

Barton Hills Village

Zoning Ordinance

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ARTICLE 1
TITLE, PURPOSE, AND LEGAL CLAUSES

SECTION 1.01 PURPOSES

The Michigan Zoning Enabling Act establishes the right to adopt comprehensive zoning regulations, empowers the Village to enact a zoning ordinance, and provides for its administration, enforcement, and amendment.

- A. The Village deems it necessary to enact zoning regulations for the purpose of promoting and protecting the health, safety, comfort, convenience, and general welfare of its residents.
- B. The Village has adopted a Master Plan designed to guide growth in a logical and orderly fashion; to protect and preserve its natural resources; and to ensure a well-balanced community, considering its present and potential physical, economic, cultural, and environmental assets.
- C. The Village has identified districts and prepared regulations pertaining to the districts in accordance with the Master Plan and for the specific purposes of:
 - 1. Promoting and protecting the public health, safety, and general welfare;
 - 2. Regulating growth in the Village to promote orderly and beneficial development that will support economic vitality and sustainability;
 - 3. Conserving life, property, and natural resources;
 - 4. Stewarding the expenditure of funds for public improvements and services;
 - 5. Providing adequate light, air, and privacy to property;
 - 6. Lessening congestion on roads and providing safe and convenient access to property; and
 - 7. Conserving the taxable value of land and buildings in the Village.

SECTION 1.02 VALIDITY AND SEVERABILITY

- A. If any court of competent jurisdiction declares any provision of this ordinance to be invalid, the ruling will not affect any other provisions of this ordinance not specifically included in the ruling.
- B. If any court of competent jurisdiction declares invalid the application of any provision of this ordinance to a particular lot, use, or structure, the ruling will not affect the applica-

tion of the provision to any other lot, use, or structure not specifically included in the ruling.

SECTION 1.03 SCOPE AND CONSTRUCTION OF REGULATIONS

- A. This ordinance shall be liberally construed so as best to promote the public health, safety, convenience, comfort, prosperity, and general welfare.
- B. Except as set forth in the following paragraph C, no structure shall be erected, constructed, reconstructed, altered, or maintained, and no new use or change in use shall be made or maintained of any structure or land except as permitted by this ordinance.
- C. This ordinance shall not apply to property or structures owned or used by the Village.

SECTION 1.04 CONFLICT WITH OTHER LAWS

- A. When any condition imposed by this ordinance upon the use of any lot or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this ordinance or by an ordinance adopted under any other law, the provision that is more restrictive or that imposes a higher standard or requirement shall govern.
- B. The Village recognizes that many lots in the Village are subject to restrictive covenants or other private agreements. Accordingly, this ordinance is not intended to abrogate or annul any easement, restrictive or other covenant, or other private agreement, provided that where any provision of this ordinance is more restrictive or imposes a higher standard or requirement than the easement, covenant, or other private agreement, the provision of this ordinance shall govern.
- C. 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 structure declared unsafe or unhealthy.

SECTION 1.05 REPEAL OF PRIOR ORDINANCES

The Village zoning ordinance, as amended, existing on the effective date of this ordinance, and all prior Village zoning ordinances, are repealed effective as of the effective date of this ordinance.

**ARTICLE 2
DEFINITIONS**

SECTION 2.01 RULES OF INTERPRETATION

This ordinance shall be interpreted as follows:

- A. The particular shall control the general.
- B. In the case of any differences between the text of this ordinance and any caption or illustration, the text shall control.
- C. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- D. The word “shall” is mandatory; the word “may” is permissive.
- E. The words “used” or “occupied” include the words “intended”, “designed”, or “arranged to be used” or “arranged to be occupied.”
- F. A “building,” “structure,” “land,” “parcel,” or “lot” includes any part thereof.
- G. Terms not defined in this ordinance shall have the meaning customarily assigned to them.

SECTION 2.02 DEFINITIONS

ACCESSORY BUILDING: A building, whether detached or attached, that is supplemental or subordinate to the principal building. It must be located on the same lot as the principal building and devoted exclusively to an accessory use.

ACCESSORY STRUCTURE: A structure, whether detached or attached, that is supplemental or subordinate to the principal building. It must be located on the same lot as the principal structure and devoted exclusively to an accessory use.

ACCESSORY USE: A use that is supplemental and subordinate to the principal use and is used for purposes clearly incidental to those of the principal use.

ACTIVE SOLAR ENERGY STRUCTURE: A structure that uses mechanically-operated solar collectors to collect, transfer or store solar energy.

ADULT FOSTER CARE FAMILY HOME: A private residence licensed by the State of Michigan to provide foster care to 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 family home licensee shall be an occupant of the residence. An adult foster care family home does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities that have been exempt-

ed from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, Public Act 218 of 1979, as amended, MCL 400.701, *et seq.*

AGRICULTURAL BUILDING: Any structure used for agriculture as defined by this ordinance, whether the principal use of the property is residential, agricultural, or some other use.

AGRICULTURE OR AGRICULTURAL: Farms and general farming, including horticulture, floriculture, dairying, livestock, and poultry raising, farm forestry, and other similar uses, excluding the following: piggeries, the disposal of garbage, sewage, rubbish, offal or rendering plants, the slaughtering of animals except such animals as have been raised or maintained on the premises for at least a period of one year immediately prior thereto and for the use and consumption of only the persons residing on the premises.

ALTERATION: Any change, addition or modification in construction or type of occupancy, including any change in the structural members of a building, such as walls or partitions, columns, beams or girders. Alterations may be referred to in this ordinance as “altered” or “reconstructed.”

ANTENNA: Any structure designed to transmit or receive television, radio, data, communications, or other signals from other antennas, satellites, or other services.

BASEMENT: That portion of a building that is partly or wholly below grade but is so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. For purposes of this definition, the “average grade” is the average elevation of the ground for each face of the building. A basement shall not be counted as a story. See the definition of story for an illustration.

BUILDING: Any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind.

BUILDING OR STRUCTURE HEIGHT: The vertical distance as measured from any point of the existing grade at an existing and proposed building or structure (that is, prior to any proposed grading or other earth movement) to the highest point of the structure or the roof of the building. The largest such distance shall be used to calculate the maximum permitted height under this ordinance.

BUILDING OFFICIAL: The person responsible for administering the building code for the Village.

CLUB: An organization not operated for profit and its premises catering exclusively to members and their guests for social intellectual, recreational, cultural, or athletic purposes.

COMMERCIAL VEHICLE: Any vehicle used to generate income and which, by appearance, is anything other than usual and customary personal family transportation.

CONDOMINIUM ACT: Michigan Public Act 59 of 1978, as amended, MCL 559.101, *et seq.*

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including buildings or other structures, dredging, filling, grading, or paving.

DISTRICT: An area or areas within the incorporated area of the Village within which regulations and requirements governing use, lot area, lot size, and other provisions are uniform.

DWELLING UNIT: A building or portion of a building designed for the occupancy of one family and having cooking and bathroom facilities.

DWELLING, SINGLE-FAMILY: A building consisting of not more than one dwelling unit designed exclusively for the use of one family.

ERECTED: Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises that are required for the construction, excavation, fill, drainage, and the like.

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

FAMILY: Either of the following:

- A. A domestic family—that is, one or more persons living together and related by the bonds of consanguinity, marriage, or adoption, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling.
- B. The functional equivalent of a domestic family—that is, persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family, with a demonstrable and recognizable bond that constitutes the functional equivalent of the bonds that render the domestic family a cohesive unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie organization or group whose association is temporary or seasonal in character or nature. For the purposes of enforcement, it is presumed that a functional equivalent of a domestic family is limited to six or fewer persons.

FAMILY DAY CARE HOME: A private home in which more than one but less than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. The term includes a home that gives care to an unrelated child for more than four weeks during a calendar year. The owner of the family day care must also be the owner and resident of the private home.

FLOOR AREA: The sum of the horizontal areas of each floor of a building, measured from the interior faces of the exterior walls, or from the centerline of common walls of adjoining buildings.

