shall be authorized to employ the Village engineering consultant to review cost estimates and conduct periodic inspection of the progress of improvements.

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

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

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

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

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

3.8.7 If the performance guarantee is not sufficient to allow the Village to complete the improvements, the applicant shall be required to pay the Village any of the additional costs of completing the improvements. Should the Village use the performance guarantee, or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Village's administrative costs including, without limitation, attorney

fees, planning consultant fees, and engineering consultant fees in completing the improvement with any balance remaining being refunded to the applicant.

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

**Section 3.9 Fees.** The Village Council shall establish a schedule of fees, charges, and expenses, and a collection procedure, for building permits, certificates of occupancy, appeals, and other matters pertaining to the Ordinance. The Village shall have the authority to include fees for the use of engineering, planning, legal or other special consultants. The schedule of fees shall be posted in the Village Offices, and may be altered or amended only by the Village Council. No permit, certificate, special use on approval, or variance shall be issued unless or until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals, unless or until preliminary charges and fees have been paid in full.

**Section 3.10 Violations.** Uses of land, buildings, or structures, including tents and mobile homes, erected, altered, razed, or converted in violation of this Article are hereby declared to be nuisances per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, mobile home, or land shall be adjudged guilty of maintaining a nuisance per se. Anyone violating any of the provision of this Ordinance shall upon conviction thereof be subject to a fine of not more than "as per Council Resolution." Each day that a violation is permitted to exist from the time of formal citation by the Village shall constitute a separate offense. The imposition of any fine shall not exempt the offender from compliance with the requirements of this Ordinance.

3.10.1 **Enforcement by Zoning Administrator.** 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 Police and Fire Department employees or to any village official shall be reported to the Zoning Administrator.

3.10.2 **Inspection of violation.** The Zoning Administrator shall inspect each alleged violation and shall order correction, in writing, of all conditions found to be in violation of this Ordinance,

3.10.3 **Correction period.** All violations shall be corrected within a period of 30 days after the order to correct is issued or such longer period of time, not to exceed six months, as the Zoning Administrator shall permit. A violation not corrected within this period shall be reported

to the Village Attorney who is hereby authorized, to and shall initiate procedures to eliminate such violations.

3.10.4 **Cumulative rights and remedies.** In the interpretation, application and enforcement of the provisions of this Ordinance whenever any one of the provisions or limitations imposed or required by the provisions of this Ordinance are more stringent than any other law or ordinance, then the provisions of this Ordinance shall govern, provided that whenever the provisions of any other law or ordinance impose more

### **Section 3.11 Amendments.**

3.11.1 **Initiation of Rezoning and Zoning Ordinance Text Amendments.** An amendment to the zoning district boundaries contained on the official zoning map (rezoning) and to the text of this Ordinance may be initiated by the Village Council or the Planning Commission/DDA. An amendment to the zoning district boundaries may also be initiated by the owner or owners of property that is the subject of the proposed rezoning. An amendment to the text of this ordinance may also be initiated by petition of one (1) or more residents or property owners of the Village.

#### **3.11.2 Rezoning and Zoning Ordinance Text Amendment Application Procedure.**

- a. **Application Information for Amendments.** An amendment to the official zoning map or this ordinance, except those initiated by the Village Council or Planning Commission/DDA, shall be initiated by submission of a complete application on a form supplied by the Village, including an application fee, which shall be established from time to time by resolution of the Village Council. Said application shall explicitly describe the proposed amendment and shall be signed by the applicant.
- b. **Application Information for Zoning Map Amendment.** In the case of an amendment to the official zoning map (rezoning), the following information shall accompany the application.
  1. Information to indicate the dimensions, location and size of the subject property such as a sketch plan, property identification number, a legal description, street address of the subject property, a map identifying the subject property in relation to surrounding properties, or other method required by the Planning Commission/DDA.
  2. The name, signature and address of the owner of the subject property, a statement of the applicant's interest in the subject property if not the owner in fee simple title, or proof of consent from the property owner.
  3. The existing and proposed zoning district designation of the subject property.

4. A written description of how the requested rezoning meets Section 3.11.4, Criteria for Amendment of the Official Zoning Map (Rezoning).
5. At the Planning Commission/DDA's discretion the following additional information may be required.
  - a) A site analysis site plan illustrating existing conditions on the site and adjacent properties; such as woodlands, wetlands, soil conditions, steep slopes, drainage patterns, views, existing buildings, any sight distance limitations and relationship to other developed sites and access points in the vicinity.
  - b) A conceptual plot plan to scale demonstrating that the site could be developed with representative uses permitted in the requested zoning district meeting requirements for setbacks, wetland buffers access spacing, any requested service drives and other site design factors.
  - c) A traffic impact analysis if any use permitted in the requested zoning district could generate one hundred (100) or more peak hour directional trips, or 1,000 or more vehicle trips per day; the traffic study should contrast the daily and peak hour trip generation rates for representative use in the current and requested zoning district; the determination of representative uses shall be made by the Planning Commission/DDA with input from Village staff and consultants.

### 3.11.3 **Rezoning and Zoning Ordinance Amendment Process.**

- a. **Public Hearing.** Upon initiation of a rezoning or a zoning ordinance text amendment, a public hearing shall be scheduled before the Planning Commission/DDA. Notice of the hearing shall be given by one (1) publication in a newspaper of general circulation in the Village, not less than fifteen (15) days before the date of the hearing, and in accordance with the provisions of the Michigan Zoning Enabling Act, as amended.
- b. **Contents of Notification and Directions.** The notice of public hearing shall:
  1. Describe the nature of the request.
  2. Describe the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the 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.

3. State when and where the public hearing will be held.
  4. Indicate when and where written comments will be received concerning the request.
  5. The notice shall be sent not less than fifteen (15) days before the date the application will be considered by the Planning Commission/DDA, to all persons to whom real property is assessed within three hundred (300) feet of the property and to occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term “occupant” may be used in making notification.
- c. **Planning Commission/DDA Review and Recommendation.** Following the public hearing, the Planning Commission/DDA shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the Village Council. In the case of an amendment to the official zoning map (rezoning), the Planning Commission/DDA shall consider the criteria contained in Section 3.11.4, Criteria for Amendment of the Official Zoning Map (Rezoning), in making its finding and recommendation.
- d. **Village Council Review, Action and Public Hearing.** Following receipt of the findings and recommendation of the Planning Commission/DDA, the Village Council shall consider the proposed ordinance map or text amendment. In the case of an amendment to the text of this zoning ordinance, the Village Council may modify or revise the proposed amendment as recommended by the Planning Commission/DDA, prior to enactment. In the case of an amendment to the official zoning map (rezoning), the Village Council shall approve or deny the amendment, which may be based on consideration of the criteria contained in Section 3.11.4, Criteria for Amendment of the official zoning map (Rezoning).
- e. Village Council Hearing - After receiving a new zoning ordinance or an amendment to the map or text, the Village Council may hold a public hearing if it considers necessary. Notice of the public hearing shall be given in the same manner as stated in 3.11.3. a. and b. above. The Village Council shall grant a hearing on a proposed ordinance provision to an interested property owner who requests a hearing by certified mail, addressed to the clerk of the Village Council. A hearing requested by the interested property owner is not subject to the requirements of 13.12.3.a. and b, with the exception of items 1, 2, 3, 4, 5 and 10 under 13.12.3.b.
- f. **Notice of Adoption.** Following adoption of a zoning text or map amendment by the Village Council a notice will be published in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. Once adopted the ordinance (amendment) shall be filed with Village Clerk. The Clerk shall then publish the notice of the ordinance adoption in the required form in a newspaper

of general circulation in the Village, with either complete text amendment ordinance, or a legally proper summary of the ordinance, within 15 days after adoption of ordinance. The Ordinance amendment shall take effect within seven (7) days of the publication date, unless otherwise specified by the Village Council.

- g. **Re-submittal.** No petition for rezoning or zoning ordinance text amendment that has been denied by the Village Council shall be resubmitted for a period of one (1) year from the date of denial except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the Planning Commission/DDA.

3.11.4 **Criteria for Amendment of the Official Zoning Map (Rezoning).** In considering any petition for an amendment to the official zoning map (rezoning), the Planning Commission/DDA and the Village Council shall consider the following criteria in making its findings, recommendations and decision.

- a. Consistency with the goals, policies and Future Land Use Map of the Village's Master Plan. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area.
- b. Compatibility of the site's physical, geological, hydrological and other environmental features with the potential uses allowed in the proposed zoning district.
- c. Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under the current zoning.
- d. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- e. The capacity of Village infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the Village;
- f. The apparent demand for the types of uses permitted in the requested zoning district in the Village in relation to the amount of land in the Village currently zoned to accommodate the demand.
- g. Where a rezoning is reasonable, given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district.



**3.11.5 Criteria for Amendment of the Official Zoning Ordinance Text.** The Planning Commission/DDA and Village Council shall, at minimum, consider the following before taking action on any proposed amendment.

- a. Compatibility with the basic intent and purpose of the Zoning Ordinance.
- b. Consistency with the goals and objectives and future land use map of the Village's Master Plan, including any sub-area or corridor studies.
- c. The requested amendment will correct an error in current appropriate documentation.
- d. The requested amendment will resolve an inequitable situation created by the Zoning Ordinance and does not grant special privileges.
- e. The requested amendment will not result in unlawful exclusionary zoning.
- f. There is documentation from Village official and/or staff, or the Zoning Board of Appeals indicating problems and conflicts in implementation or interpretation of specific sections of the Ordinance.
- g. The requested amendment will address changes in state legislation, other Village ordinances, or federal regulations.
- h. The requested amendment will resolve potential legal issues or administrative problems with the Zoning Ordinance based on recent case law or opinions rendered by the Attorney General of the State of Michigan.

**3.11.6 Amendments Required to Conform to Court Decree.** Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the Village Council and published, without necessity of a public hearing.

**3.11.7 Conditional Rezoning of Land.** As an alternative to a rezoning of land, the Village may allow conditional rezoning to help ensure the proper use of land and natural resources and to allow for a more flexible approach to the rezoning process in accordance with Public Act 110 of 2006, as amended. It is recognized that, in certain instances, it would be an advantage to both the Village and petitioners seeking rezoning of land if a site plan, along with conditions and limitations that may be relied upon by the Village, could be proposed as part of a petition for rezoning. Conditional rezoning of land must follow the standards and procedures as noted below.

- a. The amendment procedure for a conditional rezoning shall follow the same procedure as a traditional rezoning amendment pursuant to Section 3.11.3.

- b. In addition to the procedures as noted in Section 3.11.3, the following specific procedures, standards, and requirements apply to all proposed conditional rezoning requests.
1. A conditional rezoning request must be voluntarily offered by an owner of land within the Village. All offers must be made in writing and must provide the specific conditions to be considered by the Village as a part of the rezoning request. All offers shall be in the form of a written agreement approvable by the Village and property owner, incorporating the conditional rezoning site plan and setting forth any conditions and terms mutually agreed upon by the parties relative to the land for which the conditional rezoning is sought.
  2. Conditional rezoning shall not allow a use or activity that would not otherwise be allowed in the proposed zoning district.
  3. Conditional rezoning shall not alter any of the various zoning requirements for the use(s) in question, i.e. parking, landscaping, lot area, lot width, building height, setbacks, lot area coverage, etc. Conditional rezoning's shall not grant zoning variances of any kind. Any zoning variance must follow the provisions of Article 11, Zoning Board of Appeals.
  4. Conditional rezoning shall not grant special land use approval. The process for review and approval of special land uses must follow the provisions of Section 3.4 of this Ordinance.
  5. All conditions offered by a land owner in relation to a rezoning request must have a direct relationship to the rezoning itself. The provisions to allow conditional rezoning shall not be construed to allow rezoning by exaction.
  6. In addition to the informational requirements provided for in Section 3.11.2 of this Ordinance, the applicant must provide a conditional rezoning concept plan prepared by a licensed professional allowed to prepare such plans under this Ordinance, that may show the location, size, height or other measures for and/or of buildings, structures, improvements and features on, and in some cases adjacent to the property that is the subject of the conditional rezoning of land. The details to be offered for inclusion in the conditional rezoning concept plan shall be determined by the applicant, subject to approval of the Village. Sheet size shall be at least 24" x 36" with the plan view drawn to a scale of no greater than 1" = 50' for property less than three (3) acres, or no greater than 1" = 100' for property of three (3) or more acres. A conditional rezoning concept plan shall not replace the requirement under this Ordinance for site plan review

and approval as set forth in Section 3.5, Site Plan Review, or the subdivision or site condominium approval, as the case may be.

- c. Time Limits and Reversion of Land to Previous District.
  - 1. If the proposed conditions of rezoning are acceptable to the Village, the Village may establish a time period during which the conditions apply to the property and must be met. If the conditions are not satisfied within the time specified under this section, the property shall revert to its former zoning classification unless an extension is granted as noted below. Reversion of a property back to its former classification must follow the rezoning amendment provisions as provided in Section 3.11.3 of the Zoning Ordinance.
  - 2. Unless a reversion of the zoning takes place as described in the section above, the approved conditional rezoning shall be binding upon the subject property owner, their heirs, successors, assigns, and transferees.
  - 3. Upon approval of a conditional zoning, a copy of the written agreement between the property owner and Village shall be filed with the Shiawassee County Register of Deeds, which shall act to provide notice to all subsequent owners of the property of the conditions approved and agreed to by the Village.
  - 4. The Village may not add to, or alter any conditions approved as a part of a rezoning during the specified time period.
  - 5. The time limits specified and approved by the Village may be extended upon the application of the landowner and approval of the Village.
- d. Review Procedures. The factors found in Section 3.11.4 of this Ordinance must be considered in any conditional rezoning request.

## ARTICLE 4

### ZONING DISTRICT REGULATIONS

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**Section 4.1 District Designations.** For the purpose of the Ordinance, the Village is hereby divided into the following districts:

<b>R - Residential</b>
<b>M - Multi-Family</b>
<b>GC - General Commercial</b>
<b>CBD - Central Business District</b>
<b>I-1 - Light Industrial</b>
<b>PUD – Planned Unit Development</b>

**Section 4.2 Zoning District Map.**

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

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

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

- a. Where uncertainty exists with respect to the boundaries of any of the districts indicated on the zoning district map, the following rules shall apply:
  1. Boundaries indicated as approximately following the streets or highways, the center lines of the streets or highways shall be construed to be such boundaries.
  2. Boundaries indicated as approximately following recorded lot lines shall be construed as following such lot lines.

3. Boundaries indicated as approximately following village boundary lines shall be construed as following such village boundary lines.
  4. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
  5. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance there from, as indicated on the official zoning district map. If no distance is given, such dimension shall be determined by the use of the scale shown on the official zoning district map.
  6. Boundaries following the shoreline of a drain, stream, lake or other body of water shall be construed to follow such shorelines, and in the event of change in the shorelines shall be construed as moving with the actual shorelines; boundaries indicated as approximately following the thread of streams, canals or other bodies of water shall be construed to follow such threads.
- b. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Zoning Board of Appeals

**Section 4.3. Application of District Regulations.** The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land, buildings, structure, or uses throughout each district. Wherever the requirements of this Ordinance are at variance with the requirements of any other adopted rules or regulations, ordinances, deed restriction, or covenants, the most restrictive, or those imposing the higher standards shall govern. Except as hereinafter provided, district regulations shall be applied in the following manner:

4.3.1 No building shall hereafter be erected, altered, or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises is located, except by variance as herein described by this Ordinance.

- a. **Permitted Uses.** Permitted uses shall be permitted by right only if specifically listed as principal permitted uses in the various zoning districts. Other uses of the same nature or class may be permitted as those listed as permitted uses in a district, which, as determined and classified by the Zoning Board of Appeals are no more intrusive or detrimental to the surrounding area than those listed in Section 4.5, Schedule of Use Regulations. All other uses are prohibited.

- b. **Accessory Uses and Buildings.** Accessory uses are permitted only if such uses are clearly incidental to the permitted principal uses, subject to Section 5.3.
- c. **Special Uses.** Special uses as authorized by Article 3, Administration and Enforcement, Section 3.4, Special Uses and as listed in Section 4.5, Schedule of Use Regulations. Other uses of the same nature or class may be permitted as those listed as special uses in a district, which, as determined and classified by the Zoning Board of Appeals, are no more intrusive or detrimental to the surrounding area than those listed in Section 4.5, Schedule of Use Regulations.

4.3.2 **Reduction, Diminishment of a Lot.** No lot area shall be reduced or diminished so that yard setbacks and other open spaces shall be smaller than specified, nor shall the area of any lot be reduced below the minimum requirements herein established for the district in which such lot is located.

4.3.3 **Yards and Open Space Not to Be Used Twice.** No part of a yard or other open space required for any building for the purposes of compliance with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building.

4.3.4 **Buildings and Lot of Record.** Every building or structure erected, altered, or moved shall be located on a lot of record as defined herein, and except in the case of approved multiple dwelling, commercial, and industrial developments, there shall be no more than (1) principal building/structure and its permitted accessory structures located on each lot in any district, unless specified elsewhere in the Ordinance.

4.3.5 **Setback Measurements.** Required yard setbacks shall be measured from the road right-of-way to the setback line. No exterior face of a structure may protrude into the required yard space except for the outer edge of roof overhangs or cornices, which may extend up to one (1) foot into the required yard. All required yards shall be located parallel and adjacent to property lines.

4.3.6 **Exemptions for Area, Placement and Height Regulations.** The following structures may be located anywhere on any lot: Open and unroofed terraces, patios, flag poles, hydrants, laundry drying equipment, trellises, outdoor cooking equipment, sidewalk and private driveways, trees, plants, shrubs and hedges, fences, screens, or light poles. Anything constructed, erected, placed, or planted or allowed to grow, shall conform to the provisions of Section 5.33 herein, Traffic Visibility.

The following structures and appurtenances shall be exempt from the height regulations of this ordinance: cupolas, spires, belfries, mechanical penthouses, and domes, chimneys, ventilators, skylights, water tanks, public utility transmission and distribution lines and related structures, radio, and television broadcasting and receiving antennae, silos, grain storage bins, parapets, and other appurtenances usually required to be placed above roof level and not intended for human occupancy. Wireless and/or cellular towers and/or facilities are not exempt from height restrictions.

An entrance structure, including but not limited to walls, columns or gates, may be placed in a subdivision, or other residential developments without regard to yard requirements provided that the location of such a structure shall be approved by the Planning Commission/DDA and/or Village Council before a building permit shall be issued. The location of such a structure shall conform to the provisions of Section 5.33 herein, Traffic Visibility.

Identification of a development by name and address may be mounted on an entry structure or made a structural part thereof, provided that such signs shall conform to all sign regulations, of the district in which located, and to the provisions of Article 9, Signs, herein.

**4.3.7 Wireless Communication Towers.** Wireless communications towers shall be subject to the regulations set forth in Section 5.36.

**4.3.8 Location and Number of Buildings on Lot of Record.**

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

**Section 4.4 Schedule of Use Regulations** (also See Section 4.5, Schedule of Regulations).

**4.4.1 R- RESIDENTIAL DISTRICT**

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**Intent.** It is the intent of this district to encourage a predominance of single-family dwellings located on individual parcels housing one-family. The requirements of this district are designed to protect and stabilize the essential character of these areas and to promote and encourage a suitable and safe environment for family life.

**A. R- District, Uses Permitted By Right**

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- 1. Adult Foster Family Care Homes, see Section 5.4.2.a.
- 2. Family Day Care Homes, see Section 5.10.2.a.
- 3. Public parks and playgrounds, subject to applicable provisions contained in Section 5.53, Private and Public Recreation.
- 4. Private (non-public) swimming pools, hot tubs, Jacuzzis, whirlpools, etc. subject to Section 5.3.2, Swimming Pools, Hot Tubs, Jacuzzis, Whirlpools and other pools.
- 5. Single-family dwellings.

6. Signs and name plates, subject to Article 9, Signs.
7. Temporary buildings provided they are for uses incidental to construction work other than as a temporary residence; such buildings shall be removed upon completion or abandonment of the construction work or within a period of one year, whichever is the lesser time period. Also see Section 5.11, Emergency Temporary Dwelling.
8. Vehicle parking. Off-street spaces shall be provided as specified in Article 10, Off-Street Parking and Loading Requirements, Section 10.4.
9. Accessory uses and structures normally incidental to any permitted use as long as such accessory use or building does not constitute or create a nuisance which adversely affects a permitted use of adjoining property, subject to the provisions of Section 5.3.

### **B. R District, Uses Permitted as Special Uses**

The following uses are permitted by the application for and issuance of a special use permit in compliance with the requirements in Section 3.4, Special Uses.

1. Bed and Breakfast establishments subject to the provisions of Section 5.9.
2. Municipal buildings and buildings and facilities used by local governmental agencies for governmental purposes, subject to Section 5.42.
3. Cemeteries, subject to Section 5.44, Cemeteries.
4. Churches and other institutions for religious worship, subject to Section 5.43, Religious Institutions.
5. Country clubs, public swimming pools and recreation clubs, private parks and playgrounds, subject to applicable requirements of Section 5.53, Private and Public Recreation.
6. Essential services and structures, transmission and distribution lines, transformer stations, gas regulators, pipelines, telephone repeaters, and related structures, subject to the provisions of Section 5.12.
7. Golf courses, but not including golf driving ranges.
8. Group Day Care Homes and Day Care Centers subject to the provisions of Section 5.10.
9. Home Occupations, subject to Section 5.17.
10. Hospitals, general or specialty, subject to Section 5.56.