- A. **FLOOR AREA, GROSS:** The floor area within the inside perimeter of the walls of a building, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns, or other features. The floor area of a

building, or portion thereof, not provided with surrounding exterior walls, shall be the useable area under the horizontal projection of the roof or floor above.

- B. **FLOOR AREA, NET:** Measurement of the actual occupied area, not including unoccupied accessory areas such as corridors, stairways, toilet rooms, mechanical rooms, and closets.

FRONTAGE: Any portion of a parcel of land abutting, touching, or bordering a street.

GOLF COURSE: A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards. It may include a clubhouse, driving range, pro shop, shelter, and related accessory uses.

GRADE: A ground elevation established for the purpose of regulating the number of stories and the height of a structure. The grade at any point along an exterior wall of a structure shall be the level of the ground adjacent to the wall of the structure at that point. If the structure does not have an exterior wall at one or more points, the level of the ground immediately under the horizontal projection of the roof or other portion of the structure above shall be used to determine elevation at such points.

GROUP DAY CARE HOME: A private home in which more than six but not more than twelve minor children are given care and supervision for periods of less than twenty-four hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. The term “group day care home” includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

HOME OCCUPATION: An accessory use of a nonresidential nature that is performed within a dwelling unit or within an accessory building and is conducted only by members of the family residing in the dwelling.

LANDSCAPE MATERIAL: Living plant materials, including grass, ground covers, shrubs, vines, hedges, or trees, and non-living durable material commonly employed in landscape development.

LOT: A parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or used for the principal use and accessory uses, together with such open spaces as are required under this ordinance. A lot may or may not be specifically designated as such on public records.

LOT AREA: The total horizontal area within the lot lines of a lot.

LOT LINE: The line bounding a lot.

- A. **FRONT LOT LINE:** The line separating the lot from the street (or future street identified in the master plan). In the case of a corner lot (that is, a lot with two adjacent sides at the intersection of two streets), both lines separating the lot from the street shall be considered front lot lines. In the case of a double frontage lot (that is, a lot having frontage on two non-intersecting streets), a line separating the lot from the street that provides access

to the lot shall be considered the front lot line; the other shall be considered a side lot line.

B. **SIDE LOT LINE:** Any lot line other than the front lot line.

LOT WIDTH: The length of a straight line drawn between the points where the front setback line cuts the side lot lines.

MASTER PLAN: The comprehensive master plan adopted by the Board of Trustees, as it may be amended from time to time, including graphic and written proposals indicating the general location of streets, parks, schools, public buildings and all the physical development of the Village.

MICHIGAN ZONING ENABLING ACT: Michigan Public Act 110 of 2006, as amended, MCL 125.3101 *et seq.*

NONCONFORMING BUILDING OR STRUCTURE: A building or structure existing at the effective date of this ordinance or, if applicable, amendments thereto, that does not conform to the provisions of this ordinance relative to height, bulk, area, or yards for the district in which it is located.

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

OFF-STREET PARKING LOT: A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three vehicles.

PARKING SPACE: An area of definite length and width, exclusive of drives, aisles, or entrances giving access thereto, which shall be fully accessible for the storage or parking of permitted vehicles.

PASSIVE SOLAR ENERGY STRUCTURE: A structure that uses natural and architectural components to collect and store solar energy without using external mechanical energy.

PERSON: An individual, firm, association, proprietorship, organization, partnership, trust, corporation, limited liability company, or other entity.

PLACES OF ASSEMBLY: Any building, structure, or grounds where groups of more than 20 people meet or are assembled. Places of assembly shall include auditoriums, lecture halls, stadiums, sports arenas, convention spaces, and other similar facilities.

PLACES OF WORSHIP: A site used for or intended for the regular assembly of persons for the conduct of religious services and accessory uses.

PLANNING COMMISSION: The Planning Commission of the Village.

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

PRINCIPAL USE: The principal use to which the premises are devoted and the principal purpose for which the premises exist.

PUBLIC UTILITY: Any person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public any utility, including gas, steam, electricity, water, sewage disposal, communication, or transportation.

RECREATIONAL VEHICLES AND EQUIPMENT: Vehicles and equipment designed to be used for travel, recreation, and vacation use. Recreational vehicles shall include boats and boat trailers, snowmobiles, trail cycles, all-terrain vehicles, travel trailers, camp trailers, tent trailers, motor homes, utility trailers, floats and rafts and similar equipment, and trailers, cases, and boxes used for transporting recreational equipment.

SETBACK: The distance required to meet the front or side yard open space requirements of this ordinance.

SOLAR ACCESS EASEMENT: A right, expressed as an easement, covenant, condition or other property interest in any deed or other instrument executed by or on behalf of any landowner, that protects the solar skyspace of an actual, proposed or designated solar energy collector at a described location by forbidding or limiting activities, land uses, structures or trees that interfere with access to solar energy. The solar skyspace must be described as the three-dimensional spaces in which obstruction is prohibited or limited. Any property owner may give or sell his right to access to sunlight. Solar access easements shall be recorded, and copies shall be kept on file with the Village Clerk.

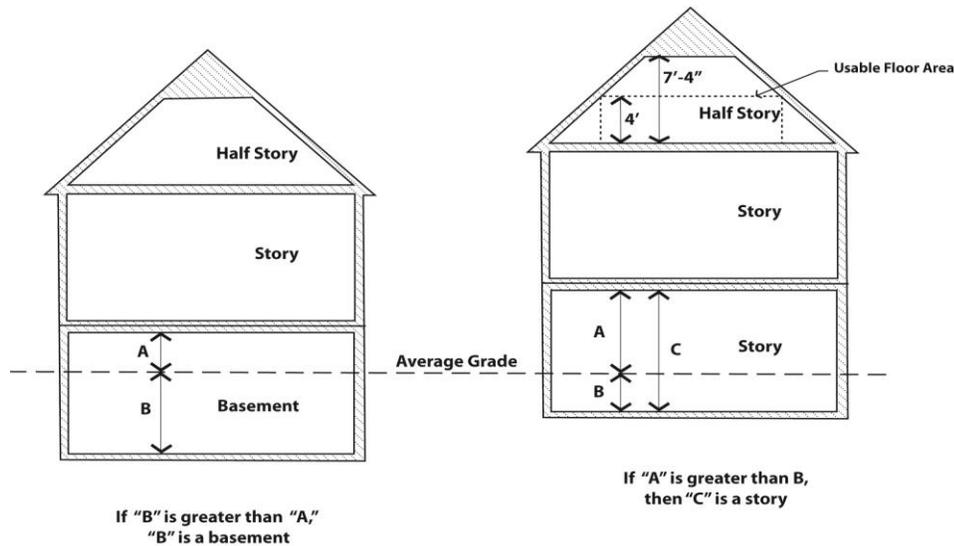
SOLAR COLLECTOR: A device or combination of devices, structures, or parts thereof, that collect, transfer or transform direct solar, radiant energy into thermal, chemical, or electrical energy and that contribute significantly to a structure's energy supply. In addition to such functions, solar collectors may also serve as a part of a structure's roof, wall, window or other structural member.

SOLAR ENERGY: Radiant energy (direct, diffuse, and reflected) received from the sun.

SOLAR SKYSPACE: The space between a solar energy collector and the sun that must be free of obstructions that shade the collector to an extent that precludes its cost-effective operation.

STORY: That part of a building, except a basement, included between the surface of one floor and the surface of the next floor, or if there is not a floor above, then the ceiling next above. In addition, an uppermost story lying under a sloping roof, the usable floor area of which, at a height of four feet above the floor, does not exceed two-thirds of the floor area in the story directly below and the height above at least 200 square feet of floor space is at least 7'4", shall be described as a half-story and not as a story. When the usable floor area of such a story, at a

height of four feet above the floor, does exceed two-thirds of the floor area of the story directly below, it shall be counted as a story.



STREET: A road or other thoroughfare that affords the principal means of access to abutting property.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

TEMPORARY USE OR STRUCTURE: A use or structure permitted to exist during periods of construction of the principal building or use, or for special events.

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

VARIANCE: A modification of the literal physical provisions of this ordinance, which may be granted by the ZBA under this ordinance.

VEHICLE: A piece of mechanical equipment used for transportation such as an automobile, truck, van, motorcycle and similar devices.

VILLAGE ENGINEER: The person or firm authorized to advise the Board of Trustees, Planning Commission, or Zoning Administrator on drainage, grading, paving, storm water management and control, utilities, and other site engineering and civil engineering issues.

WIND ENERGY CONVERSION SYSTEM (WECS): Any device, such as a turbine, wind-mill or charger, that converts wind energy to a usable form of energy. A WECS shall fall within either of two classifications: on-site or commercial, and shall typically be defined as horizontal-axis or vertical-axis.

- A. **ON-SITE WIND ENERGY CONVERSION:** A WECS the energy from which is used only by the primary residence or residences in a cooperative effort, business or agricultural operation and not sold or transferred to the electrical grid for commercial profit. This does not exclude the sale of excess energy sold to a utility through net metering for on-site WECS when the WECS produces more energy than can be stored or used on-site.
- B. **COMMERCIAL WIND ENERGY CONVERSION SYSTEM:** A WECS that is exclusively designed and built to provide electricity to the electric utility's power grid as an ongoing commercial enterprise or for commercial profit.
- C. **HORIZONTAL-AXIS WIND ENERGY CONVERSION SYSTEMS:** Conventionally designed systems that have a main rotor shaft that is parallel to the ground and a series of "blades" that are perpendicular to the ground, as in a traditional agricultural windmill. Horizontal-axis wind energy conversion systems are traditionally mounted on a tower or pole and must be pointed into the wind.
- D. **VERTICAL-AXIS WIND ENERGY CONVERSION SYSTEMS:** Systems that have a main rotor shaft that is perpendicular to the ground, such that the system need not be pointed into the wind. These systems are more common in areas where wind direction is variable. These systems often resemble a drum, cylinder, or helix.

WIRELESS COMMUNICATIONS FACILITIES: 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 radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave receiving facilities; amateur (ham) radio facilities; television satellite dishes under 40 inches in diameter; and governmental facilities that are subject to state or federal law or regulations that preempt municipal regulatory authority. For purposes of this ordinance, the following additional terms are defined:

- A. **WIRELESS COMMUNICATIONS ANTENNA (WCA):** Any antenna used for the transmission or reception of wireless communication signals (excluding those used for dispatch communications by public emergency stations, ham radio antennas, and television satellite antennas that are 40 inches or less in diameter). Such an antenna may be 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 monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures that appear to be something other than a mere support structure.
- C. **COLLOCATION:** Means the location by two 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 communications antennas within the community.

YARD: The open spaces on the same lot with the principal building, unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance.

- A. **FRONT YARD:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the principal building.
- B. **SIDE YARD:** An open space between a principal building and any side lot line, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the principal building.

ZBA OR ZONING BOARD OF APPEALS: The Village zoning board of appeals established under Article 10 of this ordinance.

ZONING ADMINISTRATOR: The Village official charged with the administration of this ordinance.

**ARTICLE 3
ADMINISTRATION AND ENFORCEMENT**

SECTION 3.01 ZONING AND PLANNING ADMINISTRATION

This ordinance shall be administered and enforced by the Zoning Administrator or by such deputies as the President of the Board of Trustees may appoint.

SECTION 3.02 ZONING ADMINISTRATOR'S DUTIES AND RESPONSIBILITIES

The Zoning Administrator's duties shall include the following:

- A. Enforce the provisions of this ordinance.
- B. Review for completeness all applications for a certificate of zoning compliance, site plan review, special land uses, or other matters that the Planning Commission and Board of Trustees are required to decide under this ordinance and refer such applications to the appropriate body for determination.
- C. Review for completeness all applications for appeals, variances, or other matters that the ZBA is required to decide under this ordinance and refer such applications to the ZBA for determination.
- D. Review for completeness all applications for text or map amendments (rezonings) to this ordinance and refer such applications to the Planning Commission and Board of Trustees for determination.
- E. Make periodic site inspections to determine ordinance compliance, answer complaints on zoning ordinance violations, and take such measures as necessary to abate violations.
- F. Implement the decisions of the Planning Commission, ZBA, and Board of Trustees.
- G. Coordinate with the Building Official where necessary to administer this ordinance.

SECTION 3.03 CERTIFICATE OF ZONING COMPLIANCE

- A. **When Required.** Anyone who proposes to construct, alter any portion of the exterior of, or move a building or structure, or who proposes to change the type of land use or exercise any right claimed under the authority of this ordinance shall obtain a certificate of zoning compliance from the Zoning Administrator. In addition, the person shall obtain any necessary building permit under the state construction code promulgated under the Stille-DeRossett-Hale Single State Construction Code Act, Act 230 of 1972, as amended. The Zoning Administrator shall not issue the permit unless the proposal complies with this ordinance.
- B. **Application.** Applications for certificates of zoning compliance shall be made to the Village Clerk and referred to the Zoning Administrator. An application for a certificate of

zoning compliance shall be accompanied by a plot plan as required in this section B, unless a site plan is required under Article 6, Site Plan Review, in which case the provisions of this section shall not apply. The plot plan shall be drawn to a measurable scale, submitted in three copies, and provide the following information:

1. Scale, date, and north point;
2. Location, shape, and dimensions of the lot;
3. Legal description, tax parcel number, and address of the lot;
4. Location and dimensions of existing structures on the property;
5. Dimensions of the structure to be constructed, its location on the property, and its distance to other relevant structures and lot lines;
6. Exterior lighting locations, typical detail, and illumination patterns;
7. A clear statement that sets forth the use of all structures on the property and the intended use of the proposed structure; and
8. Any additional information required by the Zoning Administrator for purposes of determining compliance with this ordinance. Such additional information may include (a) the requirement that the applicant have a surveyor or other person mark the boundary of any relevant portion of the property or (b) that the applicant provide such information as the appropriate official of the fire department of Ann Arbor Charter Township may require to assure fire department access to structures on the property.

C. Review.

1. All plans to be submitted to the Building Official for a building permit shall first be submitted for review and approval by the Zoning Administrator with respect to the requirements of the zoning ordinance. The Zoning Administrator shall examine all applications (and amendments thereto) for a certificate of zoning compliance within a reasonable time after filing. If the application does not conform to the requirements of this ordinance, the Zoning Administrator shall reject the application in writing, stating the reasons for the rejection. If the application conforms to all requirements of this ordinance, the Zoning Administrator shall issue a certificate of zoning compliance. No building permit shall be issued unless a certificate of zoning compliance has been issued and is in effect.
2. In all cases in which a certificate of occupancy is required, but a building permit is not required, the certificate of occupancy shall not be issued unless a certificate of zoning compliance has been issued and is in effect.

3. A certificate of zoning compliance shall not be issued for any use or structure unless the use or structure and the lot upon which it is situated meet the requirements of this ordinance.
4. A certificate of zoning compliance may be issued for a legally existing nonconforming use, structure, or lot. In such case, the certificate of zoning compliance shall clearly list each legal nonconformity. A certificate of zoning compliance shall not be issued for any use, structure, or lot if any illegal nonconformity exists on the lot.
5. Issuance of a certificate of zoning compliance shall be subject to the following conditions:
 - a. No certificate shall be issued until the required fees have been paid.
 - b. All work and uses shall conform to the approved application for which the certificate was issued and any approved amendments.
 - c. All work and uses shall conform to the approved final site plan, if required.

D. **Compliance with Plans and Applications.** Building permits and certificates of zoning compliance issued on the basis of applications approved by the Zoning Administrator and the Building Inspector authorize only the use, design, and construction set forth in the approved applications. No other use, design, or construction shall be permitted. Use, design, or construction different than that authorized shall be deemed a violation of this ordinance and punishable as provided in section 3.08.

E. **Amendments or Revisions.** Amendments or revisions to an application or records accompanying it may be filed at any time before completion of the work for which the certificate was approved and before a certificate of occupancy is issued. The amendments shall be deemed part of the original application and shall be filed with it. Amendments or revisions proposed after completion of the work shall be treated as a new application.