11. Nursing homes and convalescent centers, senior and elderly housing, subject to Section 5.41.
12. Public and private elementary, middle, and high school, subject to Section 5.40, Educational Institutions.
13. Public and private pre-schools and kindergartens.
14. Accessory uses and structures normally incidental to a special use, as long as such accessory use does not create a nuisance adversely affecting a permitted use on adjoining properties, subject to the provisions of Section 5.3.

#### **4.4.2 M, MULTIPLE-FAMILY DISTRICT**

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**Intent.** It is the purpose of this district to accommodate a mixture of housing types such as apartments, garden apartments, townhouses, row houses or other group housing facilities, as well as mobile home parks. This district will only be permitted in areas of the Village adequately serviced by Village water and sewer systems and will be located near neighborhood commercial services and other essential services necessary to provide for the needs of high density development.

##### **A. M District, Uses Permitted By Right**

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1. All permitted uses in the R-Residential District.
2. Mobile home parks, subject to Section 5.52.
3. Multiple-family dwellings, subject to applicable requirements contained in Section 5.7, Apartment buildings.
4. Two-family dwellings, subject to Section 5.39, Two-Family Dwelling/Conversion of Single-Family Dwelling.
5. Temporary buildings provided they are for uses incidental to construction work other than as a temporary residence; such buildings shall be removed upon completion or abandonment of the construction work or within a period of one (1) year, whichever is the lesser time period. Also see Section 5.11, Emergency Temporary Dwelling.
6. Accessory uses and structures normally incidental to a permitted use, as long as such accessory use does not create a nuisance adversely affecting a permitted use on adjoining properties, subject to the provisions of Section 5.3.

##### **B. M District, Uses Permitted as Special Uses**

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The following uses are permitted by the application for and issuance of a special use permit in compliance with the requirements in Section 3.4, Special Uses.

1. Adult Foster Care Small Group and Large Group Homes subject to the provisions of Section 5.4.3.
2. Bed and Breakfast establishments subject to the provisions of Section 5.9.
3. Municipal buildings and buildings and facilities used by local governmental agencies for governmental purposes, subject to Section 5.42.
4. Churches and other institutions for religious worship, subject to Section 5.43, Religious Institutions.
5. Conversion of an existing single-family dwelling(s) into an increased number of dwellings, subject to Section 5.39, Two-Family Dwelling/Conversion of Single-Family Dwelling.
6. Country clubs, public swimming pools and recreation clubs, private parks and playgrounds.
7. Essential services and structures, transmission and distribution lines, transformer stations, gas regulators, telephone boxes, pipelines, telephone repeaters, and related structures, subject to the provisions of Section 5.12.
8. Golf courses, but not including golf driving ranges.
9. Group Day Care Homes and Day Care Centers subject to the provisions of Section 5.10.3 and 5.10.4, respectively.
10. Home occupations subject to the provisions of Section 5.17.
11. Public and private elementary, middle, and high schools; colleges, universities, subject to Section 5.40, Educational Institutions.
12. Public and private pre- schools and kindergartens.
13. Nursing homes, convalescent centers, senior and elderly housing, subject to 5.41.
14. Wireless communications towers subject to the regulations set forth in Section 5.36.
15. Accessory uses and structures normally incidental to a special use, as long as such accessory use does not create a nuisance adversely affecting a permitted use on adjoining properties, subject to the provisions of Section 5.3.
16. Hospitals, general and specialty, subject to Section 5.56.

4.4.3 **GC, General Commercial District**

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**Intent. This District is intended to provide areas for retail trade, offices, and service outlets to meet the needs of the residents of the immediate area. These areas will be generally located along primary roads.**

**All permitted and special uses in the GC, General Commercial District are subject to the provisions of Section 5.16.**

**A. GC District, Permitted Uses**

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1. Automobile accessory parts and tire dealers.
2. Banks, credit unions, savings and loan associations.
3. Business schools.
4. Business service establishments such as printing, publishing and photocopying services, mail and packaging services, clerical services and internet services.
5. Charitable and philanthropic institutions.
6. Essential services and structures, transmission and distribution lines, pipelines, telephone repeaters, and related structures, subject to the provisions of Section 5.12.
7. Financial and business service establishments
8. Food services including grocery, convenience meat market, bakery, restaurant, delicatessen and fruit market, and similar self-service units but not including any business of a drive-in type.
9. Health and fitness clubs.
10. Office buildings for the use of any of the following occupations, such as but not limited to: executive; administrative; legal; professional; accounting; writing; clerical; stenographic; drafting; and sales.
11. Laundromats and dry cleaning establishments.
12. Medical and dental offices, including clinics and medical laboratories.
13. Personal service establishments, such as but not limited to: barber and beauty shops; watch repair, clothing and shoe repair; locksmiths.
14. Publicly owned buildings, public utility transformer stations and substations, telephone exchanges, and public utility offices. (See Section 5.12)

15. Radio, television, and electrical appliance repair, and shops of plumbers, electricians and other similar services and trades.
16. Licensed Massage therapy, nail salons and body art establishments.
17. Retail office supply, computer and business machine sales, including repair.
18. Retail sales of goods and merchandise, including to, but not limited to: Antiques and antique architectural features, drug and health care products, hardware, gifts, dry goods, sporting goods, jewelry, clothing, furniture, and appliances.
19. Sit down and/or carry out restaurants.
20. Farm and feed supply.
21. Temporary buildings, provided they are for uses incidental to construction work other than as a temporary residence; such buildings shall be removed upon completion or abandonment of the construction work or within a period of one year, whichever is the lesser time period. Also see Section 5.11, Emergency Temporary Dwelling.
22. Signs and name plates, subject to Article 9, Signs
23. Vehicle parking, provided off-street spaces subject to Article 10, Off-Street Parking and Loading Requirements, Section 10.4.
24. Accessory uses and structures normally incidental to a permitted use, including incidental minor repairing, assembly or fabrication thereto, as long as such accessory use does not create a nuisance adversely affecting a permitted use on adjoining properties, subject to the provisions of Section 5.3.
25. Sidewalk Café Service, subject to Section 5.30.
26. Farm Markets.

**B. GC District, Uses Permitted as Special Uses**

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1. Automobile filling stations, service stations, repair garages, subject to the provisions of Section 5.8.
2. Auto washes or car washing establishments, subject to Section 5.54.
3. Assembly and dance halls.
4. Bar/lounge, restaurant serving alcoholic beverages and/or providing entertainment.
5. Bed and breakfast establishments subject to the provisions of Section 5.9.

6. Drive in, drive through establishments, fast food restaurants, bank, and other similar uses, subject to Section 5.55.
7. Funeral homes and mortuaries, subject to Section 5.48 Funeral Homes and Mortuaries.
9. Municipal buildings and buildings and facilities used by local governmental agencies for governmental purposes, subject to Section 5.42.
10. Multiple-family housing and/or apartment dwelling second floor and above.
11. Outdoor sales of manufactured products subject to the applicable provisions of Sections 5.23 and 5.24.
12. Motels and Hotels, subject to the applicable provisions contained in Section 5.49, Motels and Hotels
13. Recreation and amusement services, including theaters, bowling alleys, roller and ice skating rinks, billiard halls and miniature golf.
14. Private service clubs, social organizations and lodge halls.
15. Sale of new and used automobiles, boats, mobile homes, farm machinery, and other vehicles provided outdoor sales are subject to the provisions of Section 5.8. Also see 5.23 and 5.24.
16. Second hand store. There shall be no outside storage.
17. Veterinary offices/clinics and hospitals, including accessory boarding, provided no outdoor exercise runs or pens are permitted, subject to Section 5.47, Veterinary Clinics.
18. Accessory uses and structures normally incidental to a special use, as long as such accessory use does not create a nuisance adversely affecting a permitted use on adjoining properties, subject to the provisions of Section 5.3.
19. Lodging facilities other than motels, hotels and bed and breakfasts, subject to the applicable requirements of Section 5.49, Motels and Hotels.
20. Domestic radio, T.V. broadcast station, receiving and broadcasting towers, and microwave transmitting towers, (excluding wireless/cellular towers/facilities) subject to Section 5.50.
21. Wireless communications towers subject to the regulations set forth in Section 5.36.
22. Hospitals, subject to Section 5.56.
23. Nursing homes, convalescent centers, senior and elderly housing, subject to Section 5.41.

24. Public and private elementary, middle, and high schools; colleges, universities, and Technical Training Institutions, subject to Section 5.40, Educational Institutions.

#### 4.4.4 CBD, CENTRAL BUSINESS DISTRICT

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**Primary Intended Use.** The CBD District is designed to provide for a variety of office, business service, entertainment and retail uses which occupy the prime retail frontage, by serving the comparison, convenience, and service needs of the market area which includes the Village and surrounding Burns Township. The regulations of the CBD District are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging a continuous retail frontage and by prohibiting automotive-related services and non-retail uses which tend to break up such continuity.

**All permitted and special uses in the CBD, Central Business District are subject to the provisions of Section 5.16.**

#### A. CBD District, Permitted Uses

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1. All permitted uses allowed in the GC District.
2. Theaters, when completely enclosed.
3. Newspaper offices and printing plants.
4. Post Offices.
5. Licensed Massage therapy, nail salons and body art establishments.
6. Private service clubs, social organizations and lodge halls.
7. Parks and playgrounds.
8. Temporary buildings, provided they are for uses incidental to construction work other than as a temporary residence; such buildings shall be removed upon completion or abandonment of the construction work or within a period of one year, whichever is the lesser time period. Also see Section 5.11, Emergency Temporary Dwelling.
9. Accessory uses and structures normally incidental to a permitted use, as long as such accessory use does not create a nuisance adversely affecting a permitted use on adjoining properties, subject to the provisions of Section 5.3.

#### B. CBD District, Uses Permitted as Special Uses

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1. Bar/lounge serving alcoholic beverages and/or providing entertainment.
2. Lodging facilities.
3. Farm markets.
4. Recreation and amusement services, including theaters, bowling alleys, roller and ice skating rinks and billiard halls.
5. Multiple-family housing and/or apartment dwellings on the second floor and above.
6. Sidewalk cafe service, operated by a restaurant or other food establishment which sells food for immediate consumption, subject to the provisions of Section 5.30.
7. Domestic radio, T.V. broadcast station, receiving and broadcasting towers, and microwave transmitting towers, (excluding wireless/cellular towers/facilities) subject to Section 5.50.
8. Accessory uses and structures normally incidental to a special use, as long as such accessory use does not create a nuisance adversely affecting a permitted use on adjoining properties, subject to the provisions of Section 5.3.
9. Colleges, universities, subject to Section 5.40.
10. Municipal buildings and buildings and facilities used by local governmental agencies for governmental purposes, subject to Section 5.42.

4.4.5 **I-1, LIGHT INDUSTRIAL DISTRICT**

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**Primary Intended Use.** The I-1 District is designed to accommodate industrial, storage, and other uses that generate a minimum of noise, glare, dust, vibration, air and water pollution, fire and safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation or any other nuisance characteristics. It is the purpose of these regulations to permit development of the enumerated functions to protect surrounding areas from incompatible industrial activities, to restrict the intrusion of non-related uses such as residential, agricultural, business and commercial, except retail businesses that normally do not require the customer to call at the place of business, and to encourage the discontinuance of uses presently existing in the district which are non-conforming by virtue of the type of use. To these ends, certain uses are excluded which would function more effectively in other districts and which would interfere with the operation of the uses permitted in this District.

All permitted and special uses in the I-1, Light Industrial District are subject to the provisions of Section 5.20.

**A. I-1 District, Permitted Uses**

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1. Research oriented and light industrial park uses.
2. Printing, lithographic, blueprinting, commercial laundries, dry cleaning establishments, wholesale business, ice and cold storage plants, lumber, fuel and feed supply yards, and other similar uses.
3. Light manufacturing, research, assembly, testing and repair of components, devices, equipment and systems of professional scientific and controlling instruments, photographic and optical goods, including the following:
  - (a) Communication, transmission and reception equipment such a coils, tubes, semi-conductors, navigation control equipment and systems guidance equipment.
  - (b) Data processing equipment and systems.
  - (c) Graphics and art equipment.
  - (d) Metering instruments.
  - (e) Optical devices, equipment, and systems.
  - (f) Stereo, audio units, radio equipment and systems.
  - (g) Photographic equipment.
  - (h) Radar, infra-red and ultra violet equipment and systems.



- (i) Scientific and mechanical instruments such as calipers and transits.
  - (j) Testing equipment.
4. Light manufacturing, processing or assembling of the following:
- (a) Biological products, drugs, medicinal chemicals, and pharmaceutical preparation. Medical or recreational marihuana is not permitted.
  - (b) Computer and Electrical machinery, equipment and supplies, electronic equipment and accessories.
5. Research and design centers where said center are intended for the development of pilot or experimental products, together with related office buildings for such research facilities where said offices are designed to accommodate executive, administrative, professional, accounting, engineering, architectural, and support personnel.
6. Data processing and computer centers including the servicing and maintenance of electronic data processing equipment.
7. Warehousing, refrigerated and general storage, but not including self-storage facilities.
8. Business service establishments such as printing and photocopying services, mail and packaging services, clerical and internet services.
9. Training and/or educational centers where such centers are designed and intended to provide training at the business, technical and/or professional level.
10. Buildings and facilities used by local governmental agencies for governmental purposes, subject to Section 5.42.
11. Essential services and structures, transmission and distribution lines, transformer stations, gas regulators, pipelines, telephone repeaters, and related structures, subject to the provisions of Section 5.12.
12. Accessory uses and structures normally incidental to a permitted use, as long as such accessory use does not create a nuisance adversely affecting a permitted use on adjoining properties, subject to the provisions of Section 5.3.
13. Temporary buildings, provided they are for uses incidental to construction work other than as a temporary residence; such buildings shall be removed upon completion or abandonment of the construction work or within a period of one year, whichever is the lesser time period. Also see Section 5.11, Emergency Temporary Dwelling.

**B. I-1 District, Uses Permitted as Special Uses**

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1. Restaurants and cafeteria facilities for employees.
2. Trucking and transit terminals.
3. Wind Turbines
4. Contractors' establishments subject to the provisions of Section 5.15.
5. Metal fabrication, and tool and die shops.
6. Automobile repair garages and paint shops for autos and other vehicles, construction and farm equipment sales.
7. Self-storage facilities, subject to the provisions of Section 5.28, Self Storage Facilities.
8. Commercial kennels, subject to Section 5.46, Commercial Kennels.
9. Adult motion picture theaters, bookstores, subject to the provisions of Section 5.5, Adult Uses.
10. Greenhouses and nurseries, subject to Section 5.45, Greenhouses and nurseries.
11. Accessory uses and structures normally incidental to a special use, as long as such accessory use does not create a nuisance adversely affecting a permitted use on adjoining properties, subject to the provisions of Section 5.3.
12. Domestic radio, T.V. broadcast station, receiving and broadcasting towers, and microwave transmitting towers, (excluding wireless/cellular towers/facilities) subject to Section 5.50.
13. Wireless communications towers subject to the regulations set forth in Section 5.36.
14. Municipal buildings and buildings and facilities used by local governmental agencies for governmental purposes, subject to Section 5.42.

4.4.6 **PUD, Planned Unit Development District**

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**Primary Intended Use.** The PUD District regulations are intended to provide for various types of land uses planned in a manner which shall: encourage the use of land in accordance with its character and adaptability; conserve natural resources and energy; encourage innovation in land use planning; provide enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the people of the Village; and bring about a greater compatibility of design and use.

See Article 6, Planned Unit Development, for specific use regulations.

**Section 4.5  
Schedule of Area, Height, Width and Setback Regulations**

Districts	Minimum Lot Size	Minimum Lot Frontage (Width)	Maximum Building Height			Minimum Yard Setback Per Lot/ Feet From Lot Line			Maximum Lot Coverage	Minimum Floor Area Per Unit
	Area (sq. ft)	Feet (at minimum setback line)	Principal Building		Accessory Building	Front	Rear	Each Side		
			Stories	Feet						
R, Residential	8,500 sq. ft.	66 ft. (a)	2.5	35 ft.	14 ft.	25 ft.	30 ft.	10 ft. (b,c,e)	35%	1,000 sq. ft.
M, Multi-Family	3,500 sq. ft.	66 ft.	2.5	35 ft.	14 ft.	40 ft.	50 ft.	10 ft. (b,c,f)	35%	See Foot Note (d)
CBD, Central Business District	None	None	3	40 ft.	35 ft.	None	None	None	None	None
GC, Commercial	5,000 sq. ft.	40 ft.	2.5	35 ft.	35 ft.	25 ft.	25 ft.	25 ft.	None	None
I-1, Light Industrial	2 acres	200 ft.	2.5	35 ft.	35 ft.	50 ft.	25 ft.	50 ft.	None	None
PUD, Planned Unit Development	See Article 6.									

**Notes to Schedule**

- a. In the case where a curvilinear street pattern produces an irregularly shaped lot with nonparallel side lot lines, a lesser frontage width at the street line may be permitted, provided that the lot width at the building line is equal to the specified lot width for that district.
- b. All measurements for front and/or side yards abutting State trunk lines shall be taken from the right-of-way and shall not be less than fifty (50) feet. All measurements for front and/or side yards abutting all arterial and/or section line, secondary, collector and/or quarter line roads shall not be less than fifty (50) feet. All measurements for front and/or side yards abutting all arterial and/or section line, secondary, collector and/or quarter line roads shall not be less than fifty (50) feet. All measurements for front and/or side yards abutting local internal subdivision roads shall be as specified for the respective zoning districts.
- c. Except in the case of a corner lot where the side yard on the street side shall not be less than the front yard.
- d. For each dwelling unit in a multiple-family dwelling: three hundred fifty (350) square feet for zero or one-bedroom; five hundred fifty (550) square feet for two-bedrooms; seven hundred fifty (750) square feet for three-bedrooms; an average of two hundred (200) square feet for each bedroom in excess of bedrooms.
- e. On corner lots the side yard setback on the side of the yard not adjacent to the street is five (5) feet.
- f. On the side yard setback may be no less than the height of the building.

## ARTICLE 5

### GENERAL AND SPECIAL PROVISIONS

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**Section 5.1**            **Intent.** The intent of this Article is to provide for those regulations which generally apply regardless of the particular zoning district and to those special uses which may be permitted in certain zoning districts. The chart below identifies both general and special provisions.

#### **Section 5.2**            **Access Management.**

5.2.1            **Number of Driveways.** No more than one (1) driveway (including a circular drive or one-way pair) is allowed per road frontage, unless appropriate documentation is provided demonstrating the need for additional driveways. Additional driveways may be permitted for a property under one of the following:

- a.            One (1) additional two-way driveway may be allowed for properties with a continuous frontage of no less than double the minimum lot width required in the zoning district.
- b.            Two (2) one-way driveways may be allowed for properties with a continuous frontage of no less than three (3) times the minimum lot width required in the zoning district, provided that the driveways do not interfere with operations at other driveways or along the road.

5.2.2            **Driveway Spacing.** The minimum spacing between two (2) driveways on the same parcel on the same side of the street shall be no less than the minimum lot width required in the zoning district when measured from centerline to centerline.

#### 5.2.3            **Clear Vision Areas and Buffer Areas.**

- a.            All driveways shall provide an unobstructed clear vision area, between a height of thirty (30) inches and twelve (12) feet, as measured from the road surface, in a triangular shape measured ten (10) feet back from the point of intersection of the driveway edge and the road right-of-way.
- b.            Adjacent to driveways, a buffer area between the right-of-way line and the pavement edge shall be used to provide a barrier between moving traffic and private property. A buffer area is needed to provide an unobstructed vision area and to physically prohibit potentially hazardous movement of vehicles (especially at undesirable angles of approach) from and to the road. The buffer area shall consist of a lawn area, a low shrub area, a ditch, or equivalent method to be permanently established.

**Section 5.3 Accessory Buildings, Swimming Pools and Other Uses.**

**5.3.1 Application to Single-Family Residential Districts.**

- a. Where the accessory building is structurally attached (breezeway or other structure) to a main building, it shall be subject to, and must conform to, all setback regulations of this Ordinance and building codes applicable to main buildings. It shall also be counted as part of the area of the accessory building.
- b. A detached accessory building shall not be located in the front yard of a single-family dwelling and shall be restricted to a location in a side or rear yard. All side and rear yard setbacks shall be observed unless otherwise stated in this Ordinance. No detached accessory building shall be erected within five (5) feet of any other building.
- c. In no instance shall an accessory structure be located within a dedicated easement or right-of-way.
- d. The total of all attached and detached accessory buildings located on a parcel shall be subject to maximum lot coverage requirements of the particular zoning district they are located in (See Article 4.5, Schedule of Regulations).
- e. No detached accessory building in the R, Residential or M, Multi-Family Districts shall exceed one (1) story or fourteen (14) feet in height. Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said districts. (Subject to Section 4.3.6, Exceptions for Area, Placement and Height Regulations)
- f. A satellite dish antenna or solar panel which is not affixed to the principal structure shall be deemed for the purposes of this Ordinance to be an accessory building and shall be located on the premises only as provided herein for said accessory building; provided, however, that no such satellite dish antenna shall be located in the front yard of any residential structure.

**5.3.2 Swimming Pools, Hot Tubs, Jacuzzis, Whirlpools and Other Pools**

- a. **Definitions:** For purposes of this section, the term “pool” or “pools” shall mean and include all swimming pools, hot tubs, Jacuzzis, whirlpools and other pools not contained and enclosed within any principal or accessory building or structure. The terms “depth” or “pool depth” shall mean the greater of the water depth or the pool wall depth.
- b. **Exempted Pools:** All inflatable pools, “kiddy pools” or those otherwise temporary in nature and which are (1) seasonally erected and dismantled, and (2)

not exceeding 20 inches in depth, are exempt from the provisions of this Section.

- c. Pool Requirements: All pools more than twenty (20) inches in depth shall be permitted as an accessory use provided they meet the following requirements:
  - 1. Pools shall be provided with a protective fence six (6) feet in height.
  - 2. Entry shall be provided by means of a controlled gate.
  - 3. No swimming pool shall be built over a septic system, drain field, or on any area designated by the Shiawassee County Health Department as reserved for a replacement drain field unless approved by the Shiawassee County Health Department.
  - 4. All construction shall meet the standards of the State Construction Code.
  - 5. Swimming pools shall be treated as accessory structures with regards to the setback requirements of this Ordinance.

**5.3.3 Application to all other Uses.** Accessory buildings and uses for all uses other than single-family residences shall comply with applicable setback and height restrictions specified for the zoning district wherein the accessory use or structure is located.

**5.3.4 Application to all Uses and Districts.** No accessory building shall be used prior to occupancy of the principal building or use, except as a construction facility for construction of the principal building.

**Section 5.4 Adult Foster Care Facilities.**

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

**5.4.2 Application of Regulations.**

- a. A State licensed Adult Foster Care Small Group Home serving six (6) persons or less and Adult Foster Care Family Home shall be considered a residential use of property and a permitted use in all residential districts.
- b. The Village may, by issuance of a special use permit, authorize the establishment of Adult Foster Care Small Group Homes serving more than six (6) persons and Adult Foster Care Large Group Homes in the M, Multi-Family zoning district. Such facilities shall be prohibited in all other districts.



**5.4.3 Standards for Adult Foster Care Small Group Homes serving more than six (6) persons and Adult Foster Care Large Group Homes.** Such homes shall be considered a special land use subject to the requirements and standards of Section 3.4 and the following additional standards:

- a. A site plan, prepared in accordance with Section 3.5, shall be required.
- b. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of one thousand five hundred (1,500) square feet per adult, excluding employees and/or care givers.
- c. The property is maintained in a manner that is consistent with the character of the neighborhood.
- d. Parking requirements as required for convalescent homes and similar facilities, set forth in Article 10, Off-Street Parking and Loading Requirements, shall be met.
- e. In its sole discretion, the Village may determine that landscape screening in accordance with Section 8.2, Landscaping, Greenbelts, Buffers and Screening is required.
- f. Appropriate licenses with the State of Michigan shall be maintained.

**5.4.4 Standards for Adult Foster Care Congregate Facilities.** Such facilities shall be considered as a special land use subject to the requirements and standards of Section 3.4, Special Land Uses and the following standards:

- a. A site plan, prepared in accordance with Section 3.5, Site Plan Review, shall be required to be submitted.
- b. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of 1,500 square feet per adult, excluding employees and/or caregivers.
- c. Parking requirements as required for convalescent homes and similar facilities, set forth in Article 10, Off-Street Parking and Loading Requirements, shall be met.
- d. All landscape requirements set forth in Section 8.2, Landscaping, Greenbelts, Buffers and Screening, shall be met.
- e. Appropriate licenses with the State of Michigan shall be maintained.

**Section 5.5 Adult Uses.**

**5.5.1 Adult Bookstores, Motion Picture Theaters, and Other Adult Uses.**

- a. **Purpose.** The purpose and intent of this section is to regulate the location of, but not to exclude, adult store, adult motion picture theaters, adult mini-motion picture theaters, and massage parlors in the Village by preventing the concentration of such uses in one area. The Village recognizes that there are some uses which, because of their nature, have serious objectionable operational characteristics, particularly if concentrated under circumstances having a deleterious effect upon adjacent residential and commercial areas. The Village recognizes that the regulation of such uses is necessary to ensure that adverse effects will not contribute to the blighting or downgrading of a surrounding residential neighborhood.
- b. **Location of Uses.** No building or land, and no building hereafter erected, converted or structurally altered, shall be used as an adult bookstore, adult motion picture theater, adult mini-motion picture theater, or massage parlor within four hundred (400) feet of the property line of any residentially zoned district as defined in this Zoning Ordinance or within nine hundred (900) feet of any public school or public facility or religious site of assembly, worship and school. No adult bookstore, adult theater or massage parlor shall be located within four hundred fifty (450) feet of any other establishment known as an adult bookstore, adult motion picture theater, adult mini-motion picture theater or massage parlor.

**5.5.2 Definitions As Used In This Section.**

- a. **Adult Store.** An establishment which excludes minors, as defined in MCLA 722.51 et seq, and which has a substantial or significant portion of its stock in trade, books, periodicals, magazines, pamphlets, pictures, photographs, motion picture films and/or videotapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to nudity or sexual conduct.
- b. **Adult Motion Picture Theater.** An establishment, whether a completely enclosed building or not, which excludes minors, as defined in MCLA 722.51 et seq, and offers, for an admission fee, membership fee or other valuable consideration, the viewing of motion picture films, pictures or photographs, which are distinguished or characterized by their emphasis on nudity or sexual conduct during more than twenty-five (25%) percent of its operating hours.

**Section 5.6 Animals.** Any other provision of this Ordinance notwithstanding, the keeping, housing, raising, use or medical care of animals, other than fowl house pets of an occupant of the premises, is prohibited. Where animals other than house pets of the owner of the premises are kept or allowed outside, a fence so constructed as to keep said animals from leaving the premises at will shall be provided and regularly maintained.

**Section 5.7 Apartment Buildings.**

**5.7.1 Required Conditions.**

- a. **Access.** No building shall face upon a one-family residentially zoned street nor have its principal means of access through such a residential zone.
- b. **Group Dwellings.** Where there is more than one apartment dwelling located on a lot, no building shall be located in front of the main entrance of another, unless separated by a common yard of at least one hundred (100) feet. Every group apartment dwelling shall have a landscaped rear yard of at least thirty (30) feet unobstructed by any accessory building, provided such space may be located across a driveway leading to a garage or parking area adjacent to the building. No group apartment dwelling shall be located closer than a distance equal to its total height to any other building.
- c. **Refuse.** For all group apartment dwellings or apartments, there shall be provided a screened area or a building or a portion thereof for the collection of garbage or waste so that such refuse shall not be visible from any dwelling unit, adjacent property or public street.
- d. **Zone Separation.** Where an M, Multi-Family District abuts another single-family residential district, any permitted use shall provide an additional twenty (20) feet of landscaped yard area next to such District over and above the minimum requirements of the M, Multi-Family District.

**5.7.2 Site Plan; Building Plans** Building construction plans must be submitted to the Building Department and approved prior to issuance of a building permit. The Building Inspector shall not issue a Certificate of Occupancy and Compliance until he or she has ascertained that all the requirements of this Ordinance and the approved plans have been met to assure compliance with the provisions of the zoning ordinance.

**Section 5.8 Automobile Filling Stations, Repair Garages, Service Stations and Dealerships.** Automobile filling stations, repair garages, service stations, and dealerships shall comply with the following conditions:

**5.8.1** The curb cuts for ingress to, and egress from are not permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be not less than thirty (30) feet from a street intersection (measured from the road right-of-way) or from adjacent residential districts. No more than one (1) curb opening shall be permitted for each fifty (50) feet of frontage or major fraction thereof along any street. No driveway or curb opening shall be located nearer than ten (10) feet to any corner or exterior lot line. No driveway shall be located nearer than thirty (30) feet to any other driveway serving the site.

5.8.2 The minimum lot area shall be ten thousand (10,000) square feet, so arranged that ample space is available for motor vehicles, which are required to wait.

5.8.3 The minimum dimension of any lot line adjacent to a public right-of-way shall be one hundred and forty (140) feet.

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

5.8.5 All activities related to automobile service and repair equipment shall be entirely enclosed within a building located not less than forty (40) feet from any street lot line, and not less than ten (10) feet from any side lot line.

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

5.8.7 Inoperative or unlicensed vehicles shall not be stored outside for more than seven (7) days. Such storage shall not occur in front of the building front line.

5.8.8 Automobile sales shall not be permitted on the premises of any automobile filling station, repair garage, service station, and automobile wash.

5.8.9 All coverings of the service or filling station gasoline pumps shall be no taller than the principal structure and constructed of compatible materials. Such canopies shall not be lit internally for signage purposes. All proposed lighting shall be fully recessed.

5.8.10 Gasoline pumps shall be located not less than fifteen (15) feet from any lot line, and shall be arranged so that motor vehicles do not park upon or overhang any public sidewalk, street or right-of-way while waiting for or receiving fuel service.

5.8.11 A filling or service station shall have no more than eight (8) gasoline pumps and two (2) enclosed stalls for servicing, lubricating, greasing and/or washing motor vehicles. An additional two (2) gasoline pumps and/or one enclosed stall may be included for each additional two thousand (2,000) square feet of lot area above the minimum area set forth in subsection B, above.

5.8.12 Wherever a filling or service station site abuts any residentially zoned district, the requirements for protective screening shall be provided as specified in Section 8.2.4, Screening Between Land Uses. All masonry walls shall be protected by a fixed curb or barrier to prevent vehicles from contacting the wall.

5.8.13 All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property.

5.8.14 All combustible waste and rubbish, including crankcase draining's, shall be kept in metal receptacles fitted with a tight cover until removed from the premises. Sawdust shall not be kept in any gasoline service station or place of storage therein, and sawdust or other combustible material shall not be used to absorb oil, grease or gasoline.

5.8.15 No advertising signs may be placed on-site other than the permitted maximum wall and/or ground sign area per Article 9. Prohibited signs include banners and flags.

5.8.16 A convenience store or restaurant, with or without a drive-through (see Section 5.55, Drive Through Facilities) may be located within the station providing it complies with the provisions for an accessory use (see Section 5.3).

**Section 5.9 Bed and Breakfast Accommodations.**

5.9.1 Each premise must be occupied and operated by its owner.

5.9.2 The proposed use shall not cause a nuisance to adjoining residences due to noise, odor, lighting, or traffic.

5.9.3 No bed and breakfast sleeping room shall be permitted that does not comply with the construction code.

5.9.4 There shall be no separate cooking facilities used for a bed and breakfast stay.

5.9.5 The stay of bed and breakfast occupants shall be no more than fourteen (14) consecutive days and not more than thirty (30) days in any one (1) calendar year.

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

5.9.7 One (1) bathroom for every three (3) sleeping rooms shall be provided, with a minimum of two (2) bathrooms.

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

**Section 5.10 Day Care Facilities.**

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

5.10.2 **Application of Regulations.**

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

**5.10.3 Standards for Group Day Care Homes.** Group Day Care Homes shall be considered as special land use subject to the requirements and standards of Section 3.4 and the following additional standards:

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

**5.10.4 Standards for Day Care Centers.** Day Care Centers shall be considered as a special land use subject to the requirements and standards of Section 3.4, Special Land Uses, and the following standards:

- a. The Day Care Center shall be served by public sewer and water.
- b. A separate drop-off and pick-up area shall be provided adjacent to the main building entrance, located off of a public street and the parking access lane, and shall be of sufficient size so as to not create congestion on the site or within a public roadway.

- c. Off-street parking shall be provided at a rate of one (1) space per employee plus one space for every five (5) children enrolled at the facility
- d. There shall be an outdoor play area of at least one thousand (1,000) square feet provided on the premises. Said play area shall not be located within the front setback. This requirement may be waived by the Planning Commission/DDA if public play area is available five hundred (500) feet from the subject parcel.
- e. Appropriate licenses with the State of Michigan shall be maintained.

**Section 5.11 Emergency Temporary Dwellings.**

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

5.11.2 **Permit Application and Review.**

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

- d. To guarantee compliance with the provisions of the ordinance and removal of the emergency temporary dwelling upon expiration of the permit, the Village Council may require a cash bond to be posted prior to the issuance of a permit.

**Section 5.12 Essential Services.** Essential services shall be permitted as authorized and regulated by law and other ordinances of the Village. The construction of buildings associated with essential services shall be subject to the provisions of Section 3.5, Site Plan Review. Otherwise, the construction, maintenance, and alteration of essential services shall be exempt from the provisions of this Ordinance.

**Section 5.13 Existing Platted Lots.** Any parcel of real property of record in single ownership at the time of adoption of this Ordinance that fails to comply with the minimum area and lot size requirements of this Ordinance may be used for a use permitted in its district, provided ninety (90%) percent compliance with each yard requirement is met. Any existing parcel of record, in common ownership with adjacent parcels of record on or before the effective date of this Ordinance, may each be used as separate lots if each such parcel or lot contains ninety (90%) percent of the required lot area. Where two (2) or more such parcels in common ownership do not comply with ninety (90%) percent of the required lot area, they shall be combined or re-divided to conform to this Ordinance. Where forty (40%) percent or more of the lots in a block have been built upon at a smaller lot size, the Board of Appeals may grant a variance to this provision to conform to established neighborhood character.

**Section 5.14 Garage Sales, Rummage Sales, and Similar Activities.** Garage sales, rummage sales, yard sales, moving sales, and similar activities shall be considered temporary accessory uses within any residential zoning district subject to the conditions contained herein. Any garage sale, rummage sale, or similar activity shall be allowed without a permit for a period not to exceed four (4) days within a three (3) month period. All such sales shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties. No signs advertising a garage sale or similar activity shall be placed upon public property. Signs shall not be placed more than twenty-four (24) hours prior to the sale and must be removed upon completion of the sale.

**Section 5.15 General, Building and Landscape Contractor's Offices and Yards.**

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

5.15.2 Storage shall not be located within the required front yard. Such storage shall not be located in any required parking or loading space.



5.15.3 Storage shall be screened from the view of public street, and adjacent properties zoned either residential, commercial, or office. Screening measures shall meet the requirements of Section 8.2.4, Screening Between Land Uses.

**Section 5.16 GC, General Commercial, CBD, Central Business District – Required Conditions.**

5.16.1 **Off-street parking.** Off-street Parking and Loading as required by Article 10, may occupy any required or provided yard space.

5.16.2 **Signs.** Signs shall meet the requirements of Article 9.

5.16.3 **Business Conducted Inside Buildings.** Business and services shall be conducted wholly within the confines of a building except for businesses for which outside inventory, sales, and service are typical, such as automobile service stations, automobile and machinery sales, the sale of produce and plants, side walk cafes and other businesses of a like kind, except for temporary sidewalk or seasonal sales.

5.16.4 **Site Plan Review.** Approval by the Planning Commission/DDA and Village Council is required for all uses.

**Section 5.17 Home Occupations.** All home occupations shall be in single-family residences subject to the following requirements:

**5.17.1 Requirements for Home Occupation**

- a. A home occupation must be clearly incidental and secondary to the primary use of the dwelling unit for dwelling purposes. No more than twenty-five (25%) percent of the floor area of the dwelling shall be devoted to a home occupation.
- b. A home occupation use shall not change the character of the residential nature of the premises, both in terms of use and appearance.
- c. A home occupation use shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, fire hazards, or the like, involved in or resulting from such home occupation.
- d. A home occupation shall not generate sewage or water use in excess of what is normally generated from a single-family dwelling in a residential area.
- e. Up to two (2) non-residents as well as the members of the immediate family resident in the dwelling unit may be employed by the home occupation.

- f. All activities shall be carried on within an enclosed structure. There shall be no outside display of any kind, or other external or visible evidence of the conduct of a home occupation.
- g. There shall be no vehicular traffic permitted for the home occupation, other than that which is normally generated for a single dwelling unit in a residential area, both as to volume and type of vehicles.

**Section 5.18 Maximum Setbacks From Road Right-Of-Way.** A building constructed further than one hundred fifty (150) feet from a street shall be served by a driveway constructed to the standards for a local road as currently adopted by the Shiawassee County Road Commission.

**Section 5.19 Mobile Home Dwellings Outside of Mobile Home Parks.**

5.19.1 **Exceptions.** No person shall use, occupy or permit the use or occupancy of a mobile home or manufactured home as a dwelling within any district within the Village not designated as a mobile home park unless:

- a. A permit for the placement thereof has been obtained from the Village Council. All applications for said permit shall be accompanied by a non-refundable fee which shall be used to defray the cost of inspection as provided in this Ordinance.
- b. Said mobile home, the placement thereof, and the premises upon which it shall be located shall meet all requirements of the Village of Byron Zoning Ordinance relating to uses, size of premises, floor area, and setback, side and rear lot requirements, specified for the particular zoning district in which said premises is situated.
- c. Said mobile home shall be connected to potable water and sanitary sewage disposal facilities approved by the health agency having jurisdiction. If public water and sanitary sewage disposal facilities are available to said premises, said mobile home shall be connected thereto.
- d. A mobile home shall be installed pursuant to the manufacturer's setup instructions and shall have a foundation wall of the same perimeter dimensions as the mobile home and constructed of such materials and type as required in the applicable building code for site-built single-family dwellings, and shall be secured to the premise by an anchoring system or device compatible with those required by the Michigan Manufactured Home Commission. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the Building Code applicable within the Village.

- e. Construction of, and the plumbing, electrical apparatus, and insulation within and connected to said mobile home shall be of a type and quality conforming to the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards (24 CFR 3280) and as from time to time amended.
- f. If placed within a flood zone, said mobile home shall meet all requirements for construction of dwellings on site within said zone.
- g. Said mobile home shall meet or exceed all roof snow load and strength requirements imposed by the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.

5.19.2 **Aesthetic Compatibility.** The foregoing requirements notwithstanding, the placement and use of a mobile home in any residential district within the Village shall be aesthetically compatible with single-family dwellings in the district and, as a minimum, said mobile home shall:

- a. Be so placed and situated so that the wheels shall be removed and the underside or chassis of said mobile home shall be completely enclosed and connected to the foundation.
- b. Shall be placed upon the property in such a way that its appearance shall be compatible with single-family dwellings constructed on-site within said district.

**Section 5.20 I-1, Limited Industrial District – Required Conditions and Performance Standards.**

5.20.1 **Required Conditions.** The following conditions are required:

- a. **Parking.** Off-street parking shall be provided in accordance with Article 10.
- b. **Signs.** Signs shall conform to Article 9, Signs.
- c. **Enclosures.** All operations shall be conducted wholly within the confines of a building; provided that necessary accessory outdoor processes or the outdoor storage of coal or other fuel, equipment and material may utilize required side yard or rear yard space if screened from any public street or residential zone by either a six (6) foot uniformly painted or preserved fence, or wall at least fifty (50%) percent solid, kept in good condition, or by planting of evergreen trees or hedges that meet the requirements of Section 8.2.4, Screening Between Land Uses. Said storage shall not exceed a height of ten (10) feet.

- d. **Landscaping.** All unpaved areas of any yard not fenced for storage shall be landscaped and regularly maintained. See Section 8.2, Landscaping, Greenbelts, Buffers and Screening.

5.20.2 **Performance Standards.** Before the issuance of any building or occupancy permit and subject to all fees the applicant shall sign an agreement stating that the use of the property will meet the following performance standards and that any violation of these standards in subsequent operations will be corrected, and the costs of inspection by experts to determine compliance shall be borne by the applicant.

- a. **Fire and Explosion Hazards.** All activities shall be carried on only in buildings conforming to the Building Code. The operations shall be carried on in such manner as required by the applicable Fire Code and with such precautions as to produce no explosion on an adjacent property. Flammable liquids or explosive chemicals or materials, other than fuels used for heating, shall be stored in a separate building or tank, provided said building or tank is not closer than eighty (80) feet to any building occupied by more than one (1) human, nor closer than forty (40) feet to any property line. Every manufacturing building or other building permitted only in the industrial zone shall be equipped with automatic sprinklers or other automatic fire extinguishers approved by the Chief of the Fire Department as being sufficient in view of the nature and extent of the fire risk.
- b. **Smoke, Fumes, Gases, Dust, Odors.** There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use in such a manner as to create a public nuisance, cause damage or inconvenience to other buildings or properties, or imperil the health of animals or humans. See Section 8.4, Airborne Emissions.
- c. **Liquid or Solid Waste.** No industrial operations shall directly discharge industrial waste of any kind into any river, stream, reservoir, pond or lake. All methods of sewage and industrial waste treatment and disposal shall be approved by the Village and shall conform to Mid-Michigan and Michigan State Health Department requirements.
- d. **Vibration.** There shall be no vibration which is discernible to the human sense of feeling beyond the immediate site on which such use is conducted. See Section 8.5, Noise and Vibration.
- e. **Noise.** There shall be no noise emanating from the operation which will impair the use or value of adjoining conforming property. See Section 8.5, Noise and Vibration.
- f. **Glare.** There shall be no direct or sky-reflected glare which would be damaging to the human eye or cause hazardous conditions on a public street. See Section 8.7, Glare and Exterior Lighting.