F. **Expiration and Revocation.**

1. A certificate of zoning compliance shall expire 180 days after the date of issuance unless a building permit has been issued. The Zoning Administrator may, for reasonable cause, grant not more than two extensions of time, for periods not exceeding 90 days each. The certificate also shall expire 545 days following the date of approval unless construction has been completed in conformance with the approved site plan.
2. In the case of any false statement or misrepresentation of fact in the application or on the plans on which the certificate was based, the Zoning Administrator may revoke any certificate of zoning compliance or occupancy.

SECTION 3.04 PUBLIC HEARING NOTICE REQUIREMENTS

- A. **When Required.** Notice shall be given in instances when a public hearing is required in accordance with this ordinance and the Michigan Zoning Enabling Act.
- B. **Notice Requirements.** Notice shall be given not less than 15 days before each public hearing at which the application will be considered, by publication in a newspaper that circulates in the Village and by personal delivery or mailing, when required, to the following:
1. The applicant, and the owners of the property if the applicant is not the owner.
 2. All persons to whom real property is assessed within 300 feet of the boundary for the property for which approval has been requested, as shown by the latest assessment roll, regardless whether the property is located within the Village.
 3. The occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless whether the structure is located within the Village.
 4. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
 5. The notice under this section is deemed given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service or other public or private delivery service. If the name of the occupant is not known, the term “occupant” may be used for the intended recipient of the notice.
- C. **Actions Exempt from Notification.**
1. Requirements for individual notice to property owners shall not apply to ordinance text amendments.
 2. For any group of adjacent properties numbering 11 or more that is proposed for rezoning, the requirement for individual notice as set forth in section 3.04.B does not apply to that group of adjacent properties.
- D. **Content of Notice.** The notice shall include:
1. The nature of the request.
 2. Each property for which the request was made.

3. A listing of all existing street addresses within each property that is the subject of the request. Street addresses do not need to be created and listed if no such addresses exist. If there are no street addresses, another means of identification may be used.
 4. The location where the application documents can be viewed and copied prior to the date the application will be considered.
 5. The date, time, and location of the hearing on the application.
 6. The address to which written comments should be directed prior to consideration of the application.
- E. **Conformance to Court Decree.** An amendment to conform a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the Board of Trustees and the notice of the adopted amendment published without referring the amendment to any other person or body.

SECTION 3.05 USE OF CONSULTANTS

From time to time, at the applicant's cost, the Village may employ planning, engineering, legal, traffic, or other special consultants to assist in the review of zoning compliance applications, special use permits, site plans, rezoning, or other matters related to the Village's planning and development.

SECTION 3.06 PERFORMANCE GUARANTEE

- A. **Purpose and Intent.** In the interest of *first*, assuring compliance with the zoning ordinance, and *second*, protecting the Village's natural resources and the health, safety, and welfare of its residents and of future users or inhabitants of an area for which a site plan for a proposed use or structure has been submitted under Article 6, the Board of Trustees may require the applicant to deposit a performance guarantee for some or all of the site improvements. The purpose of the performance guarantee is to assure completion of improvements connected with the proposed use or structure as required by this ordinance, including utilities, drainage, fences, walls, screens, and landscaping. "Performance guarantee" as used in this section means 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 may employ consultants to review cost estimates and conduct periodic inspection of the progress of improvements.
- B. **Procedure.**
1. When the Board of Trustees requires a performance guarantee, it shall be deposited with the Village Clerk prior to the issuance of a building permit for the development and use of the land.

2. Prior to the deposit of the performance guarantee, the applicant shall enter into an agreement satisfactory to the Board of Trustees regarding the performance guarantee.
3. The agreement shall, among other things, 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.
4. The Village shall rebate to the applicant 50% of the deposited funds when 75% of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining 50% when 100% of the required improvements are completed as confirmed by the Zoning Administrator. If the applicant requests a temporary certificate of occupancy without completion of required exterior improvements, the applicant may apply the performance guarantee to assure compliance with zoning ordinance standards and the specifications of the approved plot plan or site plan.
5. The Village is not required to deposit the performance guarantee in an interest-bearing account. However, if the Village deposits the guarantee in an interest-bearing account, any return of the deposited funds shall include any interest earned on the funds.
6. If the applicant fails to make the improvements for which the performance guarantee was required within the time period established by the Village, the Village may use the performance guarantee and any interest earned on it to complete the improvements through contract or otherwise. The Village and its agents shall have the right to enter upon the property to make the improvements.
7. If the performance guarantee is not sufficient to allow the Village to complete the improvements for which the guarantee was made, the applicant shall pay the Village the amount by which the cost of completing the improvements exceeds the amount of the guarantee and any interest earned on it. If the Village uses the performance guarantee, or a portion of it, to complete the required improvements, any amounts remaining after completion shall be applied first to the Village's administrative costs, including attorney fees, planning consultant fees, and engineering consultant fees incurred in completing the improvements, with any balance remaining being refunded to the applicant.

- C. **Guarantee with Other Agencies.** If the applicant has been required to post a performance guarantee or bond with a governmental agency other than the Village to assure completion of an improvement associated with the site, the applicant shall not be required to deposit with the Village a performance guarantee for the same improvement.

SECTION 3.07 FEES

The Board of Trustees shall establish a schedule of fees, charges, and expenses, and a collection procedure, for all zoning and building permits and certificates, certificates of occupancy, appeals, and other matters pertaining to the zoning ordinance. The Village shall have the authority to include fees for the use of engineering, planning, legal, or other consultants. The schedule of fees shall be posted in the Village office and may be altered or amended only by the Board of Trustees. No permit, certificate, special use approval, or variance shall be issued unless such costs, charges, fees, or expenses have been paid in full, and no action may be taken on proceedings before the ZBA unless the required fees have been paid in full.

SECTION 3.08 VIOLATIONS AND PENALTIES

- A. **Violations:** Violations of this ordinance are civil infractions punishable by civil fines of not more than \$2,500 for each violation.
- B. **Public Nuisance Per Se:** Any structure that is erected, altered, or converted, or any use of a structure or land that is begun or changed subsequent to the effective date of this ordinance, and that violates this ordinance is declared to be a public nuisance per se and may be abated by order of any court of competent jurisdiction.
- C. **Fines and Other Sanctions:** The owner of any structure where any condition in violation of this ordinance exists or is created, and who has assisted knowingly in the commission of such violation, shall be responsible for a separate offense and subject to fines, costs, damages, and injunctive orders as authorized by the Village's municipal civil infraction ordinance.
- D. **Each Day a Separate Offense:** A separate offense shall be deemed committed on each day during which a violation occurs or continues.
- E. **Rights and Remedies are Cumulative:** The rights and remedies provided in this ordinance are cumulative and in addition to any other remedies provided by law.

ARTICLE 4
DISTRICT REGULATIONS

SECTION 4.01 ESTABLISHMENT OF DISTRICTS

The Village is divided into districts as shown on the official zoning map. The districts are:

R-1	Single-family residential
AG	Agricultural
RC	Recreation

SECTION 4.02 MAP

The boundaries of the districts set forth in section 4.01 are shown upon the map attached to and made a part of this ordinance, which map is designated as the official zoning map of the Village. The zoning map, along with all notations, references and other explanatory information, is available at the Village offices.

SECTION 4.03 INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of any district indicated on the official zoning map, the following rules apply:

- A. Except where a reference on the map is to a line designated by dimensions shown on the map, the district boundary lines follow lot lines, the centerlines of streets, and the corporate limits of the Village.
- B. Where a district boundary line as shown on the map divides a lot that was in single ownership of record at the time of enactment of this ordinance, the use authorized on the lot (and the other district requirements) applying to the least restricted portion of the lot under this ordinance shall be considered as extending to the entire lot. The use so extended shall be deemed to be conforming.
- C. A boundary indicated as following a shoreline or the level of any body of water shall be construed as following such shoreline or water level. In the event of a change in the shoreline or water level, the boundary shall be construed as following the shoreline or water level existing at the time the interpretation is made. The boundary indicated as following the centerline of a stream or river, canal, lake, or other body of water shall be construed as following such centerline.
- D. Where a physical feature existing on the ground varies from that shown on the official zoning map, or in any other circumstances not covered by A through C above, the ZBA shall interpret the location of the zoning district boundary.