**Section 5.21            Occupancy.** No new building, new portion of a building, or portion of a building vacated to permit alterations shall be occupied or reoccupied until an Occupancy Permit is issued. No building declared unsafe or unfit for human habitation shall be occupied or used.

**Section 5.22            Open Unoccupied Space or Yard.** No required open unoccupied space shall be occupied by any structure except in conformity with the provisions of this Ordinance. The foregoing prohibition shall not apply to landscaping, driveways, sidewalks, walls or fences, lighting standards and signs as hereinafter regulated, cantilevered roof eaves not to exceed three (3) feet of overhead into any such space and projections.

**Section 5.23            Outdoor Displays of Products or Materials Intended for Retail Sale or Rental.**

**5.23.1            General Standards.**

- a.     An outdoor display shall be considered as an accessory to the principal business use conducted on the premises.
- b.     The exterior of the premises shall be kept clean, orderly and maintained.
- c.     The Village shall not be held liable or responsible for any type of damage, theft or personal injury which may occur as a result of an outdoor display.
- d.     In the administration of these provisions, the Zoning Administrator shall be permitted to refer a request to the Planning Commission/DDA for review and recommendation, where site conditions may create difficulty in adherence to the standards contained herein.
- e.     An outdoor display shall not occupy or obstruct the use of any fire lane, required off-street parking or landscaped area required to meet the requirements of this Zoning Ordinance.

**5.23.2            Standards within CBD Districts.**

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

**5.23.3            Standards within GC Districts.** An outdoor display may be located within any required yard but shall not be located within any public road right of way.

**5.23.4 Transient and Seasonal Sales.**

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

**Section 5.24 Outdoor Sales.**

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

- a. There shall be no strings of flags, pennants or bare light bulbs permitted.
- b. No vehicles or merchandise for sale shall be displayed within any required front yard setback.
- c. There shall be no broadcast of continuous music or announcements over any loudspeaker or public address system.
- d. All such vehicles and merchandise may be stored in the driveway of its owner, but only for a maximum of fourteen (14) consecutive days within any given calendar year.

**Section 5.25 Principal Use.** No lot shall contain more than one (1) principal use. Where permitted, groups of buildings of the same use shall be considered as one principal use of the premises.

**Section 5.26 Projections.** Retractable awnings may be erected in any zone. Permanent awnings, canopies, marquees, eaves, balconies or decorative architectural projections may extend up to twenty-eight (28) inches into any required yard or over a public right-of-way where there is no yard required, provided that all such projections must be at least eight (8) feet above the ground immediately below. In the GC, General Commercial and CBD, Central Business District, the Village Council may approve other projecting structures over the public right-of-way; provided, however, no approval shall be granted for such a projection which extends more than eight (8) feet over the public sidewalk and which does not provide clearance of at least eight (8) feet above the ground. The Council shall determine that the design and construction of said structure will provide a harmonious appearance with other similar existing structures.

**Section 5.27 Restoring Unsafe Buildings.** Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any structure declared unsafe by the building inspector; provided, however, that any such restoration of a non-conforming structure shall conform to applicable construction codes and shall not violate the provisions of this Ordinance regulating creation, expansion, construction or reconstruction of a non-conforming use or structure.

**Section 5.28 Self-Storage Facilities.**

5.28.1 Self-storage facilities shall be subject to the following requirements and conditions:

- a. No activity other than rental of storage units and the rental of outside storage space for recreational vehicles shall be allowed. No commercial, wholesale, retail, industrial or other business use on, or operated from, the facility shall be allowed.
- b. The storage of any toxic, explosive, corrosive, flammable or hazardous materials is prohibited.
- c. Other than the storage of recreational vehicles, all storage shall be contained within a building. All recreational vehicle storage shall be screened from the view of neighboring properties and public roads in accordance with Section 8.2.4, Screening Between Land Uses.
- d. Exterior walls of the ends of all storage units shall be of masonry or face-brick construction.
- e. All storage units must be accessible by paved circular drives clearly marked to distinguish traffic flow. Drives between buildings shall be a minimum of twenty-six (26) feet wide. Site circulation shall be designed to accommodate fire trucks, as well as trucks that will customarily access the site.
- f. Self storage facilities are special uses within the LI, Light Industrial District and also subject to Section 3.5, Site Plan Review.

**Section 5.29 Sewer and Water Required.** No building or occupancy permit shall be issued for any premises to be occupied by human beings unless the building is served by an available public sewer and public water system and meets the Michigan Building and Michigan Plumbing Code. In the event public sewer or water is not available, said premises shall be served by a septic system and a well approved by the appropriate health department. The term “available public sewer or water system” shall be as defined in the Michigan Public Health Code.

**Section 5.30 Sidewalk Cafe Service.**

A sidewalk cafe service operated by a restaurant or other food establishment which sells food for immediate consumption may be permitted in the GC and CBD Central Business District, subject to the following conditions:

- a. An application depicting the location and layout of the cafe facility shall be submitted to the Zoning Administrator. Site plan approval shall be required. A permit shall remain in effect, unless there is a change in ownership or the operation of the cafe fails to meet the standards contained herein.
- b. A sidewalk cafe may be located in front of or adjacent to the establishment. A sidewalk cafe that extends beyond the property lines of the applicant shall require the permission of the affected property owners.
- c. If a sidewalk cafe is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained.
- d. A sidewalk cafe shall be allowed only during normal operating hours of the establishment.
- e. The exterior of the premises shall be kept clean, orderly and maintained or the permit may be revoked. All food preparation shall be inside of the premises.
- f. The Village shall not be held liable or responsible for any type of damage, theft or personal injury which may occur as a result of a sidewalk cafe operation.
- g. All sidewalk cafes shall comply with applicable regulations of the County Health Department and the State.

**Section 5.31 Storage.**

**5.31.1 Requirements for Storage**

- a. **Outdoors.** The outdoor storage and parking of trailers, trucks of over two (2) ton capacity, or any type of trailer, coach, mobile home, or boat is prohibited in any front yard or on any vacant lot. When stored in a rear yard, the side yard setbacks shall be met. All such units shall be locked to prevent access by children. This section shall not prohibit up to five (5) consecutive days of parking of such items in a side yard.

**Section 5.32 Swimming Pools.**



5.32.1 Swimming pools are permitted in all districts, upon compliance with the following regulations:

- a. The pool shall be maintained in a clean and healthful condition in accordance with district health requirements.
- b. No swimming pool shall be emptied in any manner that will cause water to flow upon or be emptied upon any adjacent land.
- c. Every swimming pool shall be completely enclosed with a barrier in accordance with Appendix G, Michigan Residential Code and Section 3109, Michigan Building Code.
- d. The swimming pool shall not be closer than ten (10) feet to any side or rear lot line and no part of any pool shall be constructed within a required front yard or required side yard.

**Section 5.33 Traffic Visibility.** No fence structure or hedge of a height in excess of thirty (30) inches above the curb line shall be erected or maintained in any zone (except the GC, General Commercial and CBD, Central Business District) within twenty (20) feet of the intersection of street right-of-way lines, or otherwise, which interferes with traffic visibility at road intersections. Also see and coordinate with Section 5.23, Clear Vision Area and Buffer Area.

**Section 5.34 Unclassified Uses Permitted By Right or By Special Use Permit.** Where a proposed use of land or use of existing structure is not specifically provided for by this Ordinance, the Board of Appeals, upon proper application, shall determine the zoning classification and zoning district applicable to the proposed use.

**Section 5.35 Yards.** Every lot must provide front yard, rear yard and side yard spaces as required by its Zoning District. All front yards must face upon a dedicated public street.

**Section 5.36 Wireless Communication Towers and Antennas.**

5.36.1 **Intent and Purpose.** It is the intent and purpose of this section to establish regulations and concepts for placement of wireless communication towers and antennas. In this regard, it is the Village's desire to protect residential areas and land uses from potential adverse impacts of such towers and antennas, and encourage the location of towers in non-residential areas, minimize the total number of towers throughout the Village, encourage the joint use of new and existing tower sites as a primary option, rather than construction of additional single use towers, encourage owners and users of such facilities to place same to the extent possible in areas where adverse impacts on the Village is minimized, to encourage owners and users of such

facilities to adopt designs and configurations that minimize the adverse visual impact of said facilities, including, but not limited to, siting, landscaping, screening, camouflage, technique and coloration, to enhance the ability of providers of telecommunication services to provide such services to users within the Village to consider public health and safety; and to avoid potential damage to adjacent properties from tower failure through engineering and site selection.

**5.36.2 Applicability.**

- a. **New Towers and Antennas.** All new towers and antennas in the Village shall be subject to these regulations, except as provided in Sections (b) and (d) of this Section, inclusive.
- b. **Amateur Radio Station and Antennas Capable of Reception Only.** This Ordinance shall not be deemed to be applicable to any tower or installation of any antenna that is owned and operated by a federally-licensed amateur radio station operator, or is used exclusively for receive only antennas. Regulation of said structures shall be on a zone by zone basis, subject to reasonable accommodation of said licensee as required by law.
- c. **Pre-existing Towers or Antennas.** Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this Section.
- d. **AM Array.** For purposes of implementing this Section, an AM array, consisting of one (1) or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

**5.36.3 General Requirements.**

- a. **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- b. **Lot Size.** For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including, but not limited to, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall be the controlling factor, even though the antennas or towers may be located on leased parcels within such lot.
- c. **Inventory of Existing Sites.** Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Village or within one (1) mile of the border thereof, including specific information about the location, height and design of each tower. The Zoning

Administrator may share such information with other applicants applying for administrative approvals or special use permits under this Ordinance or other organizations seeking to locate antennas within the jurisdiction of the Village; provided, however, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

- d. **Aesthetics.** Towers and antennas shall meet the following requirements:
  - 1. Towers shall be of monopole construction only, unless applicant can demonstrate that a lattice or guyed tower is the only structure feasible based upon engineering criteria. Towers shall maintain a galvanized steel finish or, subject to applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness.
  - 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
  - 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- e. **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- f. **State or Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- g. **Building Codes and Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Village concludes that a

tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- h. **Measurement.** For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Village irrespective of municipal and county jurisdictional boundaries.
- i. **Not Essential Services.** Towers and antennas shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as essential services, public utilities or private utilities.
- j. **Franchises.** Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Village have been obtained and shall file a copy of all required franchises with the Zoning Administrator.
- k. **Public Notice.** For purposes of this Ordinance, any special use request, variance request or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Section 5.36.7.b.5.a, in addition to any notice otherwise required by this Section.
- l. **Signs.** No signs shall be allowed on an antenna or tower.
- m. **Buildings and Support Equipment.** Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 5.36.8.
- n. **Multiple Antenna/Tower Plans.** The Village encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

5.36.4

- a. **Towers.**
  - 1. **Information Required.** In addition to any information required for applicants for special use permits pursuant to Section 3.4, Special Land Uses of this Ordinance, applicants for a special use permit for a tower shall submit the following information:

- (a) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including adjacent land users in other municipalities), Master Plan classification and Zoning classification of the site and all properties within the applicable separation distances set forth in Section 5.36.7.b.5 adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed by the Zoning Administrator to be necessary to assess compliance with this Ordinance.
- (b) Legal description of the parent tract and leased parcel (if applicable).
- (c) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
- (d) The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 5.36.3.c shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
- (e) A landscape plan showing specific landscape materials.
- (f) Method of fencing, and finished color, and, if applicable the method of camouflage and illumination.
- (g) A description of compliance with Sections 5.36.3.c., d., e., f., g., j., l., and m. and Section 5.36.7.b.4, and Section 5.36.7.b.5 and all applicable federal, state or local laws.
- (h) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- (i) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
- (j) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

- (k) A description of the feasible location(s) of future towers or antennas within the Village based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

2. **Factors Considered in Granting Special Use Permits for Towers.** In addition to any standards for consideration of special use permit applications pursuant to Section 3.4, Special Land Uses, of this Ordinance, the Planning Commission/DDA and Village Council shall consider the following factors in determining whether to issue a special use permit, although the Village Council may waive or reduce the burden on the applicant of one or more of these criteria if the Village Council concludes that the goals of this Ordinance are better served thereby:

- (a) Height of the proposed tower.
- (b) Proximity of the tower to residential structures and residential district boundaries.
- (c) Nature of uses on adjacent and nearby properties.
- (d) Surrounding topography.
- (e) Surrounding tree coverage and foliage.
- (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- (g) Proposed ingress and egress.
- (h) Availability of suitable existing towers, other structures or alternative technologies not requiring the use of towers or structures, as discussed in Section 5.36.7.b.3 of this Section.

**5.36.9 Removal of Abandoned Antennas and Towers.** The tower owner shall advise the Village of discontinuance of tower use or abandonment. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Village notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds for the Village to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Village may, as a condition for approval, require a financial guarantee in the form of a

performance bond, cash deposit or irrevocable letter of credit to provide sufficient funds for removal of abandoned towers and buildings associated therewith.

**Section 5.37 Zoning of Vacated and Annexed Areas.**

5.37.1 **Vacated Areas.** Whenever any street, alley or public way within the Village shall have been vacated by official public action, they shall be without further action by the Village, automatically be zoned and subject to the same zoning regulations as are applicable to lands to which such street, alley or public way are attached and the same shall be used for the same use as is permitted under this Ordinance for such adjoining lands.

5.37.2 **Annexed Areas.** Any area annexed to the Village shall, immediately upon such annexation, be automatically classified as an R, Residential District, until a different zoning district is adopted by the Village Council.

**Section 5.38 Rear Dwelling Prohibited.** No building in the rear of, and on the same lot with a principal building shall be used for residential purposes except for watchmen, caretakers and domestic employees whose employment functions are related to the functions of the principal building, provided that all other requirements of this Ordinance are satisfied.

**Section 5.39 Two-Family Dwelling/Conversion of Single-Family Dwelling.** The following conditions must be met:

- a. Determine that adequate excess capacity is available in the Village water and sewer system to handle the additional flow.
- b. If a parcel is not serviced by the Village sewer system, the property owner must obtain a permit for a septic tank absorption field from the Shiawassee County Health Department.
- c. The single-family conversion or the two-family unit cannot exceed the density of the R District. The R District permits a minimum lot size of eight thousand five hundred 8,500 square feet.

**Section 5.40 Educational Institutions.**

5.40.1 The following conditions must be met:

- a. The proposed site must be at least two (2) acres.
- b. No building shall be closer than fifty (50) feet to any property or street line. No building shall be erected to a height greater than that permitted in the district in

which it is located unless the building is set back an additional foot of height above the district height limitations.

- c. No more than twenty five (25%) percent of the gross site area shall be covered by buildings.
- d. All buildings shall be of an appearance that shall be harmonious and unified as a group and shall blend appropriately with the surrounding area.
- e. All signs shall be in compliance with Article 9, Signs.
- f. Off-street parking shall be in compliance with Article 10, Off-Street Parking and Loading. Parking shall not be allowed in the minimum required front yard. Parking shall be screened from all public right-of-ways and residentially used and zoned property following the applicable requirements of Sections 8.2.5, Parking Lot Landscaping.

**Section 5.41 Nursing Homes, Convalescent Centers, Senior and Elderly Housing.**

5.41.1 **Independent Living for the Elderly.** Dwellings may be provided as single-family detached, two-family or multiple-family units. The minimum site area requirements for the purpose of calculating density shall be as follows:

<b>Dwelling Unit Size</b>	<b>Size Per Unit (Square Feet)</b>
Efficiency/One Bedroom	2,000
Two Bedroom	4,000
Each Additional Bedroom	500

5.41.2 **Assisted Living for the Elderly.** Where such facilities contain individual dwelling units with kitchen facilities, the density requirements set forth in paragraph 1 above shall apply. Where facilities do not contain kitchen facilities within individual dwelling units, the site area per bed shall be two hundred (200) square feet.

5.41.3 Both independent and assisted living facilities shall be contained within a building which does not exceed two hundred and fifty (250) feet in overall length, measured along the front line of connecting units, inclusive of any architectural features which are attached to or connect the parts of the building together. The Planning Commission/DDA may permit buildings of greater length when it can be demonstrated that architectural design and nature and topographic features ensure that the building is in scale with the site and surrounding areas.

**Building setbacks shall comply with the following:**



- a. Perimeter setbacks shall be no less than seventy-five (75) feet from the front property line and fifty (50) feet from all other property lines.
- b. Internal setbacks for single and two-family dwellings located on an individual lot shall be as follows:

<b>Front</b>	25 feet
<b>Rear</b>	35 feet
<b>Least Side</b>	7.5 feet
<b>Total Side/Between Buildings</b>	20 feet

- c. Internal setbacks for multiple, single-family attached and two-family dwellings not located on an individual lot shall be as follows:

	<b>Multiple-Family</b>	<b>Single/Two-Family</b>
<b>Internal Drives/Street</b>	25 feet	25 feet
<b>Side/Side Orientation</b>	30 feet	20 feet
<b>Side/Front, Side/Rear</b>	30 feet	35 feet
<b>Front/Front, Front/Rear, Rear/Rear</b>	50 feet	50 feet

5.41.4 **Minimum Floor Area.** Each dwelling unit shall comply with the following minimum floor area requirements, excluding basements:

Dwelling Unit Type	Floor Area/Square Feet	
	Assisted Living Unit	Independent Living Unit
Efficiency	400	500
One Bedroom	550	650
Two Bedroom	700	800
Additional Bedroom	150 per	150 per

5.41.5 **Building Height.** The maximum height of a building is two (2) stories or thirty-five (35) feet. The Planning Commission/DDA may at its discretion, permit up to three (3) stories only if the following conditions are met:

- a. The site contains significant natural resources such as slopes or wetlands.
- b. No increase in density shall be allowed.
- c. Approval by the Fire Department is required.
- d. An increased setback distance is established with respect to each setback required to be increased, including front, rear and side yard requirements and spacing requirements between buildings. The extent of increase, if any, for each set back measurement shall be established as part of the approval of the Planning Commission/DDA.
- e. In no event shall the maximum height of any such building exceed thirty-five (35) feet, in the manner defined and calculated in accordance with the terms of this Ordinance.

5.41.6 **Open Space/Recreation.** Open space and recreation shall be provided in accordance with the following requirements:

- a. Total open space required shall be a minimum of fifteen (15%) percent of the site.
- b. Recreation facilities shall be appropriate and designed to meet the needs of the resident population. Active recreation shall be located conveniently in relation to the majority of dwelling units intended to be served.

5.41.7 **Accessory Uses.** Support uses offered solely to residents may be permitted provided they are contained within the principal building and are strictly accessory to the principal use as an elderly residential facility. Such support may include congregate dining; health care; personal services; and social, recreational, and educational facilities and programs.

**5.41.8 Convalescent homes shall comply with the following conditions:**

- a. Minimum lot size shall be based upon no less than two thousand (2,000) square feet per bed.
- b. The site shall be so developed as to create a land-to-building ratio on the lot or parcel whereby for each bed in the convalescent home there shall be provided not less than one thousand five hundred (1,500) square feet of open space. Such space shall provide for a landscaped setting, off-street parking, service drives, loading space, yard requirements, employee facilities and any space required for accessory uses. The one thousand five hundred (1,500) square foot requirement is over and above the building coverage area requirement.
- c. No building shall be closer than forty (40) feet from a property line.
- d. The lot location shall be such that at least one property line abuts a paved public road. More than one (1) point of vehicle ingress and egress shall be provided directly from said thoroughfare.
- e. Area for access of emergency vehicles shall be provided for each primary building entrance.

5.41.9 The Village shall not be held liable or responsible for any type of damage, theft or personal injury that may occur as a result of a sidewalk cafe operation.

**Section 5.42 Public Buildings.**

5.42.1 The following conditions shall be met for the construction of public buildings:

- a. The lot area and width shall not be less than that specified for the district in which the proposed use is located.
- b. The yard and setback requirements shall be not less than that specified for the district in which the proposed use is located.
- c. No building shall be erected to a height greater than that permitted in the district in which the proposed use is located with the exception of commercial freestanding towers.
- d. Not more than thirty (30%) percent of the lot area may be covered by buildings.
- e. All buildings shall be harmonious in appearance with the surrounding residential area and shall be similar in design and appearance to other buildings on the same site development.

- f. All signs shall be in compliance with the provisions of Article 9, Signs.
- g. Off-street parking shall be in compliance with the provisions of Article 10, Off-Street Parking and Loading.

**Section 5.43 Religious Institutions**

5.43.1 The following conditions shall be met for religious institutions:

- a. The proposed site shall be at least one acre in size, plus one-half (1/2) acre per one hundred (100) seats in the main auditorium.
- b. The proposed site shall be so located as to have at least one (1) property line on a public road.
- c. No building shall be closer than fifty (50) feet to any property or street line. No building shall be erected to a height greater than that permitted in the district in which it is located unless the building is set back an additional one foot for each foot of additional height above the district height limitation.

**Section 5.44 Cemeteries**

5.44.1 The following conditions shall be met:

- a. The site shall be no less than ten (10) acres and shall be designed to provide all ingress or egress directly onto or from a public road.
- b. The location of service roads, entrances and driveways shall be designed in relationship to the public road so that pedestrian and vehicular traffic safety is encouraged.
- c. No principal or accessory building shall be closer than fifty (50) feet from any abutting residential zone.
- d. Follow the provisions of Public Act 368 of 1978 (Public Health Code).  
(Cross Reference: Title IX: General Regulations, Chapter 91, Cemetery)

**Section 5.45 Retail Greenhouses and Nurseries**

5.45.1 The following conditions shall be met:

- a. No structures or nurseries shall be permitted in any required front yard.
- b. No spraying of herbicides or pesticides outdoors is permitted past the property line of the nursery or greenhouse.

**Section 5.46 Kennels**

5.46.1 The following conditions shall be met:

- a. All kennels shall be operated in conformance with applicable village, county and state regulations.
- b. The minimum lot size for kennels shall be two (2) acres for the first four (4) animals an additional one-third (1/3) acre for each additional animal.
- c. Buildings where animals are kept, runs, and exercise areas shall not be located any closer than one hundred (100) feet to any dwelling or public building on adjacent parcels and shall not be located in any required front, rear or side yard.

(Cross Reference: Title IX: General Regulations, Section 90.07, Maximum Number of Animals, Kennel License.)

**Section 5.47 Veterinary Clinic**

5.47.1 The following conditions shall be met:

- a. The clinic shall be operated in conformance with applicable village, county and state regulations.
- b. All cages, pens or runs shall be totally within an enclosed building which will be designed and operated to prevent the transmission of any noise or odor generated by the operation of the clinic, beyond the property line.

**Section 5.48 Funeral Homes and Mortuaries**

5.48.1 The following conditions shall be met:

- a. All activities related to such uses shall take place within the principal building and not in an accessory building. A caretaker's residence may be provided within the principal building.
- b. Minimum site size. One (1) acre site with a minimum width of one hundred fifty (150) feet.
- c. The proposed site shall front upon a public street with all ingress and egress directly from the street.
- d. Yards. Front, side and rear yards shall be at least fifty (50) feet except on those sides adjacent to nonresidential districts wherein it shall be twenty (20) feet. All

yards shall be appropriately landscaped with trees, shrubs and grass. No structures or parking areas shall be permitted in the yards.

- e. Site coverage. No more than thirty (30%) percent of the gross site area shall be covered by buildings including accessory buildings.
- f. Maximum building height. No building shall be erected to a height greater than that permitted in the C, Commercial District.
- g. Appearance. All buildings shall be harmonious in appearance with the surrounding area.
- h. Signs. All signs shall be in compliance with Article 9, Signs.
- I. Off-street parking shall be in compliance with Article 10, Off-Street Parking and Loading.

**Section 5.49 Motels and Hotels**

5.49.1 The following conditions shall be met:

- a. Minimum floor area of each guest unit shall contain not less than two hundred fifty (250) square feet.
- b. The minimum lot area shall be one (1) acre with a minimum width of one hundred (150) feet, provided that there shall be at least eight hundred (800) square feet of lot area for each guest.
- c. The maximum lot coverage of all buildings including accessory buildings shall not exceed more than twenty five (25%) percent of the area within the boundary lines of land developed at any one (1) time.
- d. All buildings shall observe a setback of not less than seventy five (75) feet from any road right-of-way and not less than forty (40) feet from any side or rear property line.
- e. The maximum building height shall not exceed two (2) stories or twenty-five (25) feet.
- f. The site may be enclosed by open structure wood or wire fences, shrubs and/or trees which along any yard line shall not exceed six (6) feet in height. No screening shall impair safe vertical or horizontal sight distance for any moving vehicle. Screening and buffering to block head lights shall follow the requirement contained in Article 8, Environmental Provisions, Section. No screening shall be

closer than fifty (50) feet to any street line except headlight screening shall not be closer than thirty (30) feet.

- g. All outdoor lighting shall be in compliance with Article 8, Environmental Provisions, Section 8.7, Glare and Exterior Lighting.
- h. Swimming pools and other outdoor recreational uses which are accessory to the main use and provided swimming pools are securely enclosed by a fence at least six (6) feet in height with an automatic gate. The State of Michigan Building Code shall be followed.
- i. Accessory uses such as meeting rooms, taverns, bars or similar uses provided such shall be conducted within the same building as the principal use. A caretaker's or proprietor's residence shall be permitted as an accessory use only when the principal use is a motel, motor-hotel, hotel, or other transient tourist facility.
- j. Required lot areas, width and yards. Where an owner or lessee proposes an integrated sited development of a unified group of buildings, the Zoning Board of Appeals (ZBA) may approve proposed lot area, widths, or yards to be modified up to twenty-five (25%) percent of the requirement of the district wherein the proposal is located if the ZBA finds that such modification:
  - 1. Conforms to the basic district intent.
  - 2. Conforms to the parking requirements
  - 3. Will not inhibit orderly development of adjacent zoning districts.
  - 4. Is consistent with the general health, safety and welfare.
- k. No access by motor vehicles other than stated herein shall be permitted to a minor or residential street. All points of entrance or exit shall be no closer than fifty (50) feet from the intersection of the right-of-way lines of two (2) streets.
- l. Signs shall be those identifying any of the permitted uses within this district and shall be in accordance with the provisions of Article 9, Signs.
- m. Off-street parking and loading requirements shall be in accordance with the provisions of Article 10, Off-Street Parking and Loading, and shall conform to the following: at motels, motor-hotels, hotels, and other transient residential uses, parking shall be furnished on the immediate premises.
- n. The storage of refuse and space required for the accumulation and out loading of garbage, trash, scrap, waste and containers, therefore, shall be contained within an

enclosed structure. For outdoor trash receptacle/dumpster see Article 8, Environmental Provisions, Section 8.2.9 Screening of Trash Containers.

**Section 5.50 Public Service Installations.** Public service installations, including public utility transformer stations, gas regulator stations, radio, television and microwave transmitter towers.

5.50.1 The following conditions shall be met:

- a. The lot area and width shall be not less than that specified for the district in which the proposed use is located.
- b. The yard and setback requirements shall not be less than that specified for the district in which the proposed use is located.
- c. No building shall be erected to a height greater than that permitted in the district in which the proposed use is located with the exception of commercial freestanding towers.
- d. No more than thirty (30%) percent of the lot area may be covered by buildings.
- e. All buildings shall be harmonious in appearance with the surrounding residential area by suitable plant material and shall be fenced as approved by the Village Council.
- f. Where mechanical equipment is located in the open, it shall be screened from the surrounding residential area by suitable plant material and shall be fenced as approved by the Village Council pursuant to Article 8, Environmental Provisions, Section 8.2 Landscaping, Greenbelts, Buffers and Screening.
- g. All signs shall be in compliance with the provisions of Article 9 Signs.
- h. Off-street parking shall be in compliance with the provisions Article 10, Off-Street Parking and Loading.

**Section 5.51 Mobile Home Parks.**

5.51.1 Mobile home parks provided there is compliance with the following standards:

- a. Compliance with the Mobile Home Commission rules established for the Mobile Home Commission Act, Public Act 96 of 1987, being M.C. L.A. as amended.
- b. Mobile home, required distances from structures, and site length and site dimensions.



- a. The mobile home park shall be developed with sites having 5,500 square feet per mobile home unit being served. The 5,500 square feet may be reduced by 20% provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of the site from 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open space requirement be less than that required under R 125.1046, Rule of 946 of the Michigan Administrative Code.
- b. A mobile home shall be a minimum of:
  - (a) Twenty (20) feet from any part of attached structure of another mobile home and used for living purposes.
  - (b) Ten (10) feet from any detached structure and on-site parking on an adjacent mobile home site.
  - (a) Fifty (50) feet from a permanent building.
- c. Internal roads, general requirements, and local conditions.
  - 1. An internal road is subject to approval by the department and shall comply with the following general requirements:
    - (a) Internal roads shall be surfaced in accordance with AASHTO standards.
    - (b) The road shall have access to public thoroughfare or be connected to a public thoroughfare by permanent easement, recorded prior to approval by the department. Sole access by an alley is prohibited.
    - (c) A dead-end road shall terminate with an adequate turning area. A blunt-end road is prohibited.
    - (d) An adequate safe-sight distance shall be provided at intersections.
    - (e) An offset at an intersection and an intersection of more than two (2) streets, is prohibited.
    - (f) An intersection of roads shall be clearly marked with appropriate traffic signs.
    - (g) A road shall be named and so identified by street signs located at all road intersections.
    - (h) A name for an internal road shall be approved by the municipality.

- (i) A road shall have a driving surface of not less than the following:
  - (1) One-way, with no parking – twenty (20) feet.
  - (2) Two-way, with no parking – twenty two (22) feet.
  - (3) At access points where general traffic enters or leaves the park, the widths shall be sufficient to permit free movement from or to the stream of traffic on the public roads.
  
- 2. Local conditions such as heavy snowfall may dictate the need for wider roads to provide for free flow of vehicular and pedestrian traffic, parking and to facilitate removal without blocking access to the mobile home site. Severe weather warnings; shelters. Immediately upon occupancy, each mobile home park tenant shall be provided by the park management written information pertaining to the severe weather warning systems used by local government, if provided, which shall contain, but is not limited to, the following:
  - (a) Signals used to alert the mobile home park population to impending severe weather.
  - (b) In areas where local government has designated shelters, a mobile home park management shall, in writing, provide each tenant with the location of the approved shelter designated by local government to serve the mobile home park.
  - (c) The location of the park-owned shelter, if any. Shelter areas may be in conjunction with permanent buildings as community or recreational buildings or park offices.
  - (d) On-site vehicle parking. If on-site vehicle parking is provided, it shall be in compliance with the following:
    - d. Each mobile home site shall have two (2) parking places either in tandem or side-by-side. If in tandem, the width shall not be less than ten (10) feet and the combined length shall not be less than forty (40) feet. If side-by-side, the combined width of the two (2) parking spaces shall not be less than twenty (20) feet and the length shall not be less than twenty (20) feet. In either method, the length shall be measured from the curb or inner walkway edge.
    - e. A parking space shall be hard surfaced and constructed in compliance with Public Act 8 of 1973, being M.C.L.S. 125.1361 (Sidewalks; Persons with Disabilities).
    - f. No parking shall be permitted on any street or access way.

- g. The on-site parking of recreation vehicles such as campers, trailers, boats and the like shall be prohibited.
- h. An area may be designated within the park for the defined purpose of parking for recreation vehicles such as campers, trailers, boats and the like.
- i. Park offices' and recreational buildings.
  - 1. Park offices shall be required in all mobile home parks.
  - 2. Recreational and community buildings, if provided, shall be located in permanent enclosed facilities.
- j. Site Plan Review. Before approval by the Village Council, a site development plan shall be reviewed and approved by the Planning Commission/DDA. Before giving its approval, the Planning Commission/DDA shall ascertain that the conditions of Section 5.51.1 will be met and that the proposed park is approved by the State in accordance with Act 243, Public Acts of 1959, as amended. In addition, the Planning Commission/DDA shall refer to the Shiawassee County Zoning Ordinance and incorporate its requirements and may request such additional details or changes as are deemed necessary to assure optimum development of the park. The Planning Commission/DDA shall then transmit its findings and options to the Village Council for the necessary decision.

**Section 5.52 Mobile Home Subdivisions**

5.52.1 Dimensional requirements: All lots of record shall conform to the minimum dimensions for lot area, lot width, front, rear, and side yards as specified below.

- a. Minimum lot area.
  - 1. On-site sewage disposal - 20,000 square
  - 2. Sanitary sewer service - 10,000 square
- b. Minimum lot width. As measured along a street upon which the lot principally fronts.
  - 1. Interior lot – one hundred (100) feet.
  - 2. Corner lot – one hundred and ten (110) feet.

**NOTE:** For lots on curvilinear streets with nonparallel lot lines, the lot width shall be measured at the front building line of the dwelling.

- c. Minimum yard setback of buildings for recorded platted areas. (Unplatted areas are required to increase the front yard setback by ten (10) feet).
  - 1. Front yard as measured from the road right-of-way - forty (40) feet.
  - 2. Side yard as measured from side property line - ten (10) feet.
  - 3. Rear yard as measured from rear property line - sixty (60) feet.

Minimum requirement floor area per unit building or structure as measured at ground level: one thousand (1,000) square feet.

- d. Maximum total lot area coverage including all accessory buildings as percent of total lot size: twenty five (25%) percent.
- e. Maximum height of buildings: thirty five (35) feet.

**NOTE:** Accessory buildings shall not exceed a height of fifteen (15) feet.

- f. Minimum site area. A mobile home subdivision shall require a total site of at least five (5) acres before subdividing. Entrance and exit drives shall be no closer than two hundred (200) feet from the intersection of any two public streets.
- g. Uses Permitted. Such uses as specified in Section 4.4.1 R, Residential District, A. R- District, Uses Permitted By Right and B. R District, Uses Permitted as Special Uses shall be allowed in an approved mobile home subdivision.

**Section 5.53 Private and Public Recreation**

**5.53.1 Private nonprofit recreation.**

- a. Private community swimming pools, community recreation centers, tennis courts and other noncommercial recreational facilities may be authorized provided such facilities are constructed, maintained, and operated by an incorporated nonprofit club or organization with a specified limitation of members, and that such recreation facilities shall be operated for the exclusive use of organization members and their guests.
- b. Site development requirements. The following requirements for site development, together with other applicable provisions of this Ordinance, shall be complied with:
  - 1. Minimum site size. One (1) acre with a minimum width of one hundred fifty (150) feet.

2. Site location. In those instances where the proposed site is intended to serve club or organization members who reside beyond the immediate neighborhood or subdivision in which the proposed site is located, the site shall be located on a public street or road and all ingress and egress for the site shall be provided directly from the street or highway.
3. Yards. Front, side and rear yards shall be at least thirty (30) feet except on those sides adjacent to nonresidential districts wherein a minimum of ten (10) feet shall be permitted. All yards shall be appropriately landscaped with trees, shrubs and grass. No structures or parking areas shall be permitted in the front yard or side yards except for required entrance drives and those walls and/or fences used to obscure the use from abutting residential districts.
4. Off-street parking. Off-street parking shall be provided in compliance with the provisions of Article 10, Off-Street Parking and Loading.
5. Swimming pools. Swimming pools shall comply with 5.3.2 Swimming Pools, Hot Tubs, Jacuzzis, Whirlpools and Other Pools
6. Lighting. All lighting shall meet the requirements of Article 8, Environmental Conditions, Section 8.7, Glare and Exterior Lighting.

5.53.2 Public recreation and playgrounds. The following specific criteria must be met before issuance of a special use permit for recreation area playgrounds:

- a. The proposed site should be at least twenty thousand (20,000) square feet in size.
- b. Playground areas shall be provided with a four (4) foot fence along street and adjacent property lines.

**Section 5.54 Automobile Washes or Car Wash Establishments.**

- a. Coin-operated/Self-Service Establishments.
  1. All buildings shall have a front yard setback of not less than thirty (30) feet.
  2. All washing facilities shall be within an enclosed shelter.
  3. Vacuuming and drying areas may be located outside the building, but shall not be closer than fifteen (15) feet to any residential district.
  4. All cars required to wait for access to the facilities shall be provided space off the street right-of-way.

5. Ingress and egress points shall be located at least sixty (60) feet from the intersection of any two (2) streets.
  6. A five (5) foot completely obscuring masonry wall shall be provided where abutting a residential district.
- b. Full Service Establishments.
1. All buildings shall have a front yard setback of not less than sixty (60) feet.
  2. All washing facilities shall be within a completely enclosed building.
  3. Vacuuming and drying areas may be located outside the building but shall not be closer than twenty-five (25) feet to any residential district.
  4. All cars required to wait for access to the facilities shall be provided space off the street right-of-way.
  5. Ingress and egress points shall be located at least sixty (60) feet from the intersection of any two (2) streets.
  6. A five (5) foot completely obscuring masonry wall shall be provided where abutting a residential district.

**Section 5.55 Drive Through Facilities.** All drive through windows for facilities including, but not limited to restaurants, banks, etc. are restricted to the side or rear elevations of all structures that provide drive through services.

5.55.1 The following shall also apply:

- a. A setback of at least sixty (60) feet shall be maintained from an existing or proposed right-of-way.
- b. Ingress and egress points shall be located at least sixty (60) feet from the intersection of any two (2) streets measured from the road right-of-way lines.
- c. A five (5) foot high completely obscuring wall, fence, berm, landscaping, or combination thereof, compatible with the surrounding area shall be provided where abutting districts are zoned residential.

**Section 5.56 Hospitals, General or Specialty.**

5.56.1 General or specialty hospitals are subject to the following conditions:

- a. Such hospitals shall be developed only on sites consisting of at least ten (10) acres in area.
- b. All ingress and egress from the site shall be through a paved public road.
- c. The minimum distance of any building from a residentially zoned or occupied parcel shall be one hundred (100) feet for front, rear and side yards, including parcels separated by a public street.
- d. Mobile units, ambulances and delivery areas shall be located in the side and rear yards and shall be screened in accordance with Section 8.2.4, Screening Between Land Uses.
- e. All parking areas of greater than five (5) spaces shall be set back from residentially zoned or occupied parcel by no less than twenty-five (25) feet for rear and side yards.
- f. The location of all heliports shall be subject to Planning Commission/DDA review, based upon the applicant demonstrating the following conditions are met:
  1. The location will cause the least possible disturbance to adjacent property owners.
  2. The location will not be a safety hazard due to physical and natural features within the immediate area.
  3. The heliport shall be approved by and operated in accordance with all Michigan Department of Transportation, Division of Aeronautics and Federal Aviation Administration rules and regulations.

## ARTICLE 6

### PUD - PLANNED UNIT DEVELOPMENT DISTRICT

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**Section 6.1 Purpose and Intent.** Planned Unit Development (PUD) district regulations are intended to provide for various types of land uses planned in a manner which shall: encourage the use of land in accordance with its character and adaptability; conserve natural resources and energy; encourage innovation in land use planning; provide enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the people of the Village; and bring about a greater compatibility of design and use. The provisions of this Article provide enabling authority and standards for the submission, review, and approval of applications for planned unit developments.

**Section 6.2 PUD Regulations.**

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

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

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

- a. The planned unit development shall result in one (1) of the following: (1, 2, 3)
  1. A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or
  2. Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or
  3. A non-conforming use shall, to a material extent, be rendered more conforming, or less offensive, to the zoning district in which it is situated.



- b. The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, streets and utilities.
- c. The proposed development shall be consistent with the public health, safety and welfare of the Village.
- d. The proposed development shall not result in an unreasonable negative environmental impact on the subject site or surrounding land.
- e. The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.
- f. The proposed development shall be under single ownership and/or control such that there is a single person having responsibility for completing the project in conformity with this Ordinance.
- g. The proposed development shall be consistent with the Goals and Policies of the Master Plan.

### **Section 6.3 Procedure for Review.**

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

**6.3.2 Preliminary Plan.** Following the Pre-application Conference, the applicant shall submit a preliminary site plan of the proposed planned unit development. The preliminary site plan shall be prepared in accordance with the standards set forth in Section 6.2.3 and the requirements contained in Section 3.5.2.a. and b. A narrative report shall accompany the site plan providing a description of the project, discussing the market concept and feasibility of the project, and explaining the manner in which the criteria set forth in Section 6.1 have been met.

- a. **Planning Commission/DDA Action.** A public hearing may be conducted in accordance with Section 3.11.3 of this ordinance at the discretion of the Planning Commission/DDA or upon a request by the applicant. The Planning Commission/DDA shall review the preliminary site plan and shall take one of the following actions:

1. **Approval.** Upon finding that the Preliminary Plan meets the criteria and standards set forth in Section 6.2.3. and/or the requirements contained in Section 3.5.2.a. and b. the Planning Commission/DDA shall grant preliminary approval. Approval shall constitute approval of the uses and design concept as shown on the Preliminary Plan and shall confer upon the applicant the right to proceed to preparation of the Final Plan.

Approval of the Preliminary Plan by the Planning Commission/DDA shall not constitute rezoning of the property to PUD nor bind the Village Council to approval of the Final Plan.

2. **Tabling.** Upon finding that the Preliminary Plan does not meet the criteria and standards set forth in Section 6.2.3. and/or the requirements contained in Section 3.5.2.a. and b., but could meet such criteria if revised, the Planning Commission/DDA may table action until a revised Preliminary Plan is resubmitted.
3. **Denial.** Upon finding that the Preliminary Plan does not meet the criteria and standards set forth in Section 6.2.3 and/or the requirements contained in Section 3.5.2.a. and b. the Planning Commission/DDA shall deny preliminary approval.

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

- a. **Information Required.** A final site plan and application for a PUD shall contain the following information:
  1. A site plan meeting all requirements of Section 3.5.3.a. and b., Final Site Plan.
  2. A separately delineated specification of all deviations from this Ordinance which would otherwise be applicable to the uses and development proposed in the absence of this planned unit development article.
  3. A specific schedule of the intended development and construction details, including phasing or timing.
  4. A specific schedule of the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features.

5. A specification of the exterior building materials with respect to the structures proposed in the project.
6. Signatures of all parties having an interest in the property.

**6.3.4 Planning Commission/DDA and Action.** The final plan shall constitute an application to amend this Ordinance, and shall be acted upon by the Planning Commission/DDA, and the Village Council, as provided by law.