SECTION 4.04 DISTRICT INTENT AND USES

- A. The districts set forth in this ordinance guide the establishment of district boundaries to further the objectives of the Master Plan. The intent of each district defines interrelationships between conflicting and compatible land uses and between land uses and resources such as transportation, utilities, institutional facilities, and the natural environment.
- B. Except as specifically provided elsewhere in this ordinance, district regulations shall be applied in the following manner:
 - 1. *Permitted uses and structures.* Permitted uses and structures shall be permitted by right only if (a) they are specifically listed as principal permitted uses in the various zoning districts or (b) they are similar to such listed uses.
 - 2. *Accessory uses and structures.* Accessory uses and structures are permitted only if they are clearly incidental to the permitted principal uses or structures.
 - 3. *Special land uses.* Special land uses are permitted as listed, subject to the procedures set forth in Article 7, Special Land Uses.

SECTION 4.05 R-1 SINGLE-FAMILY RESIDENTIAL

- A. **Intent.** The R-1 district is intended to provide an environment of predominantly low-density, single-family detached dwellings. It is designed to encourage the preservation and the continuation of the longstanding residential fabric in existing neighborhoods of single-family dwellings in the Village. To this end, uses are limited to single-family dwellings, together with certain other uses such as parks and playgrounds, that provide a neighborhood environment. In keeping with this intent, development is regulated to a low density. Commercial uses, and other uses tending to be incompatible with this intent, are prohibited.
- B. **Permitted principal uses.** Permitted principal uses in the R-1 district shall be as follows:
 - 1. Single-family dwellings;
 - 2. Adult foster care family home;
 - 3. An accessory use customarily incidental to the permitted principal use, subject to the standards set forth in section 5.07.
- C. **Special land uses.** The following special land uses shall be permitted in the R-1 district subject to the requirements and standards of Article 7, Special Land Uses, and the applicable requirements and standards of this ordinance:
 - 1. Places of worship, subject to the standards set forth in section 7.04.A;
 - 2. Public utility building, telephone exchange, transformer station and substation, fire station, gas regulator station;

3. Private recreational clubs;
4. Playgrounds;
5. Home occupations;
6. Family and group day care homes, subject to the standards set forth in section 7.04.C.

D. Area, height, bulk, and placement requirements.

Area, height, bulk, and placement requirements for the R-1 single-family residential district shall be in accordance with section 4.08.

SECTION 4.06 AG AGRICULTURAL DISTRICT

A. Intent. The AG district is intended to provide for a rural atmosphere and agricultural uses.

B. Permitted principal uses. Permitted principal uses in the AG district shall be as follows:

1. Agricultural uses on a parcel ten acres or greater;
2. Public and private conservation areas and structures for the development, protection, and conservation of open space, watersheds, water, soil, forest, and wildlife resources.

C. Special land uses. The following special land uses permitted in the AG district shall be subject to the requirements and standards of Article 7, Special Land Uses, and the applicable requirements and standards of this ordinance.

1. Private recreational clubs;
2. Playgrounds;
3. Swimming pools;
4. Tennis courts;
5. Wireless communication facilities, subject to the standards set forth in section 7.04.B.

D. Area, height, bulk, and placement requirements. Area, height, bulk, and placement requirements for the AG district shall be in accordance with section 4.08.

SECTION 4.07 RC RECREATION DISTRICT

A. Intent. The RC district is designed for recreational uses and activities of a similar nature.

B. Permitted Principal Uses. Permitted principal uses in the RC district shall be as follows:

1. Golf course, but not including a golf driving range operated separately from a golf course;
2. Country club;
3. Swimming pool;
4. Playground;
5. Tennis court.

C. **Special Land Uses.** The following special land use permitted in the RC district shall be subject to the requirements and standards of Article 7, Special Land Uses, and the applicable requirements and standards of this ordinance: wireless communication facilities, subject to the standards set forth in section 7.04.B.

SECTION 4.08 AREA, HEIGHT, BULK, AND PLACEMENT REQUIREMENTS

The schedule of area, height, bulk, and placement regulations are set forth in Table 4.08. Schedule of Regulations:

TABLE 4.08 SCHEDULE OF AREA, HEIGHT, BULK, AND PLACEMENT REGULATIONS

<i>Zoning District</i>	Minimum Lot Size		Maximum Building Height		Minimum Yard Setback	
	<i>Area</i>	<i>Lot width</i>	<i>Stories</i>	<i>Feet</i>	<i>Front</i>	<i>Side</i>
AG	5 acres	330 ft.	2 1/2	40	75 ft.	40 ft.
R-1	1 acre	150 ft.	2 1/2	40	35 ft.	20 ft.
RC	1 acre	150 ft.	2 1/2	40	35 ft.	20 ft.

**ARTICLE 5
GENERAL PROVISIONS**

SECTION 5.01 INTENT

The intent of this Article is to provide regulations that apply to all districts in the Village, regardless whether the existing or proposed land use, structures, and site improvements are subject to site plan review and approval.

SECTION 5.02 LOT REQUIREMENTS

- A. **General Lot Requirement.** No portion of a lot used to comply with the yard, residential density, or other site requirement of this ordinance shall be counted toward the yard, residential density, or other site requirement for any other existing building or structure.
- B. **Principal Building and Principal Use.** Except as otherwise specifically provided in this ordinance, no lot may contain more than one principal building or principal use, except for groups of buildings contained within an integrated complex with an approved site plan.
- C. **Required Street Frontage.** Any parcel of land that is to be occupied by a use or building shall have frontage on and direct access to a public street or private road that meets one of the following conditions:
 - 1. A road that has been accepted for maintenance by the county road commission or the Village;
 - 2. A permanent and unobstructed existing private road of record; or
 - 3. A private road designed and constructed in accordance with Village standards and approved by the Village.

SECTION 5.03 AREA, HEIGHT AND USE REQUIREMENTS

The regulations in this ordinance shall be subject to the interpretations and exceptions set forth below:

- A. **Construction Facilities.** Construction trailers and similar temporary structures used as offices and for storage by contractors and other construction personnel are permissible. Use of these structures shall be restricted to construction activities related to the site or development on which they are located, as determined by the Zoning Administrator.
- B. **Height Limit.** No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit established for the district in which the building is located; however a chimney may exceed the height limit of the district by up to five feet.

- C. **Structures in and Projections into Yards.** No structure may be erected in, extend into, or project into a required front or side yard setback other than a driveway, sidewalk, or mailbox of standard United States Postal Service size and construction.
- D. **Decks, Porches, and Patio Structures.** No porch, deck, patio structure, or paved terrace may project into a required front or side yard setback.

SECTION 5.04 SANITARY SEWER OR ONSITE SEWAGE DISPOSAL

Before a building permit is issued for construction of a building, an owner must first submit one of the following:

- A. A permit to install an individual on-site sewage disposal system issued by Washtenaw County or the State of Michigan;
- B. An inspection report from a septic system contractor verifying acceptable operation and capacity of an existing onsite sewage disposal system; or
- C. A permit for connection to an available public sanitary sewer system.

SECTION 5.05 WATER SUPPLY

Before a building permit is issued for construction of a building, an owner must first submit one of the following:

- A. A permit to install an individual on site water well system; or
- B. A permit for connection to an available public water supply.

SECTION 5.06 ESSENTIAL SERVICES

Essential services, as defined in this section, shall be permitted as authorized under any franchise in effect within the Village, or as installed as part of any municipally owned public utility, subject to all applicable local, state and federal laws and regulations. For this purpose, essential services mean the erection, construction, alteration or maintenance of public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection therewith, but not including buildings that are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, or welfare. This section is intended to ensure conformity of all structures and uses to the requirements of the district in which the essential service is established wherever such conformity is practicable and not in conflict with the specific requirements of the franchise or applicable laws and regulations. In the absence of such conflict, the provisions of this ordinance shall prevail.

SECTION 5.07 ACCESSORY STRUCTURES AND USES

A. Residential.

1. **Height and Placement.** Accessory buildings, structures and uses shall be governed by the same height and placement regulations that apply to principal buildings, unless otherwise specified in this ordinance, provided that all accessory buildings, solar energy structures, wireless communication facilities, and wind energy conversion systems, must be located behind the front building line of the principal building on the lot.

2. **Relationship to Principal Structure.**
 - a. Accessory buildings, structures, and uses are permitted only in conjunction with, incidental to, and on the same lot as a principal building occupied with a use permitted in the district.

 - b. An accessory building, structure, or use shall not be occupied or used unless the principal structure to which it is accessory is occupied or used.

3. **Attached or Detached Accessory Garages.** Each single-family dwelling shall be permitted one attached or detached accessory garage, or a combination of one attached and one accessory garage, subject to the following requirements:
 - a. The architectural style, type of construction and building materials shall be similar to and compatible with the principal dwelling.

 - b. The total allowable gross floor area of all residential garages shall not exceed 50% of the gross floor area (excluding basements) of the principal dwelling.

 - c. A residential garage shall conform to all setback and height requirements applicable to the principal dwelling. A residential garage may include storage and other uses that are incidental to the principal dwelling, provided the total requirements for floor area are met.

4. **Outdoor Swimming Pools.** Outdoor swimming pools shall be subject to the following regulations:
 - a. There shall be a distance of not less than ten feet between the outside pool wall and any building located on the same lot.

 - b. No swimming pool shall be located less than 35 feet from any lot line.

 - c. No swimming pool shall be located in an easement.

B. Non-Residential.

1. All non-residential accessory buildings, uses, or structures shall be subject to the same placement and height requirements applicable to principal structures in the district in which they are located.
2. The total allowable gross floor area of a non-residential accessory building, use, or structure shall not exceed 25% of the total ground floor area of the total gross floor area of the principal building or buildings that it serves.

SECTION 5.08 GRADING AND RETAINING WALLS

Site grading shall be coordinated with adjacent properties so as to avoid a significant grade differential or to necessitate use of a retaining wall.

SECTION 5.09 PARKING IN RESIDENTIAL DISTRICTS

- A. Commercial Vehicle Parking and Storage in Residential Districts.** In a residential district, the parking or storage of any commercial vehicle with a rated capacity exceeding one ton is prohibited; provided, however, that one such vehicle per dwelling unit may be parked or stored within a building. This requirement shall not apply when the vehicle is present for the purpose of providing a required service to the residence and limited to the period of time in which the service is rendered.
- B. Recreational Vehicle Parking and Storage in Residential Districts.** Recreational vehicles or units of equipment may be parked or stored on any lot in a residential district, subject to the following requirements:
1. Any recreational vehicle or unit may be parked or stored in a garage.
 2. No recreational vehicles or units may be parked or stored outdoors for a continuous period of more than five days, and no more than one vehicle or unit may be parked or stored outdoors at any one time.
 3. Only a recreational vehicle or unit owned by and titled to a permanent resident of the residential lot or the resident's invitee may be parked or stored on the lot.
 4. No recreational vehicle or unit shall have permanent connections to water, gas, a septic system or a sanitary sewer system.
 5. Recreational vehicles or units may not be used for living, sleeping or household purposes.
 6. This paragraph B shall not apply to (1) storage of any boat or trailer therefor on any waterfront lot used for such storage at the time of adoption of this ordinance, or (2) as to waterfront lots, a boat stored in the water or within 35 feet of the water's edge.

- C. **Unlicensed or nonworking vehicles.** No unlicensed or nonworking vehicle may be parked or stored outdoors on any lot in any district.

SECTION 5.10 HOME OCCUPATIONS

- A. No persons shall be employed at the home occupation other than an immediate family member residing on the premises.
- B. There shall be no sign or display that will indicate from the exterior of the building that it is being used in whole or part for any purpose other than as a dwelling.
- C. No mechanical or electrical equipment shall be used except such that is normal for domestic or household purposes.
- D. No substances shall be used except such that are normal for domestic or household purposes.
- E. No more than two clients, customers or business associates shall visit the premises at one time.
- F. The total floor area devoted to the home occupation in the principal or accessory building shall not exceed 25% of the gross floor area of the dwelling unit.
- G. No accessory building other than a garage shall be used for a home occupation.
- H. No outdoor storage or activity shall be permitted in connection with a home occupation.
- I. A home occupation shall not result in any continuous, intermittent, pulsating or other noise that can be heard beyond the lot on which it is conducted.
- J. The home occupation shall not generate more than five business-related vehicle trips in any one day in the vicinity of the home occupation. Any need for parking generated by the home occupation shall be provided off-street in accordance with the off-street parking requirements.
- K. The following are typical examples of uses that often can be conducted within the limits of these restrictions and qualify as home occupations. Uses that may qualify as home occupations are not limited to those named in this paragraph, and the listing of a use in this paragraph does not automatically qualify it as a home occupation: accountant, architect, artist, author, consultant, dressmaking and millinery, instruction in individual stringed instruments or the piano, and individual tutoring.
- L. The following uses are not permitted as home occupations if conducted as a person's principal occupation and the person's dwelling is used as the principal place of business: vehicle repair or painting, dental office, medical office, barbershop, beauty parlor, tea-rooms, animal hospitals, kennels, music studios (other than as described in the preceding paragraph), antique shops, and dance studios.

SECTION 5.11 FENCES, WALLS, SATELLITE ANTENNAS, SOLAR PANELS, AND WIND ENERGY CONVERSION SYSTEMS

- A. **Permit Required.** Fences, walls over 18 inches in height, wireless communication antennas, solar collection devices, and wind energy conversion systems require review and approval of the Board of Trustees prior to their installation.
- B. **Compliance with Code.** All structures described in subsection A above are also subject to all Village ordinances relating to structures, including applicable construction codes.
- C. **Application for Permit.**
 - 1. Applications for a permit to install, change, or alter a structure described in subsection A shall be submitted to the Village Clerk.
 - 2. The application shall include a plot plan showing the proposed location of the installation, including structure locations, on the lot or premises on which the structure is to be installed and of all abutting properties, including properties abutting on the other side of the street from the proposed location.
 - 3. The application shall include (1) a detailed description of the proposed installation, (2) a picture or sketch of all elements of the structure showing the nature, kind, shape, height, material, color, and location of the structure that would be exposed to view from adjacent properties, (3) a grading plan of the lot to be built upon, and (4) a statement as to the visual impact of the installation on abutting properties.
 - 4. The application shall also contain such other information as may be required by the Zoning Administrator.
- D. **Consideration of the Application by the Board of Trustees.**
 - 1. The Village Clerk shall submit the application, together with such other information as the Zoning Administrator deems pertinent, to the Board of Trustees.
 - 2. The Village Clerk shall give notice of the application and hearing date in the same manner as set forth for public hearings under section 3.04.
 - 3. Following receipt of the application and related information, the Board of Trustees shall consider the application and shall give all interested property owners an opportunity to be heard on the matter. The Board of Trustees may grant the request for permit, deny the request, or approve the request with conditions attached. Denial of a request that otherwise complies with the specific requirements of this ordinance and of other applicable laws and regulations shall be based upon a finding that the installation would have a substantial detrimental effect upon one or more adjoining private or public properties or would otherwise be contrary to public safety, health, or welfare, and shall specify the basis for such finding. The conditions that may be attached to an approval may relate to

any of the following: location, size, elevation, color, screening, landscaping, fencing, or other matters having impact on adjoining properties.