- a. **Approval.** Upon finding that the Final Plan meets the criteria and standards set forth in Section 6.2.3 and Section 3.5.3.a. and b., the Planning Commission/DDA shall recommend approval to the Village Council.
- b. **Tabling.** Upon finding that the Final Plan does not meet the criteria and standards set forth in Section 6.2.3. and Section 3.5.3.a. and b., but could meet such criteria if revised, the Planning Commission/DDA may take action until a revised Final Plan is resubmitted.
- c. **Denial.** Upon finding that the final plan does not meet the criteria and standards set forth in Section 6.2.3. and Section 3.5.3.a. and b, the Planning Commission/DDA shall recommend denial to the Village Council.
- d. The Planning Commission/DDA shall, to the extent it deems appropriate, submit detailed recommendations relative to the planned unit development project including, without limitation, recommendations with respect to matters on which the Village Council must exercise discretion.

**6.3.5 Village Council Action.** Upon receiving a recommendation from the Planning Commission/DDA, the final plan shall be noticed for public hearing as a zoning amendment in accordance with Section 3.11.3 of this Ordinance before the Village Council. Taking into consideration the recommendations of the Planning Commission/DDA and the criteria and standards set forth in Section 6.2.3 and/or Section 3.5.3.a.and b., the Village Council shall approve, table or deny the Final Plan.

Prior to approval of a Final Plan, the Village Council shall require all standards and conditions of approval to be incorporated in a Development Agreement. The Agreement shall be prepared by the Village Attorney, approved by the Village Council, and signed by both the Village and the Applicant.

**Section 6.4 Project Design Standards.**

**6.4.1 Residential Design Standards.**

- a. Residential density shall not be greater than the maximum density permitted in the zoning district in which the property is situated immediately prior to classification under this Article.
- b. Additional density for residential uses may be allowed at the discretion of the Village Council upon the recommendation of the Planning Commission/DDA and based upon a demonstration by the applicant of consistency with the Master Plan and of planning and design excellence resulting in a material benefit to the Village, adjacent land uses, and/or the ultimate users of the project, where such benefit would otherwise be unlikely to be achieved without the application of the PUD regulations, including, without limitation, innovative design producing significant energy efficiency, pedestrian or vehicular safety, long term aesthetic beauty, and protection and preservation of natural resources and features.

**6.4.2 Non-Residential Design Standards.**

- a. Non-residential uses may be permitted in combination with other non-residential uses or as part of a common development with residential uses.
- b. The non-residential uses, including parking and vehicular traffic ways, shall be separated and buffered from residential units in a manner consistent with good land and community planning principles.

**6.4.3 General Design Standards.**

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

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

- b. To the maximum extent feasible, the development shall be designed so as to preserve the natural resources and natural features. The benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state and national concern for the protection and preservation of the natural resources or features and the following criteria:

1. The availability of feasible and prudent alternative methods of accomplishing any development.
  2. The extent and permanence of the beneficial or detrimental effects of the proposed activity.
  3. The size, quality and rarity of the natural resources or natural features which would be impaired or destroyed.
- c. There shall be a perimeter setback and berming, as found to be necessary by the Village, for the purpose of buffering the development in relation to surrounding properties. If the planned unit development project includes non-residential uses adjacent to a district authorizing residential uses, and/or if the project is larger than one acre in area, such perimeter setback shall be established with a dimension from the property line of up to one hundred (100) feet in the discretion of the Village Council, taking into consideration the use or uses in and adjacent to the development. The setback distance need not be uniform at all points on the perimeter of the development.
- d. Thoroughfare, drainage, and utility design shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.
- e. There shall be underground installation of utilities, including electricity and telephone, unless this requirement is waived by the Village.
- f. Pedestrian walkways shall be separated from vehicular circulation, unless this requirement is waived by the Village.
- g. Signage, lighting, landscaping, building materials for the exterior of all structure, and other features of the project, shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.
- h. Where non-residential uses adjoin off-site residentially zoned property, noise reduction and visual screening mechanisms such as earthen and/or landscape berms and/or decorative walls, shall be employed. The Village, in its discretion, shall review and approve the design and location of such mechanisms.
- i. Common open space shall be provided as a means of preserving desirable land features, such as woods, waterways, rolling grounds, etc. while providing adequate recreational opportunities. In addition, land set aside for common open spaces must be located conveniently for all people within the development. These areas shall be either set aside as common land for the sole benefit, use and

enjoyment of present and future lot or home owners within the development, or shall be dedicated to the Village as park land for the use of the general public.

- j. The Village Council upon the recommendation of the Planning Commission/DDA shall resolve all ambiguities as to applicable regulations using the Zoning Ordinance, Master Plan, and other Village standards or policies as a guide.

## **Section 6.5                    Conditions.**

6.5.1            Reasonable conditions may be required with the approval of a planned unit development, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.

6.5.2            Conditions imposed shall be designed to protect natural resources and the public health, safety, and welfare of individuals in the project and those immediately adjacent, and the community as a whole; reasonably related to the purposes affected by the planned unit development; and, necessary to meet the intent and purpose of this Ordinance, and be related to the objective of ensuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved planned unit development.

## **Section 6.6                    Phasing and Commencement of Construction.**

6.6.1            **Phasing.** Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, the relative mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable in the discretion of the Village Council after recommendation from the Planning Commission/DDA.

6.6.2            **Commencement and Completion of Construction.** To ensure completion of required improvements, the Village is authorized to impose performance guarantees in accordance with Section 3.5.9, Performance Guarantee. Construction shall be commenced within one (1) year following final approval of a planned unit development and shall proceed substantially in conformance with the schedule set forth by the applicant. If construction is not commenced within such time, any approval of a site plan on the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Village Council upon good cause shown if such request is made to the Village Council prior to the expiration of the initial period. Moreover, in the event a site plan has expired, the Village Council, based on a

recommendation from the Planning Commission/DDA, shall be authorized to rezone the property in any reasonable manner, and, if the property remains classified as PUD, a new application shall be required, and shall be reviewed in light of then existing and applicable law and ordinance provisions.

**Section 6.7**            **Effect of Approval.** When approved, the planned unit development amendment, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such amendment. Notice of adoption of the final PUD plan and conditions shall be recorded by the applicant at the Shiawassee County Register of Deeds, evidence of which shall be supplied to the Zoning Administrator.





## ARTICLE 7

### NON-CONFORMING USES, STRUCTURES AND LOTS

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**Section 7.1**            **Intent.** Certain existing lots, structures and uses of lots and structures were lawful before this Ordinance was adopted, but have become non-conformities under the terms of this Ordinance and its amendments. It is the intent of this Ordinance to permit such non-conformities to remain until they are discontinued or removed, but not to encourage their survival or, where discontinuance or removal is not feasible, to gradually upgrade such non-conformities to conforming status. Non-conformities shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Non-conformities are declared by this Ordinance to be incompatible with the structures and uses permitted in the various Districts.

**Section 7.2**            **Non-Conforming Lots.** In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations for the district in which such lot is located.

7.2.1            If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel or lot shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel or lot be made which leaves remaining any parcel or lot with width or area below the requirements stated in this Ordinance.

**Section 7.3**            **Non-Conforming Uses of Land.** Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of the Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

7.3.1            No such non-conforming uses shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

7.3.2 No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.

7.3.3 If such non-conforming use of land ceases operation with the intent of abandonment for a period of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by the Ordinance for the district in which such land is located.

**Section 7.4 Non-Conforming Structures.** Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

7.4.1 No such structure may be enlarged or altered in a way which increases its non-conformity.

7.4.2 Should such structure be destroyed by any means to an extent of more than fifty (50%) percent of replacement value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.

7.4.3 Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

**Section 7.5 Non-Conforming Uses of Structures and Land.** If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject of the following provisions:

7.5.1 No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

7.5.2 Any non-conforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

7.5.3 Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations pertaining to the uses permitted in the district in which such structure is located, and the non-conforming use may

not thereafter by resumed. Subparagraph 7.4 of this section shall apply to any non-conformity relating to the structure(s).

7.5.4 If such non-conforming use of land and structures ceases operation with the intent of abandonment for a period of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance pertaining to the uses permitted in the district in which such land is located. Structures occupied by seasonal uses shall be exempt from this provision only so long as seasonal uses shall continue.

7.5.5 Where non-conforming use status applies to a structure and premises in combination, removal, or destruction of the structure shall eliminate the non-conforming status of the land.

7.5.6 If no structural alterations are made, any non-conforming use of structure, or structure and premises, may be changed to another non-conforming use of the same or a more restricted classification provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restricted classification.

**Section 7.6 Repairs and Maintenance.** For any building devoted in whole or in part to any non-conforming use, ordinary repairs, and the repairs of walls, fixtures, wiring, or plumbing, may be performed provided the cubic content of the building as it existed prior to the adoption of this ordinance shall not be increased.

7.6.1 A nonconforming structure, nonconforming portion of a structure, or a structure containing a nonconforming use which is physically unsafe or unlawful due to lack of repairs and maintenance, as determined by the Building Inspector may be restored to a safe condition. Where enlargement or structural alternation is necessary to allow compliance with health and safety laws or ordinances, the cost of such work shall not exceed twenty-five (25%) percent of the structure's fair market value, as determined by the Assessor at the time such work is done.

**Section 7.7 Uses Allowed As Conditional Approval Uses, Not Non-Conforming Uses.** Any use for which conditional approval is permitted as provided in this Ordinance shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

**Section 7.8 Change of Tenancy or Ownership.** There may be a change of tenancy, ownership, or management of any existing non-conforming uses of land, structures, and premises provided there is no change in the nature or character of such non-conforming uses except in conformity with the provisions of this Ordinance.



## ARTICLE 8

### ENVIRONMENTAL PROTECTION AND DESIGN PROVISIONS

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**Section 8.1**            **Purpose.** Environmental standards are established in order to preserve the short and long-term environmental health, safety, and quality of the Village. No parcel, lot, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Any use permitted by this Ordinance may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance standards. No use, otherwise allowed, shall be permitted within any district which does not conform to the following standards of use, occupancy, and operation. These standards are established as minimum requirements to be maintained.

#### **Section 8.2**            **Landscaping, Greenbelts and Buffers, and Screening.**

8.2.1            **Intent.** The intent of this section is to:

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

8.2.2           **Application of Requirements.** These requirements shall apply to all uses for which site plan review is required under Section 3.4 of this Ordinance and subdivision plat review as required under the Subdivision Control Ordinance. No site plan, site condominium plan, or subdivision plat shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

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

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

8.2.4           **Screening Between Land Uses.**

- a.       Upon any improvement for which a site plan is required, a landscape buffer shall be constructed to create a visual screen at least six (8) feet in height along all adjoining boundaries between either a conflicting non-residential or conflicting residential land use and residentially zoned or used property. A landscape buffer may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least eighty (80%) percent. Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1) foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three (3) years.

- b. Where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall or fence shall be required by the Village. Such wall or fence shall be a minimum of six (8) feet in height as measured on the side of the proposed wall having the higher grade.
- c. A required wall shall be located on the lot line except where underground utilities interfere and except in instances where this Zoning Ordinance requires conformity with front yard setback requirements. Upon review of the landscape plan, the Village may approve an alternate location of a wall. The Village shall approve the construction materials of the wall or fence which may include face brick, poured-in-place simulated face brick, pre-cast brick face panels having simulated face brick, stone or wood.

#### 8.2.5 **Parking Lot Landscaping.**

- a. **Required Landscaping Within Parking Lots.** Separate landscape areas shall be provided within parking lots in accordance with the following requirements:
  - 1. The Village, at its discretion, may approve alternative landscape plantings of parking lots where landscaping within parking lots would be impractical due to the size of the parking lot or detrimental to safe and efficient traffic flow, or would create an unreasonable burden for maintenance and snowplowing.
- b. **Required Landscaping at the Perimeter of Parking Lots.** Separate landscape areas shall be provided at the perimeter of parking lots in accordance with the following requirements:
  - 1. Parking lots which are considered to be a conflicting land use as defined by this Section shall meet the screening requirements set forth in Section 8.2.4.
  - 2. Parking lots shall be screened from view with a solid wall at least three (3) feet in height along the perimeter of those sides which are visible from a public road. The Village, at its discretion, may approve alternative landscape plantings in lieu of a wall.

8.2.6 **Greenbelts.** A greenbelt shall be provided, the depth of which shall be the applicable zoning district's required front yard setback dimension, and be landscaped as follows:

- a. The greenbelt shall be landscaped with a minimum of one (1) tree for every thirty (30) lineal feet, or fraction thereof, of frontage abutting a public road right-of-way. Non-ornamental deciduous trees within a greenbelt shall be a minimum caliper of two and one-half (2 1/2) inches or greater. Evergreen trees within a greenbelt shall be a minimum height of six (8) feet.

- b. If ornamental deciduous trees are substituted for either non-ornamental deciduous trees or evergreen trees, they shall be provided at a minimum of one (1) tree for every twenty (20) lineal feet, or fraction thereof, of frontage abutting a public road right-of-way. Ornamental deciduous trees within a greenbelt shall be a minimum caliper of two (2) inches or greater.
- c. In addition to the required trees within the greenbelt, the remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs and other natural landscape materials.
- d. Access drives from public rights-of-way through required greenbelts shall be permitted, but such drives shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.

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

8.2.8 **Subdivision and Site Condominium Landscaping.** Landscaping for single-family residential subdivisions and site condominiums shall be provided in accordance with the following requirements:

- a. **Street Trees.** The frontage of all internal public or private streets shall be landscaped with a minimum of one (1) tree for every fifty (50) lineal feet, or fraction thereof. Such street trees shall meet the minimum size and spacing requirements set forth in Section 8.2.11.
- b. **Screening Between Land Uses.** Where a subdivision or site condominium contain uses which are defined as conflicting land uses by this Section, the screening requirements set forth in Section 8.2.4 shall be met.
- c. **Screening From Public Roads.** Where a subdivision or site condominium abuts a public road right-of-way located outside of the proposed subdivision or site condominium, the screening requirements set forth in Section 8.2.4 shall be met.
- d. **Other Site Improvements.** A landscape plan for a subdivision or site condominium development shall also include landscaping details of the entrance to the development, stormwater retention and/or detention areas, community buildings and other recreational areas, and any other site improvement which would be enhanced through the addition of landscaping.

8.2.9 **Screening of Trash Containers.**



- a. Outside trash disposal containers shall be screened on all sides with an opaque fence or wall, and gate at least as high as the container, but no less than six (8) feet in height, and shall be constructed of material which is compatible with the architectural materials used in the site development.
- b. Containers shall be consolidated to minimize the number of collection sites, and located so as to reasonably equalize the distance from the buildings they serve.
- c. Containers and enclosures shall be located away from public view insofar as possible.
- d. Containers and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.
- e. Concrete pads of appropriate size and construction shall be provided for containers or groups of containers having a capacity of six (8) 30-gallon cans or more. Aprons shall be provided for loading of bins with a capacity of 1.5 cubic yards or more.
- f. For storage of recyclable materials, the enclosure area and pad size shall be increased to amply accommodate the extra materials and their containers.
- g. Screening and gates shall be of a durable construction.

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

- a. **Quality.** Plant materials shall be of generally acceptable varieties and species, free from insects and diseases, hardy to Shiawassee County, conform to the current minimum standard of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.
- b. **Composition.** A mixture of plant material, such as evergreen deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.
- c. **Berms.** Berms shall be constructed with slopes not to exceed a 1:3 slope. Berm slopes shall be protected with sod, seed, or other form of natural ground cover.
- d. **Existing Trees.** The preservation and incorporation of existing trees is encouraged. Where existing trees are used to satisfy the requirements of this Section, the following requirements shall apply:

1. Paving, or other site improvements, shall not encroach upon the drip line of the existing tree(s) to be preserved.
2. If existing plant material is labeled “To Remain” on site plans by the applicant or required by the Village, protective techniques, such as, but not limited to, fencing or barriers placed at the drip line around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Village.
3. In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the drip line, as determined by the Village, the Contractor shall replace them with trees which meet Ordinance requirements.

**e. Installation, Maintenance, and Completion.**

1. All landscaping required by this Ordinance shall be planted before obtaining a Certificate of Occupancy or the appropriate financial guarantee, as set forth in Section 3.7, shall be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed.
2. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner, according to accepted planting and grading procedures.
3. The owner of property required to be landscaped by this Ordinance shall maintain such landscaping in a strong and healthy condition, free from refuse, debris and insects. All materials used to satisfy the requirements of this Ordinance which become unhealthy or dead shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.

**8.2.11 Minimum Size and Spacing Requirements.** Where landscaping is required the following schedule sets forth minimum size and spacing requirements; for representative landscape materials:

**SIZE AND SPACING REQUIREMENTS**

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

**SIZE AND SPACING REQUIREMENTS (con't.)**

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

\* For hedge plantings

**Section 8.3 Fences, Walls and Screens.** Any person desiring to build or cause to be built a fence upon property within the Village shall first apply to the Zoning Administrator for a permit. Application for such permit shall contain any and all information, including site plan and opacity, which are required and necessary for the determination of whether the erection of such fence would be contrary to the provisions of this Ordinance. The fee for such permit shall be set by Council resolution.

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

- a. Residential Districts. No fence shall exceed six (8) feet in height. However, fences in the required front yard shall not exceed four (4) feet in height and fifty (50%) percent opacity. Opacity is the degree to which a fence is impervious to rays of light. This condition shall be measured by the observation of any two (2) square yard area of fence between one (1) foot above the ground level and the top of the fence. The observation shall be from a direction perpendicular to the place of the fence.
- b. Commercial or Industrial District. No fence, wall, or other screening structure shall exceed twelve (12) feet in height.
- c. Prohibited Materials. The use of barbed wire, spikes, nails, or any other sharp point or instrument of any kind on top or on the sides of any fence is prohibited. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or wherever deemed necessary in the interests of public safety.
- d. Electric Fences. No fence shall be constructed or maintained which is charged or connected with an electrical current.
- e. Clear Vision Requirements.
  1. No fence, wall, screen, hedge, sign, or other structure or planting shall obstruct visibility between the heights of thirty (30) inches and twelve (12) feet as measured from the road surface, in a triangular shape measured ten (10) feet from the point of the intersection of the driveway edge and the road right-of-way.
  2. On any interior lot, no fence, wall, screen, hedge, sign, or other structure or planting shall obstruct the visibility of a driveway, either on a parcel or on an adjacent parcel, between the height of thirty (30) inches and twelve (12) feet measured a distance of fifteen (15) feet back from the point where the driveway intersects the street.

**Section 8.4 Airborne Emissions.**

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

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

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

**Section 8.5 Use, Storage and Handling of Hazardous Substance; Storage and Disposal of Solid, Liquid, and Sanitary Wastes.**

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

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

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

- a. **Above-Ground Storage and Use Areas for Hazardous Substances.**
  - 1. Secondary containment of hazardous substances and polluting materials shall be provided. Secondary containment shall be sufficiently impervious to contain the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
  - 2. Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
  - 3. Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains.

4. Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and used, shall be designed and constructed to prevent discharge or runoff.
- b. **Underground Storage Tanks.** Existing and new underground storage tanks shall be registered, installed, operated, maintained, and removed in accordance with requirements of the appropriate Federal, State or local authority having jurisdiction.
- c. **Loading and Unloading Areas.** Areas used for the loading and unloading of hazardous substances shall be designed and constructed to prevent the harmful release to the environment of hazardous materials which may be spilled or leaked.

**Section 8.6 Electrical Disturbance, Electromagnetic, or Radio Frequency Interference.** No use shall create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

**Section 8.7 Glare and Exterior Lighting.**

**8.7.1 Light and Glare from Indirect Sources.**

- a. 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.
- b. The design and/or screening of the development shall insure that glare from automobile and commercial or industrial vehicle headlights shall not be directed into any adjacent property, particularly residential property.
- c. Exterior doors shall be located, operated, and maintained so as to prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.

**8.7.2 Exterior Lighting from Direct Sources.**

- a. Subject to the provisions set forth herein, all parking areas, walkways, driveways, building entryways, off-street parking and loading areas, and building complexes with common areas shall be sufficiently illuminated to ensure the security of property and the safety of persons using such public or common areas.
- b. Exterior lighting shall be located and maintained to prevent the reflection and glare of light in a manner which created a nuisance or safety hazard to operators

of motor vehicles, pedestrians and neighboring land uses. This provision is not intended to apply to public street lighting.

- c. The following additional standards shall apply:
1. Only white, non-glare lighting such as metal halide, color-corrected high pressure sodium, or other types of lighting which achieve the same effect shall be permitted. Lighting shall be placed and shielded so as to direct the light onto the site and away from adjoining properties. Lighting shall be shielded so that it does not cause glare for motorists.
  2. The light intensity provided at ground level shall be a minimum of 0.3 foot-candle anywhere in the area to be illuminated. Light intensity shall average a minimum of 0.5 foot-candle over the entire area when measured five (5) feet above the surface.
  3. Except as noted below, lighting fixtures shall not exceed a height of twenty-five (25) feet. In portions of a site adjacent to residential areas, lighting fixtures shall not exceed a height of twenty (20) feet.
  4. All lighting, including ornamental lighting, shall be shown on site plans in sufficient detail to allow determination of the effects of such lighting upon adjacent properties, and traffic safety. Building or roof mounted lighting intended to attract attention to the building and/or use and not strictly designed for security purpose is not permitted. Temporary holiday lighting and decoration are exempt from the aforementioned provision.

**Section 8.8 Fire Hazard.** Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

**Section 8.9 Safety.** Existing hazards or potential hazards and nuisances, such as construction sites, junk yards, land fills, sanitary landfills, demolition sites, unused basements, abandoned wells or cisterns and sand, gravel, and stone pits or piles are to be enclosed by suitable fencing or barriers so as not to endanger public health, safety and welfare.

**Section 8.10 Stormwater Management.**

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



site and off-site flooding, water pollution, and erosion; and the size of the site. Stormwater Management shall comply with the following standards:

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

**8.10.2 On-site Stormwater Detention.** For the purpose of controlling drainage to off-site properties and drainage ways, all properties which are developed under this zoning ordinance, whether new or improved shall provide for on-site detention storage of storm water in accordance with the current Shiawassee County Drain Commissioner's standards.

## **Section 8.11 Building Grades.**

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

**8.11.2** When a new building is constructed on a vacant lot between two (2) existing buildings or adjacent to an existing building, the Zoning Administrator shall use the existing established finished grade or the minimum established grade, in determining the proper grade

around the new building. The yard around the new building shall be graded in such a manner as to meet existing codes and to preclude normal run-off of surface water to flow onto the adjacent property.

8.11.3 Final grades shall be approved by the Zoning Administrator who may require a grading plan which has been duly completed and certified by a registered engineer or land surveyor.

## **Section 8.12 Supplemental District Standards**

8.12.1 Modification to Setback Requirements:

- a. In GC Districts, no building shall be closer than seventy-five feet from the boundary of any single-family residential zoning district.
- b. No side yards are required along the interior side lot lines of the District or along side lot lines in common with any non-residential district, provided all related conditions of this Ordinance are met. If walls of structures facing such interior or common side lot lines contain windows, or other openings, side yards of not less than ten (10) feet shall be provided.

8.12.2 Maximum Percent of Building Coverage. The maximum percent of building coverage shall be determined on the basis of off-street parking and loading, screening and setback requirements as set forth herein for the respective uses in the GC Districts.

8.12.3 Materials. Durable building materials, simple configurations, and solid craftsmanship are required. Fifty percent (50%) of walls visible from public streets, exclusive of wall areas devoted to meeting transparency requirements, shall be constructed of brick, glass, fiber cement siding, metal (beams, lintels, trim elements and ornamentation only), wood lap, stucco, split-faced block, or stone. Exterior Insulation Finishing Systems (E.I.F.S.) and vinyl or aluminum siding should only be used for accents.

8.12.4 Façade Variation. The maximum length of an uninterrupted building façade facing public streets and/or parks shall be thirty (30) feet. The Façade articulation or architectural design variations for building walls facing the street are required to ensure that the building is not monotonous in appearance. Building wall offsets (projections and recesses); cornices, varying building materials or pilasters shall be used to break up the mass of a single building.

8.12.5 Pedestrian Access / Entrance:

- a. Primary Entrance: The primary building entrance shall be clearly identifiable and useable and located facing the right-of-way.
- b. Pedestrian Connection: A pedestrian connection shall provide a clear, obvious, publicly-accessible connection between the primary street upon which the

building fronts and the building. The pedestrian connection shall comply with the following:

1. Fully paved and maintained surface not less than five (5) feet in width.
2. Unit pavers or concrete distinct from the surrounding parking and drive land surface.
3. Located either within a raised median or between wheel stops to protect pedestrians from vehicle overhangs where parking is adjacent.

8.12.6 Off-Street Parking Location:

- a. Parking shall not be located in the front yard.
- b. No more than fifty percent (50%) of the total site's linear feet along the front building line shall be occupied by parking lot.
- c. For a corner lot, the cumulative total of the site's linear feet along any building line facing a right-of-way occupied by parking shall be no more than sixty percent (60%), and the building shall be located in the corner of the lot adjacent to the intersection.

8.12.7 Loading/Unloading: Loading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per linear frontage of building and shall be computed separately from the off-street parking requirements. Where any alley exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of said alley.

## ARTICLE 9

### SIGNS

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**Section 9.1**                    **Intent.** This section is intended to protect and further the health, safety, and welfare of the residents of the Village of Byron; to maintain and improve the appearance of the Village; to conserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location, and number of signs. These regulations are further intended to provide reasonable identification for businesses and other uses within the community, but are not intended to serve as a means of advertising.

**Section 9.2**                    **Sign Definitions.**

- a.     *AWNING*: A retractable or fixed shelter constructed of non-rigid materials on a supporting framework that projects from the exterior wall of a building.
- b.     *AWNING SIGN*: A sign affixed flat against the surface of an awning.
- c.     *BALLOON SIGN*: A sign composed of a non-porous bag of material filled with air.
- d.     *BANNER SIGN*: A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.
- e.     *BILLBOARD*: A sign which advertises an establishment, product, service, or activity not available on the premises on which the sign is located.
- f.     *BUSINESS PARK SIGN*: Shall mean a free standing sign designed for an area of land that consists of either one or more principal buildings on separate lots or parcels or where the buildings are located on a single parcel of land under a common plan of development and such buildings are used for office, commercial or industrial uses, or a combination thereof. Access to the buildings from a public road will be by a common road or service drive.
- g.     *CONSTRUCTION SIGN*: A sign which identifies the owners, financiers, contractors, architects, and engineers of a project under construction.
- h.     *DIRECTIONAL SIGN*: A sign which gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.
- i.     *FREESTANDING SIGN*: A sign supported on poles not attached to a building or wall.

- j. *GOVERNMENT SIGN*: A temporary or permanent sign erected by the Village of Byron, Shiawassee County, or the state or federal government.
- k. *GROUND SIGN*: A sign resting directly on the ground or supported by short poles not attached to a building or wall.
- l. *MARQUEE*: A permanent structure constructed of rigid materials that projects from the exterior wall of a building.
- m. *MARQUEE SIGN*: A sign affixed flat against the surface of a marquee.
- n. *MURAL*: A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.
- o. *OFF-PREMISE SIGN*: A sign which relates to or advertises an establishment, product, merchandise, good, service or entertainment which is not located, sold, offered, produced, manufactured or furnished at the property on which the sign is located.
- p. *ON-PREMISE SIGN*: Any sign which pertains solely to the use of the property on which it is located, such as to an establishment, product, merchandise, good, service or entertainment which is located, sold, offered, produced, manufactured or furnished at the property on which the sign is located.
- q. *PLACARD*: A sign not exceeding two (2) square feet which provides notices of a public nature, such as “No Trespassing” or “No Hunting” signs.
- r. *POLITICAL SIGN*: A temporary sign used in connection with a noncommercial message or an official Village of Byron, school district, county, state, or federal election or referendum.
- s. *PORTABLE SIGN*: A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building.
- t. *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.
- u. *READER BOARD*: A portion of a sign on which copy is changed manually.
- v. *REAL ESTATE SIGN*: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
- w. *ROOF LINE*: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.

- x. *ROOF SIGN*: A sign erected above the roof line of a building.
- y. *SIGN*: A device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity.
- z. *SPECIAL EVENT SIGN*: Temporary and portable signs containing public messages or intending to advertise special events that are for a short period of time and of a temporary nature.
- aa. *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 the wall to which it is attached.
- bb. *WINDOW SIGN*: A sign installed inside a window and intended to be viewed from the outside.

**Section 9.3                      General Sign Provisions.**

- a. No person shall erect, alter, place or permit to be placed, or replace any sign without first obtaining a building permit, provided the following signs shall not require a building permit:
  - 1. Directional signs of six (6) square feet in size or less
  - 2. Government signs
  - 3. Placards
  - 4. Temporary sale signs of four (4) square feet in size or less
  - 5. Window signs
  - 6. Political signs
- b. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition which impairs legibility or intelligibility.
- c. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
- d. Signs may be internally illuminated or if externally illuminated, except for home occupation signs which shall not be illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or residential property.

- e. No sign shall be placed in, upon or over any public right-of-way, alley, or other public place, except as may be otherwise permitted by this Section.
- f. No light pole, utility pole, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
- g. No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
- h. No commercial vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.
- i. No sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light, provided variable time-temperature signs may be permitted.
- j. No sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts.
- k. No wall sign shall extend beyond the edge of the wall to which it is affixed, and no wall sign shall extend above the roof line of a building.
- l. No sign shall be erected above the roof line of a building.

**Section 9.4 Exempted Signs.** The following signs shall be exempt from the provisions of the Village of Byron Zoning Ordinance:

- a. Government signs
- b. Historical markers or wayfinding signs
- c. Window signs
- d. Memorial signs or tablets
- e. Murals
- f. Signs not visible from any street
- g. Signs for essential services
- h. Placards not exceeding two (2) square feet

- i. Signs with address, owner, or occupant name, of up to two (2) square feet in area attached to a mailbox, light fixture or exterior wall
- j. Flags or insignia of any nation, state, Village, community organization, or educational institution, provided the height of any flag pole shall not exceed thirty (30) feet.

**Section 9.5 Non-conforming Signs, Illegal Signs, and Signs Accessory to Non-conforming Uses.**

- a. Every permanent sign which does not conform to the height, size, area, or location requirements of this section as of the date of the adoption of this Ordinance, is hereby deemed to be non-conforming.
- b. Non-conforming signs may not be altered, expanded, enlarged, or extended; however, non-conforming signs may be maintained and repaired so as to continue the useful life of the sign.
- c. For purposes of this article, a non-conforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of non-conforming use. If a sign is nonconforming in its setback, this section shall not apply, and the sign may not be replaced.
- d. Any non-conforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than fifty (50%) percent of the value of the sign on the date of loss.
- e. Any sign which for a period of one (1) year or more no longer advertises a bona fide business conducted or product sold shall be removed by the owner of the building, structure, or property upon which such sign is located, within thirty (30) days of receipt of written notice by the Zoning Administrator.
- f. A sign accessory to a non-conforming use may be erected in the Village in accordance with the sign regulations for the subject zoning district.

**Section 9.6 Units of Measurement.**

- 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, ground, 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, the area of the two (2) back-to-back faces shall be counted as one (1) face. If 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.
- d. For buildings with multiple tenants, the sign areas for wall signs, projecting signs and awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign requirements for that portion of the total wall.

**Section 9.7 Sign Regulations Applicable to All Zoning Districts.**

- a. All ground, wall and freestanding signs may include reader boards.
- b. Any sign, including awnings to which signs are affixed or displayed, not resting directly on the ground shall maintain a minimum clear space of eight (8) feet from the bottom of the sign to the ground.
- c. Real estate signs shall be removed within thirty (30) days after completion of the sale or lease of the property.
- d. Construction signs are permitted within any zone district, subject to the following restrictions:
  - 1. One (1) sign is permitted to be placed on the lot where the construction is taking place to identify contractors, design professional, lending institutions, etc.
  - 2. The sign shall be no larger than sixteen (16) square feet in area, and not exceed eight (8) feet in height. In a case where two (2) or more firms utilize a sign, the sign shall be no larger than thirty-two (32) square feet in area, and not exceed eight (8) feet in height.
  - 3. Construction signs shall not be erected until a building permit has been issued for the project which is the subject of the proposed sign and construction activity has begun.
  - 4. Construction signs shall be removed within fifteen (15) days of the issuance of any Occupancy Permit for the building or structure which is the subject of the construction sign.

- e. Special event signs, including banner or balloon signs, are permitted in conjunction with any permitted nonresidential use or agricultural use in any zoned district, subject to Village President approval and the following restrictions:
  - 1. No more than two (2) such signs shall be displayed for each special event. Such signs shall be located on the lot on which the special event is held.
  - 2. A special event sign shall be permitted for no more than thirty (30) days.
  - 3. Such sign shall be set back a minimum of fifteen (15) feet from the road right-of-way line or any side or rear lot line.
  - 4. All signs shall be removed within forty-eight (48) hours after the conclusion of the special event that is being advertised.
  - 5. No such sign shall cause a vision hazard at any road intersection or driveway.
  
- f. Directional signs are permitted subject to the following restrictions:
  - 1. A directional sign may contain a logo of an on-promise establishment, but no advertising copy.
  - 2. No such sign shall exceed six (6) square feet in area or four (4) feet in height.
  - 3. Directional signs shall be limited to traffic control functions only.
  - 4. Such signs shall not cause a vision hazard at any road intersection, or driveway.
  
- g. Garage and estate sale signs are permitted subject to the following restrictions:
  - 1. One (1) sign per lot or parcel is permitted, located on the lot or parcel on which such sale is being conducted, and set back a minimum of fifteen (15) feet from any side or rear property line.
  - 2. Such sign shall not exceed six (6) square feet in area.
  - 3. Such sign shall be erected no more than ten (10) days prior to the day(s) of the sale and shall be removed within one (1) day after the completion of the sale.

h. Political Signs:

1. Political signs shall be removed within 14 days after the date of the election for which the sign was applicable.
2. Failure to remove the sign within the required time period shall entitle the Village of Byron, at its option, to remove any such signs at the expense of the committee, candidate, or other person responsible for the placing of the political sign.

**Section 9.8 Schedule of Sign Regulations.** Signs in each Zoning District shall be subject to the following regulations:

<b>R, PUD, and M Zoning Districts – Permitted Signs</b>	
<b>Ground signs for residential subdivisions, manufactured home parks, multiple-family complexes, schools, or other permitted nonresidential uses allowed in the district.</b>	
Number	One (1) ground sign per entrance, as shown on an approved site plan, may be permitted or two (2) single faced signs.
Size	No greater than 32 square feet.
Location	Minimum of fifteen (15) feet from any side or rear property line, five (5) feet from the road right-of-way. However, if there is a proposed right-of-way line for future widening of the road, then the distance shall be measured from the proposed right-of-way line
Height	No higher than five (5) feet
<b>Wall signs for home occupations</b>	
Number	One (1) per lot or parcel
Size	No greater than two (2) square feet (nine (9) square feet in the AR District)
Location	On wall of principal building facing street.
<b>Wall signs for non-residential uses</b>	
Number	One (1) per street frontage
Size	No greater than five (5%) percent of the wall area to which the sign is affixed, not to exceed a maximum area of 75 square feet.
Location	On wall of building facing street
<b>Political Signs</b>	
Number	One (1) per issue or candidate
Size	No greater than six (6) square feet
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than five (5) feet
<b>Real Estate Signs</b>	
Number	One (1) per lot or parcel
Size	No greater than six (6) square feet for developed properties or lots; sixteen (16) square feet for vacant lots or parcels
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than five (5) feet

<b>GC &amp; CDB Zoning Districts – Permitted Signs</b>	
<b>Ground Signs</b>	
Number	One (1) per lot or parcel, except that only one (1) ground sign or one (1) freestanding sign shall be permitted per lot or parcel
Size	No greater than forty-five (45) square feet
Location	Minimum of fifteen (15) feet from any right-of-way line
Height	No higher than five (5) feet
<b>Freestanding Signs</b>	
Number	One (1) per lot or parcel, except that only one (1) ground sign or one (1) freestanding sign shall be permitted per lot or parcel
Size	No greater than one (1) square foot of area per one (1) foot of frontage up to a maximum of seventy-five (75) square feet
Location	Minimum of fifteen (15) feet to any property line
Height	No higher than twenty (20) feet, with a minimum clearance of eight (8) feet between the ground and the bottom on the sign
<b>Wall Signs</b>	
Number	One (1) per building. For buildings that contain distinct and separate uses, separate wall signs shall be permitted for each such use. However, the total allowable square footage for all combined wall signs shall not exceed the maximum allowable square footage specified for each district.
Size	No greater than ten (10%) percent of the wall area to which the sign is affixed, not to exceed a maximum area of 150 square feet.
Location	On wall of building facing street
<b>Political Signs</b>	
Number	One (1) per issue or candidate
Size	No greater than six (6) square feet
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than five (5) feet
<b>Real Estate Signs</b>	
Number	One (1) per lot or parcel
Size	No greater than sixteen (16) square feet
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than five (5) feet

<b>Billboards (Permitted only in the I-2 District and only as a principal use.)</b>	
All billboards shall conform to the requirements of the Highway Advertising Act (PA 106 of 1972, as amended).	
<b>LI Zoning District – Permitted Signs</b>	
<b>Ground Signs</b>	
Number	One (1) per lot or parcel
Size	No greater than thirty-two (32) square feet
Location	Minimum of five (5) feet from the road right-of-way line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than five (5) feet
<b>Wall Signs</b>	
Number	One per street frontage
Size	No greater than ten (10%) percent of the wall area to which the sign is affixed, not-to-exceed a maximum sign area of two hundred (200) square feet.
Location	On wall of building facing street
<b>Political Signs</b>	
Number	One (1) per issue or candidate
Size	No greater than sixteen (16) square feet
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than five (5) feet
<b>Real Estate Signs</b>	
Number	One (1) per lot or parcel
Size	No greater than sixteen (16) square feet
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than five (5) feet

**Section 9.9 Billboards and/or Off-premise Signs.** In addition to being permitted only in the I District as a principal use, billboards and/or off premise signs shall be subject to the following additional conditions:

- a. Such signs shall not be placed on a lot with any other building thereon, and no structure shall be placed on a lot where such sign is located.
- b. Where two (2) or more billboards and/or off premise signs are located along the frontage of a road or highway, they shall not be less one thousand (1,000) feet apart. A double face (“back to back”) or a V- type structure shall be considered a single sign provided the interior angle of such signs does not exceed twenty (20) degrees.
- c. The total surface area facing in the same direction, of any billboard and/or off-premise sign shall not exceed three hundred (300) square feet. Signs may be single or double-faced but shall contain no more than two (2) faces or panels.
- d. Billboards and/or off-premise advertising signs shall not exceed twenty (20) feet in height from ground level. The permitted height may be increased to forty (40) feet by the Planning Commission/DDA, if it can be shown that excessive grades, building interference, bridge obstruction, and/or other types of man-made obstructions significantly obstruct the views of the sign.
- e. Billboards and/or off-premise signs shall not be erected on the roof of any building, nor have one sign above another.
- f. The Village Council may charge a fee to the applicant and/or owner of the billboard and/or off-premise sign as established by the Village Council in its schedule of fees to reimburse the Village for any expenses incurred by the Village in verifying that the sign as constructed complies with the provisions hereof and the land use permit, which fee must be paid in full prior to the Village issuing a certificate of Zoning Ordinance Compliance. This fee shall be in addition to the normal and customary application and review fees charged by the Village for land use permits, site plan review, etc.

## ARTICLE 10

### OFF-STREET PARKING AND LOADING

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**Section 10.1 Intent and Purpose.** The purpose of this Article is to ensure the provision of off-street parking facilities that are sufficient in number, adequately sized and properly designed to meet the range of parking needs and demands that are associated with land uses now in place in the Village or with land uses allowed by this Ordinance.

**Section 10.2 General Provisions.**

10.2.1 **Where Required.** In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees, and patrons of the buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as said main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

10.2.2 **Existing Off-Street Parking at Effective Date of Ordinance.** Off-street parking existing at the effective date of this Ordinance which serves an existing building or use, shall not be reduced in size to less than that required under the terms of this Ordinance.

10.2.3 **Required Greenbelt and Setbacks.** Off-street parking, including maneuvering lanes, shall not be located within the required front greenbelt in accordance with Section 8.2.6. Off-street parking shall be permitted within the required side or rear yard setbacks, provided a minimum five (5) foot setback is maintained between off-street parking and the side and rear lot lines of all adjoining properties.

10.2.4 **Parking Duration.** Except when land is used as storage space in connection with the business of a repair or service garage, a twenty-four (24) hour time limit for parking in non-residential off-street parking areas shall prevail, it being the purpose and intention of the foregoing that the requirement of maintaining vehicle storage or parking space is to provide for the public safety in keeping parked cars off the streets, but such requirement is not designed to or intended to provide, and it shall be unlawful to permit, the storage or prolonged parking on any such parking area in any such district wrecked or junked cars, or for creating a junk yard or a nuisance in such areas.

10.2.5 **Units and Methods of Measurement.** For the purpose of determining off-street parking requirements, the following units of measurement shall apply:

- a. **Floor Area.** Where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that floor areas within the principal building used for parking, incidental service and



storage, housing of mechanical equipment, heating systems and similar uses need not be included.

- b. **Employees.** For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
- c. **Places of Assembly.** In stadiums, sports arenas, churches and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each twenty-four (24) inches of such shall be counted as one (1) seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.
- d. **Fractional Requirements.** When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction shall require one (1) parking space.

#### 10.2.6 **Location of Parking.**

- a. **One and Two-Family Dwellings.** The off-street parking facilities required for one- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this Article.
- b. **Multiple-Family Residential.** The off-street parking facilities for multiple-family dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as set forth in this Article. In no event shall any parking space be located nearer than ten (10) feet to any main building.
- c. **Other Land Uses.** The off-street parking facilities required for all other uses shall be located on the lot or within five hundred (500) feet of the permitted uses requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served.
- d. **Restriction on Parking on Private Property.** It shall be unlawful for any person, firm, or corporation to park any motor vehicle on any private property without the authorization of the owner or agent of such property.