- E. **Specific Standards for Walls.** Walls constructed to stabilize slopes or to hold back soils shall not be placed in required front or side yard setbacks except where the finished slope above the wall is no higher than natural grade prior to excavation or placement of fill materials. Where a wall is placed to withhold manmade embankments, the height of the wall shall be no more than 15 feet high.
- F. **Standards for Wind Energy Conversion Systems.**
1. **Permitted systems.** Commercial wind energy conversion systems are prohibited. On-site wind energy conversion systems shall be permitted, subject to the requirements of this section and approval by the Board of Trustees.
 2. **Setbacks.**
 - a. The distance between a WECS and the nearest property line shall be at least the one and a half times the height of the WECS.
 - b. No part of the WECS structure, including guy wire anchors, may extend into any minimum yard setback.
 - c. The distance between a WECS and a road or a public right-of-way shall be at least one and a half times the height of the WESC.
 3. **Height.** A WECS, whether free-standing or attached to an existing building, shall be no more than 40 feet in height. Height shall be measured from the existing grade to the tip of the turbine blade at its highest point for a horizontal axis turbine, and to the highest point of a vertical axis turbine. The applicant shall demonstrate compliance with all Federal Aviation Administration regulations and the Michigan Tall Structure Act, Act 259 of 1959, as amended, MCL 259.481, *et seq.*, as part of the approval process, if applicable.
 4. **Noise; Sound Pressure Level.**
 - a. Audible noise or the sound pressure level of a WESC shall not exceed 50 dB(A) (A-weighted Decibels) at the property line closest to the WECS.
 - b. This sound pressure level shall not be exceeded by more than five dB(A) for more than three minutes in any hour of the day.
 5. **Lighting.** No WECS shall be artificially lighted.
 6. **Construction Codes and Interconnections Standards.**
 - a. Every WECS shall comply with all applicable state construction codes and local building permit requirements.

- b. Any WECS that is tied to the electrical grid shall comply with Michigan Public Service Commission and utility interconnection requirements.
- 7. **Safety.** The safety of the design of every WECS shall be certified by the applicant's professional engineer registered in the State of Michigan and reviewed by the Village. The standard for certification shall be included with the permit application. If a WECS construction is approved, the professional engineer shall certify that the construction and installation of the WECS meets or exceeds the manufacturer's construction and installation standards and any applicable state and federal laws and regulations prior to operation.

G. Solar Structures and Easements.

- 1. **Permitted.** Active and passive solar energy devices, systems or structures shall be permitted in all districts, subject to the requirements of this section and approval by the Board of Trustees.
- 2. **Setbacks.** No solar devices or architectural features may project into required front or side yard setbacks, or be free-standing structures in a required front or side yard setback.
- 3. **Maximum Height of Structures.** Solar energy structures, whether mounted on freestanding structural elements or integrated architecturally with a principal or accessory building, shall not exceed a height of 40 feet.
- 4. **Easement.** A landowner may enter into an easement, covenant, condition or other property interest in any deed or other instrument, to protect the solar sky-space of an actual, proposed or designated solar energy structure at a described location by forbidding or limiting activities, land uses, structures, or trees that interfere with access to solar energy. The solar skyspace must be described as the three-dimensional spaces in which obstruction is prohibited or limited. Any property owner may give or sell his right to access to sunlight. Every solar access easement shall be recorded with the Washtenaw County Register of Deeds, and a copy of the recorded easement with liber and page number shall be delivered to and retained by the Village Clerk.

**ARTICLE 6
SITE PLANS**

SECTION 6.01 INTENT

This Article governs site plan review and approval of development proposals. Its intent is to provide for consultation and cooperation between the owner of the parcel on which the development is to take place and the Village so that both parties realize a reasonable use of land and minimal adverse effects on the surrounding land uses. The application of the following provisions will help assure compliance with the Village's Master Plan and allow the Village to develop in an orderly fashion.

SECTION 6.02 WHEN REQUIRED

A site plan shall be required for approval of any new use or expansion of an existing use. Site plan approval shall also be required in the following situations:

- A. New construction of a single-family residence with a gross floor area greater than 10,000 square feet.
- B. An alteration (or a series of alterations during any three-year period) to an existing single-family residence when (1) the residence, after the alteration, has a gross floor area greater than 10,000 square feet, *and* (2) the gross floor area of the residence after the alteration or series of alterations exceeds 120% of the gross floor area before the alteration or series of alterations.
- C. Any principal non-residential building or structure, or addition to it;
- D. All special land uses; and
- E. All uses subject to the condominium act.

SECTION 6.03 PROCEDURES FOR SUBMISSION AND REVIEW OF APPLICATION

A. General Requirements.

- 1. **Certificates and permits.** The Zoning Administrator shall not issue a zoning compliance certificate and the Building Inspector shall not issue a building permit for any construction for which site plan approval is required until a site plan for the construction has been approved and is in effect. The Building Inspector shall not issue a certificate of occupancy for any structure for which site plan approval was required until the Zoning Administrator has certified that the building and site improvements have been completed in accordance with the site plan approved by the Planning Commission and that all required financing guarantees for the work have been provided in accordance with this Article.

2. **Commencement of construction.** No grading, removal of trees or other vegetation, land filling, or construction of improvements shall commence for any development for which site plan review is required until a site plan is approved and in effect.
3. **Application.** An application for site plan review shall be filed with the Village Clerk. The applicant shall complete and submit the required number of copies of an application for site plan review, site plans, and other information where applicable. The applicant or his representative must be present at each scheduled review or the matter will be tabled for a maximum of two consecutive meetings due to lack of representation.

B. **Specific Procedures.** The procedures for review and approval of site plans are as follows:

1. A copy of the application for site plan review must be obtained from the Village Clerk. The applicant must be the owner of the property on which the development is to take place or the owner's authorized agent, as shown to the satisfaction of the Village Clerk. The applicant shall deliver the application to the Village Clerk at least 21 days prior to the next regularly scheduled meeting of the Planning Commission in order for the Commission to consider it at that meeting. Site plans that fail to meet the minimum information requirements set forth in this Article shall not be accepted for review. The application fees must be paid when the application is submitted, and any required escrow accounts must be established to cover the review costs.
2. The applicant must submit 9 copies of the application and site plan.
3. The Zoning Administrator shall submit the site plan to the appropriate Village departments and consultants for review and recommendations.
4. The applicant shall also submit the site plan to the following agencies for approval, when such approval is required by law, ordinance, or regulation for specific site improvements, facilities, or environmental permits: county road commission, state department of transportation, county drain commissioner, county health department, state department of natural resources and environment.
5. The Planning Commission shall consider the site plan within 60 days of placement on the first available Commission agenda. The Planning Commission will consider the site plan at a scheduled meeting.
 - a. Upon the Planning Commission's determination that a site plan complies with this ordinance and other laws or regulations, the Commission shall approve the plan.

- b. Upon the Planning Commission’s determination that a site plan complies except with minor revisions, the Commission shall approve the plan with the conditions noted.
 - c. If extensive revisions to the site plan are necessary to meet the requirements of this ordinance, the Planning Commission shall disapprove the site plan. In this case, “DISAPPROVAL” shall be written on the plan and reasons for disapproval indicated in the Planning Commission’s resolution.
6. When a site plan is reviewed and approved or denied by the Planning Commission and all other required steps are completed, the Village Clerk shall distribute copies of the site plan signed by the Zoning Administrator (including any conditions of approval) as follows:
- a. One copy shall be returned to the applicant;
 - b. One copy shall be forwarded to the Building Inspector; and
 - c. One copy shall be retained by the Village Clerk.

SECTION 6.04 INFORMATION REQUIRED

Every application and site plan shall contain all information required in this section.