### **Section 10.3 Off-Street Parking Requirements.**

10.3.1 The amount of required off-street parking spaces for new uses or buildings, additions thereto, and additions to existing buildings shall be determined in accordance with the Schedule

set forth in Section 10.4. Parking requirements listed in Section 10.4 shall not include off-street stacking spaces for drive-through facilities set forth in Section 10.7.

**10.3.2 Similar Uses and Requirements.** When a use is not specifically mentioned, the requirements of off-street parking for a similar use shall apply.

**10.3.3 Collective Provisions.** Nothing in this Section shall be construed to prevent collective provisions of off-street parking facilities for two (2) or more buildings or uses, provided such facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with Section 10.4 of this Article.

**10.3.4 Parking Exemption.** As of the effective date of this Ordinance, buildings and uses located within the CBD - Central Business District shall be exempt from providing off-street parking. However, in no case shall a building or use be expanded to remove off-street parking established before the effective date of this Ordinance.

**10.3.5 Flexibility in Application.** The Village recognizes that, due to the specific requirements of any given development, inflexible application of the parking standards set forth in Section 10.4 may result in development with inadequate parking or parking far in excess of that which is needed. The former situation may lead to traffic congestion or unauthorized parking on adjacent streets or neighboring sites. The latter situation may result in excessive paving and stormwater runoff and a waste of space which could be left as open space.

The Village Council, based on a recommendation from the Planning Commission/DDA may permit deviations from the requirements of Section 10.4 and may require more or allow less parking whenever it finds that such deviations are more likely to provide a sufficient number of parking spaces to accommodate the specific characteristics of the use in question.

The Village Council may attach conditions to the approval of a deviation from the requirement of Section 10.4 that bind such approval to the specific use in question. Where a deviation results in a reduction of parking, the Village Council may further impose conditions which ensure that adequate reserve area is set aside for future parking, if needed.

**Section 10.4 Table of Off-Street Parking Requirements.** The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings shall be determined in accordance with the following table:

<b>Use</b>	<b>Required No. of Parking Spaces Per Each Unit of Measurement</b>	
<b>A. Residential Uses.</b>		
1) Single- or Two-Family Dwelling	2	Per each dwelling unit
2) Multiple-Family Dwelling	2	Per each dwelling, plus
	1	Per each ten (10) dwelling units
3) Bed and Breakfast Establishments	1	Per each bedroom

<b>B. Institutional</b>		
1) Churches	1	Per each three (3) seats based on maximum seating capacity in the main place of assembly therein.
2) Private Clubs & Lodges	1	Per each three (3) individual members allowed within the maximum occupancy load as established by fire and/or building code
3) Nursing Homes/Convalescent Centers, Adult Foster Care and Congregate Facilities	1	Per each five (5) beds, plus
	1	Per each staff doctor, plus
	1	Per each employee at peak shift
4) Child Foster Family Group Homes	1	Per each family member, plus
	1	Per each two (2) children
5) Adult Foster Care Small Group Homes	1	Per each employee/caregiver
6) Group Day Care Homes	1	Per each employee at peak shift
7) Day Care Centers	1	Per each employee at peak shift, plus
	1	Per each five (5) persons enrolled

<b>Use</b>		<b>Required No. of Parking Spaces Per Each Unit of Measurement</b>	
<b>Institutional (Cont.)</b>			
8)	High Schools, Trade Schools, Colleges & Universities	1	Per each teacher, plus
		1	Per each ten (10) students, plus
		1	Per each employee
9)	Elementary & Middle Schools	1	Per each teacher, plus
		1	Per each twenty-five (25) students, plus
		1	Per each employee
10)	Stadiums, Sports Arenas and Auditoriums maximum	1	Per each four (4) seats based upon seating capacity
11)	Publicly Owned Buildings	1	Per each 250 sq. ft. of usable floor area
12)	Libraries, & Museums	1	Per each 500 sq. ft. of usable floor area
<b>C. Commercial</b>			
1)	Retail Stores, except as otherwise	1	Per each 100 sq. ft. of usable floor area
2)	Food and Beverage Sales	1	Per each 200 sq. ft. of usable floor area
3)	Convenience Grocery Stores	1	Per each 100 sq. ft. of usable floor area
4)	Video Stores	1	Per each 100 sq. ft. of usable floor area
5)	Planned Shopping Center	1	Per each 100 sq. ft. of usable floor area for the first 15,000 sq. ft., plus
		1	Per each 150 sq. ft. of usable floor area in excess of 15,000 sq. ft.
6)	Furniture, Appliances, Hardware, Household Equipment Sales	1	Per each 400 sq. ft. of usable floor area, plus
		1	Per each employee
7)	Appliance Repair Shops	1	Per each 800 sq. ft. of usable floor area, plus
		1	Per each employee

<u>Use</u>		<b>Required No. of Parking Spaces Per Each Unit of Measurement</b>	
<b>Commercial (Cont.)</b>			
8)	Motels & Hotels	1 1	Per each guest bedroom, plus Per employee, plus amount required for accessory uses, such as a restaurant or tavern.
9)	Drive-in, Drive-through and Fast Food Restaurants	1 1	Per each 125 sq. ft. of usable floor area, plus Per each employee
10)	Sit-Down Restaurants	1 1	Per each three (3) seats, based on maximum seating capacity, plus Per each employee
11)	Taverns and Cocktail Lounges	1 1	Per each three (3) persons allowed within the (other than fast food restaurants) maximum occupancy load as established by fire and/or building codes, plus Per each employee
12)	Sidewalk Cafes	1	Per each three (3) seats
13)	Garden Stores, Building Material Sales	1	Per each 800 sq. ft. of lot area used for said business provided for herein
14)	Movie Theaters	1 1	Per each four (4) seats based on the maximum seating capacity, plus Per each employee
15)	Self-service Laundries and Drycleaners	1	Per each two (2) machines
16)	Wholesale Stores, Machinery Sales, and other similar uses	1 1	Per each 1,000 sq. ft. of usable floor area, plus Per each employee
17)	Funeral Homes and Mortuaries	1	Per each 50 sq. ft. of floor area
18)	Florist Shops	1 1	Per each 250 sq. ft. of floor area, plus Per each employee

<b>Use</b>		<b>Required No. of Parking Spaces Per Each Unit of Measurement</b>	
<b>D. Automotive</b>			
1)	Auto Sales	1	Per each 200 sq. ft. of showroom floor area, plus
		1	Per each employee, plus
		1	Per each service stall
2)	Automotive Repair Facilities	2	Per each service stall, plus
		1	Per each employee, plus
		1	Per each service vehicle
3)	Gasoline Stations without Convenience Store	1	Per each pump unit, plus
		2	Per each service stall, plus
		1	Per each employee
4)	Gasoline Stations with Convenience Store	1	Per each pump unit, plus
		2	Per each service stall, plus
		1	Per each employee, plus
		1	Per each 100 sq. ft. of floor area devoted to retail sales and customer service
5)	Car Washes (self-serve)	1	Per each wash stall, plus
		1	Per each vacuum station, plus
		1	Per each employee
6)	Car Washes (Automatic)	1	Per 200 sq. ft. of floor area of customer waiting and service areas, plus
		1	Per each vacuum station, plus
		1	Per each employee
7)	Collision or Bump Shops, and other similar uses	2	Per each stall or service area, plus
		1	Per each employee
8)	Outdoor Sale of Automobiles	1	Per each 400 sq. ft. of outdoor display area, plus
		1	Per each employee

<b>Use</b>		<b>Required No. of Parking Spaces Per Each Unit of Measurement</b>	
<b>E. Office and Service</b>			
1)	Medical & Dental Office	1	Per each 150 sq. ft. of floor area
2)	Business & Professional Offices	1	Per each 200 sq. ft. of floor area
3)	Banks	1	Per each 200 sq. ft. of floor area
4)	Barber & Beauty Shops	3	Per each chair
5)	Photography Studios	1	Per each 200 sq. ft. of floor area, plus 1 Per each employee
6)	Veterinary Offices and Hospitals	1	Per each 200 sq. ft. of floor area
7)	Personal Service Establishments	1	Per each 100 sq. ft. of floor area

<b>F. Recreational</b>			
1)	Bowling Alleys	4 1	Per bowling lane, plus per employee, plus the... Amount required for accessory uses such as a restaurant or cocktail lounge
2)	Dance Halls, Pool and Billiard Parlors, Roller or Skating Rinks, Exhibition Halls and Assembly Halls without fixed seats or health	1	Per each three (3) persons allowed within the maximum occupancy load as established permitted by local or County fire, building codes.
3)	Private Tennis, Swim or Golf Clubs, or other similar uses	1	Per each two (2) memberships, plus Amount required for accessory uses such as a restaurant or cocktail lounge
4)	Public Golf Course, except Miniature or "Par 3" Courses	5 1	Per each hole, plus Per each employee, plus the... Amount required for accessory uses such as a restaurant or tavern
5)	Miniature or "Par 3" Golf Courses, Amusement Parks and Carnivals	3 1	Per each hole, plus Per each employee

Use		Required No. of Parking Spaces Per Each Unit of Measurement	
<b>G. Industrial</b>			
1)	Manufacturing, Research, Design, Processing, Assembly Testing and Repair Centers	1 1	Per each employee, or Per each 800 sq. ft. of floor area (whichever is greater)
2)	Self-storage Facilities	1	Per each 150 storage spaces or fraction thereof, with no less than three (3) for office use
3)	Warehouses and Storage Buildings	1 1	Per each employee, or Per each 2,000 sq. ft. of floor area (whichever is greater)
4)	Contractors Offices	1	Per each employee
5)	Wholesale Establishments	5 1 1	Total, plus Per each employee at peak shift, or Per each 1,700 sq. ft. of floor area (whichever is greater)
6)	Metal Fabricating and Tool and Die Shops	1	Per each 200 sq. ft. of office floor area, or 1 Per each 800 sq. ft. of floor area (whichever is greater)
7)	Newspaper Offices with or without a Printing Press	1 1	Per each 200 sq. ft. of office floor area, plus Per each employee

**Section 10.5 Off-Street Parking Lot Design and Construction.** The construction of any parking lot shall be in accordance with the requirements of the provisions of this Ordinance and such construction shall be completed and approved by the Zoning Administrator before use of the property as a parking lot and before a Certificate of Occupancy is issued. Unless incorporated in a site plan prepared and approved in accordance with Section 3.5, plans for the development of any parking lot must be submitted to the Zoning Administrator, prepared at a scale of not less than fifty (50) feet equals one (1) inch and indicating existing and proposed grades, drainage, pipe sizes, parking of all dimensions, type of curbing, drive and aisle dimensions, lighting, adjacent main buildings, sidewalks, landscaping, surfacing and base materials to be used and the layout of the proposed parking lot.

10.5.1 All such parking lots, driveways, or loading areas required for uses other than single- or two-family residential shall be hard-surfaced with asphalt or concrete pavement, shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be completely constructed prior to a Certificate of Occupancy being issued. Drainage for parking lots shall conform to the standards set forth in State Soil Erosion and Sedimentation Control Act.



10.5.2 All illumination for all such parking lots shall meet the standards set forth in Section 6.8.

10.5.3 Parking lot landscaping and buffering requirements shall meet the standards set forth in Section 8.2.5.

10.5.4 Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles.

10.5.5 Where necessary to prevent encroaching upon pedestrian walkway or damaging required landscaping, wheel stops shall be provided. No portion of a parking space and/or maneuvering aisle shall obstruct or encroach upon a public sidewalk.

10.5.6 Plans for the layout of off-street parking facilities shall be in accordance with the following minimum regulations.

Parking Pattern	Maneuvering Lane Width		Parking Space Width	Parking Space Length
	One-way	Two-way		
0° Parallel	12 ft	20 ft.	10 ft.	25 ft.
30° – 53°	12 ft	20 ft.	10 ft.	20 ft.
54° - 74°	15 ft	24 ft.	10 ft.	20 ft.
75° – 90°	15 ft	24 ft.	10 ft.	20 ft.

**Section 10.6 Off-Street Loading Requirements.** On the same premises with every building or part thereof, erected and occupied for any uses involving the receipt or distribution of trucks and/or delivery vehicles, material or merchandise, adequate space for loading and unloading shall be provided in accordance with the following:

10.6.1 Such loading and unloading space, unless completely and adequately provided for within a building, shall be an area ten (10) feet by fifty (50) feet, with fourteen (14) foot height clearance, and shall be provided according to the following schedule.

Gross Floor Area of Building (sq. ft.)	Required Loading & Unloading Spaces
0-2,000	None
2,000-20,000	One (1) space
20,000 - 100,000	One (1) space plus one (1) space for each 20,000 sq. ft. in excess of 20,000 sq. ft.
100,000 - 500,000	Five (5) spaces plus one (1) space for each 40,000 sq. ft. in excess of 100,000 sq. ft.
Over 500,000	Fifteen (15) spaces plus one (1) space for each 80,000 sq. ft. in excess of 500,000 sq. ft.

**10.6.2 Required Greenbelt, Setbacks, and Screening.**

- a. Off-street loading areas, including maneuvering lanes, shall not be located within the front greenbelt required in accordance with Section 8.2.6. Off-street parking shall be permitted within the required side or rear yard setbacks, provided a minimum ten (10) foot setback is maintained between off-street loading and the abutting side and rear lot lines.
- b. Off-street loading which abuts residentially zoned or used property shall be screened in accordance with Section 8.2.4.

**10.6.3 Double Count.** Off-Street loading space areas shall not be construed as, or counted toward, the supplying of area required as off-street parking space area.

**Section 10.7 Off-Street Stacking Space for Drive-Through Facilities.** All businesses which provide drive-through facilities for serving customers within their automobile shall provide adequate off-street stacking space and lanes which meets the following requirements:

10.7.1 Each stacking space shall be computed on the basis of ten (10) feet in width and twenty (20) feet in length. Each stacking lane shall be a minimum of twelve (12) feet in width.

10.7.2 Clear identification and delineation between the drive-through facility and parking lot shall be provided. Drive-through facilities shall be designed in a manner which promotes pedestrian and vehicular safety.

10.7.3 The number of stacking spaces per service lane shall be provided for the following uses. When a use is not specifically mentioned, the requirements for off-street stacking space for the similar use shall apply.

Use	Stacking Spaces Per Service Lane
<b>Banks</b>	4
<b>Photo Service</b>	4
<b>Dry-Cleaning</b>	4
<b>Fast-Food Restaurants</b>	6
<b>Car Washes (self-service)</b>	
<b>Entry</b>	3
<b>Exit</b>	1
<b>Car Washes (Automatic)</b>	6

**Section 10.8 Outdoor Storage of Recreational Vehicles.**

In all Residential Districts, a recreational vehicle may be stored subject to the following conditions:

10.8.1 Storage shall not be permitted on vacant lots or parcels, except as approved by the Zoning Administrator.

10.8.2 Unless within a completely enclosed building, a recreational vehicle shall be stored in one of the following manners.

- a. Within the side or rear yard, but no closer than five (5) feet from any side or rear lot line; or,
- b. In those instances where the side or rear yard is not accessible or has insufficient clearance for the passage of a recreational vehicle, the Zoning Administrator may allow the storage of a recreational vehicle in the front yard. In those instances where a recreational vehicle is to be stored in a front yard, only the driveway portion of such yard shall be utilized and in no instance shall such recreational vehicle be stored in a manner which obstructs pedestrian or vehicular visibility.

10.8.3 No recreational vehicle shall be used for living, sleeping, or housekeeping purposes on the premises, except for occasional living purposes to accommodate visitors, not to exceed a maximum period of two consecutive (2) weeks.

10.8.4 No recreational vehicle shall be stored on a public street or right-of-way or private road easement.

10.8.5 | A recreational vehicle stored outside shall be in a condition for the safe and effective performance of its intended function.

**Section 10.9 Truck and Equipment Parking.** The use of semi trailers for storage purposes on the premises for five or more consecutive days is prohibited. This standard shall not apply to pickup or panel trucks, and it is further provided that equipment necessary to be parked overnight on a lot, parcel, or track of land during construction work thereon, shall be exempt from this restriction as long as a valid building permit is in effect.



# ARTICLE 11

## ZONING BOARD OF APPEALS

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**Section 11.1**            **Creation.** There is hereby established a Zoning Board of Appeals, hereinafter called the "Board", which shall perform its duties and exercise its powers as provided in Act 110 of the Public Acts of 2006, as amended from time to time, and in such a way that the objectives of this Ordinance shall be observed, the public safety and welfare secured, and substantial justice done.

**Section 11.2**            **Membership and Terms.**

- a.        The Village Council shall serve as the Zoning Board of Appeals.

**Section 11.3**            **Meetings.** All meetings of the Zoning Board of Appeals shall be held at the call of the Village President and at such times as such Board may determine. All hearings conducted by said Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent, or failing to vote, indicate such fact; and shall also keep records of its hearings and other official action. The Board 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. The Board shall not conduct business unless a majority of the members of the Board are present.

**Section 11.4**            **Appeal.**

- a.        An appeal may be taken to the Zoning Board of Appeals by any person, firm or corporation, or any officer, department, board or bureau affected by a decision of the Building Department. Such appeal shall be **in writing** and taken within such time as shall be prescribed by the Zoning Board of Appeals, by general rule, by filing with the Building Department, and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof. The Building Department shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.
  
- b.        An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Department certifies to the Zoning Board of Appeals after the notice of appeal has been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals or by a court of

record on application, on notice to the Building Department and for due cause shown.

- c. The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.
- d. A fee shall be paid at the time the notice of appeal is filed to the Village Clerk to the credit of the general revenue fund of the Village. The fees to be charged for appeals shall be set by resolution of the Village Council.

**Section 11.5 Jurisdiction.** The Zoning Board of Appeals shall have the following powers and it shall be its duty:

- a. To hear and decide on all matters referred to it upon which it is required to pass under this Ordinance.
- b. To interpret the Ordinance text and map and all matters relating thereto whenever a question arises in the administration of this Ordinance as to the meaning and intent of any provision or part of this Ordinance. Any interpretations shall be in a manner as to carry out the intent and purpose of this Ordinance and zoning map, and commonly accepted rules of construction for ordinances and laws in general.
- c. To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Building Department in the enforcement of this Ordinance.
- d. **Variances.** The Zoning Board of Appeals shall have the power to authorize, upon appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard, depth regulations, and off street parking and loading space requirements, provided all of the basic conditions listed hereafter can be satisfied.
  - 1. **Non-use Variance.** The applicant must present evidence to show that if the Zoning Ordinance is applied strictly, practical difficulties will result to the applicant and:
    - (a) That the Ordinance restrictions unreasonably prevent the owner from using the property for a permitted purpose;
    - (b) That the variance would do substantial justice to the applicant as well as to other property owners in the district, and a lesser relaxation than that requested would not give substantial relief to

the owner of the property or be more consistent with justice to other property owners;

- (c) That the plight of the landowner is due to the unique circumstances of the property; and
- (d) That the alleged difficulty has not been created by any person presently having an interest in the property.

2. **Use Variance.** The Zoning Board of Appeals shall not issue use variances and shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a special use permit or temporary use permit is required.

- e. To classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use in accordance with the purpose and intent of each district.
- f. In consideration of all appeals and all proposed variations to this Ordinance, the Zoning Board of Appeals shall, before making any variations from the Ordinance in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals, or welfare of the inhabitants of the Village. The concurring vote of a majority of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Building Department, or to decide in favor of the applicant any matter upon which it is authorized by this Ordinance to render a decision.
- g. Nothing herein contained shall be construed to give or grant to the Zoning Board of Appeals the power or authority to alter or change the Zoning Ordinance or the Zoning Map or to rezone property, such power and authority being reserved to the Village Council in the manner hereinafter provided by law.

**Section 11.6 Exercising Powers.** In exercising the above powers, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may take such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Department from whom the appeal is taken. However, in the event that the Planning Commission/DDA representative has already voted on a matter which is now being appealed to the Board, that member shall abstain from voting at the Zoning Board of Appeals.



**Section 11.7 Notice.** Following receipt of a written request concerning a request for a variance, the Zoning Board of Appeals shall fix a reasonable time for the hearing of the request and give notice as provided below:

- a. The local unit of government shall publish notice of the request in a newspaper of general circulation in the local unit of government.
- b. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
- c. The notice shall be given not less than fifteen (15) days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following:
  1. Describe the nature of the request.
  2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the 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.
  3. State when and where the request will be considered.
  4. Indicate when and where written comments will be received concerning the request.
- d. Upon receipt of a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Village and shall be sent to the person requesting the interpretation not less than fifteen (15) days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question and to the occupants of all structures within three hundred (300) feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

**Section 11.8**            **Decision as Final.** The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the circuit court of Shiawassee County. Appeals must be filed within thirty (30) days after the Zoning Board of Appeals issues its decision in writing and signed by the Chairperson and the Board, or within twenty one (21) days after the Zoning Board of Appeals approves the minutes of the decision.

**Section 11.9**            **Reports to Council.** At intervals of not greater than one (1) year, the Zoning Board of Appeals shall by, written report to the Village Council, list all applications and appeals made to it since its last report, and shall summarize its decisions on such applications and appeals.