- A. **Form.** The application shall include the following:
- 1. Applicant’s name and address;
 - 2. Name of the proposed development;
 - 3. Common description of the property and complete legal description;
 - 4. Dimensions of land (width, length, acreage, and frontage);
 - 5. Existing zoning and zoning of all adjacent properties;
 - 6. Statement of intent of proposed use of land and any phasing of the project;
 - 7. Name, address, city, phone number, and email address (if any) of the:
 - a. Firm or individual who prepared the site plan;
 - b. Legal owner of property; and
 - c. The applicant if the applicant is not the legal owner (including the basis of representation);
 - 8. Dated signatures of the legal owner and the applicant; and

9. Statement of intent, if applicable, to develop the property under the condominium act.

B. Drawings and Illustrations.

1. The site plan drawings and illustrations shall include the following:
 - a. The sheet size shall be at least 24 inches by 36 inches with the plan view drawn to a scale of one inch equals 50 feet or less for property less than three acres, or one inch equals 100 feet or less for property three or more acres;
 - b. Names, addresses, telephone numbers, and email addresses (if any) of the applicant, owner (if different), and the firm or person that prepared the site plan;
 - c. Date (month, day, year), including the dates of revisions;
 - d. Title block;
 - e. Scale;
 - f. North point;
 - g. Location map drawn at a scale of one inch equals 2,000 feet with north point indicated;
 - h. Identification and seal of the registered architect, engineer, surveyor, landscape architect, or planner who prepared the plans;
 - i. Gross acreage;
 - j. Legal description;
 - k. Zoning classification of applicant's parcel and all abutting parcels; and
 - l. Proximity to major thoroughfares and section corners.
2. Physical features to be indicated on the site plan drawings and illustrations shall include the:
 - a. Existing and proposed lot lines, building lines, buildings, structures, and parking areas on the site and within 100 feet of the site;
 - b. Centerline, existing and proposed right-of-way lines, and lanes of any street abutting the property;

- c. Location of existing and proposed traffic and pedestrian circulation facilities, including:
 - (1) Access drives;
 - (2) Service drives;
 - (3) Fire lanes;
 - (4) Street intersections;
 - (5) Acceleration, deceleration, and passing lanes and approaches;
 - (6) Sidewalks, safety paths, and other pedestrian trails and walkways; and
 - (7) Curbing;
- d. Location of existing and proposed off-street parking;
- e. Location of existing and proposed service facilities, including the following:
 - (1) Well site;
 - (2) Septic systems, drain fields, and other wastewater treatment systems;
 - (3) Water mains, hydrants, pump houses, and building services and sizes;
 - (4) Sanitary sewers and pumping stations;
 - (5) Storm water management facilities and structures including storm sewers, swales, retention and detention basins, drainage ways and other facilities, including calculations for sizes;
 - (6) Location of all easements; and
 - (7) Common post office box facilities;
- f. Grading plan, illustrating existing and proposed grades;
- g. Dimensioned floor plans and typical elevation views for all buildings;
- h. Exterior lighting locations, typical detail, and illumination patterns, including the information required by section 8.04.B, showing compliance with the lighting standards of section 8.04;

- i. Location and description of all existing and proposed landscaping berms, fencing, and walls, including quantity and size of all proposed landscaping;
- j. Trash receptacle pad location and method of screening;
- k. Location of transformer pads, compressors, air conditioners, generators, refrigeration units, and similar equipment, and method of screening;
- l. Ground, wall, and directional sign locations and detail;
- m. Location of existing and proposed areas, tanks and containers for the storage, loading, and disposal of chemicals, hazardous substances, salt, and fuels;
- n. Identification of any variances requested; and
- o. Any other pertinent physical features.

SECTION 6.05 STANDARDS FOR GRANTING APPROVAL

The Planning Commission shall determine if a site plan meets the following standards:

- A. All required information has been provided.
- B. All applicable regulations of the zoning ordinance have been met.
- C. Vehicular and pedestrian traffic within the site and in relation to access streets will be safe and convenient, and not disruptive to Village residents.
- D. The proposed development will be harmonious with and not harmful or injurious to existing and future uses in the area.
- E. Natural features will be protected and preserved to the maximum feasible extent.
- F. The proposed development will be adequately coordinated with improvements serving the site and with other developments in the general vicinity.
- G. Organic, wet, or other soils that are not suitable for development will be undisturbed or will be modified in an acceptable manner.
- H. Phases of development are in logical sequence so that any phase will not depend upon a subsequent phase for access, public utility service, drainage, or erosion control.
- I. The plan meets the applicable standards (which may be the standards set forth by the Village, by Ann Arbor Charter Township, by Washtenaw County, or by the state) for fire and police protection, water supply, sewage disposal or treatment, storm drainage, and other public facilities and services.

- J. The proposed development will not cause soil erosion or sedimentation problems.
- K. The drainage plan is adequate to handle anticipated storm water runoff and will not cause undue runoff onto neighboring property or overload watercourses.
- L. Outside lighting will not adversely affect adjacent or neighboring properties or traffic on adjacent streets.
- M. Outdoor storage of garbage and refuse will be contained, screened from view, and located so as not to be a nuisance to the site or neighboring properties.
- N. Grading or filling will not destroy the character of the site or the surrounding area, and will not adversely affect the neighboring properties and drainage patterns.
- O. The plan meets with standards of other government agencies, where applicable, and approval of these agencies has been obtained.
- P. The plan provides for the proper extension of existing streets, where applicable.

SECTION 6.06 EFFECT OF APPROVAL

Approval authorizes issuance of a zoning compliance certificate and issuance of a building permit, provided all other requirements for the permit have been met.

SECTION 6.07 EXPIRATION OF APPROVAL

Approval shall expire 180 days after the date of issuance unless a building permit has been issued. The Zoning Administrator may, for reasonable cause, grant not more than two extensions of time, for periods not exceeding 90 days each. Approval also shall expire 545 days following the date of approval unless construction has been completed in conformance with the approved site plan.

SECTION 6.08 AMENDMENT OF APPROVED SITE PLAN

A site plan may be amended by application in accordance with the original procedure.

SECTION 6.09 MODIFICATION OF PLAN DURING CONSTRUCTION

All site improvements shall conform to the approved site plan. Any changes made by the applicant during construction shall be made at the applicant's risk without assurance that the Planning Commission will approve the changes. The applicant shall be responsible for notifying the Zoning Administrator of any such changes. The Planning Commission may require the applicant to correct the changes so as to conform to the approved site plan.

SECTION 6.10 PHASING OF DEVELOPMENT

The applicant may divide a proposed development into two or more phases. In such case, the initial site plan submitted shall include a plan for the entire property and shall show phases of development.

SECTION 6.11 INSPECTION

- A. The Building Inspector shall inspect or cause to be inspected all improvements for conformance with the approved site plan. All sub-grade improvements shall be inspected for compliance with the approved site plan before covering. The applicant shall be responsible for requesting the necessary inspection.

- B. The Zoning Administrator shall notify the Planning Commission in writing when a development for which a site plan was approved has or has not passed inspection with respect to the approved site plan. The Zoning Administrator shall advise the Planning Commission of steps taken to achieve compliance and shall periodically notify the Commission of progress toward compliance with the approved site plan.

ARTICLE 7
SPECIAL LAND USE PROCEDURES AND STANDARDS

SECTION 7.01 INTENT

This Article is intended to provide regulations for special land uses that are compatible with permitted uses in a zoning district, under specific location and site criteria. This Article provides standards for the Planning Commission and Board of Trustees to determine the appropriateness of a given special land use in light of factors such as compatibility with adjacent zoning, location, design, size, intensity of use, impact on traffic operations, impact on groundwater, demand on public facilities and services, equipment used, and processes employed. The establishment or expansion of any special land use requires a special land use permit under this Article.

SECTION 7.02 SUBMITTAL PROCEDURES

- A. **Applicant.** An applicant shall be the owner of the land, an agent of the owner, or a person having interest in the land for which the special land use approval is sought.
- B. **Application.** As stated in section 6.02.D, all special land uses require a site plan. The site plan review application shall be applied for concurrently with the submittal of the special land use application. The site plan review application will be reviewed by the Planning Commission once the special land use is approved by the Board of Trustees.

The applicant shall submit the following to the Village Clerk:

- 1. Completed application, application checklist and payment of required fees.
- 2. Written description of the proposed project or use.
- 3. A completed site plan with all the information required by Article 6.
- 4. Any additional information necessary for the Village to complete the review. Additional information the Zoning Administrator, Planning Commission, or Board of Trustees may require includes information on natural features, storm water management, surrounding land uses, public facilities and services, public utilities, and traffic.

SECTION 7.03 REVIEW PROCEDURES

- A. **Technical Review.** The special land use application shall be reviewed by the Zoning Administrator and appropriate Village consultants for completeness and compliance with this ordinance.
- B. **Planning Commission Review and Public Hearing.** The Zoning Administrator shall forward all special land use applications and any consultant reports on them to the Planning Commission. The Planning Commission shall schedule the application for public hearing on the next available agenda with proper notice as stated in Article 3.

- C. **Planning Commission Consideration.** At the public hearing, the Zoning Administrator and consultants shall report their findings to the Planning Commission and the public. The Planning Commission shall then make a determination on the proposed special land use based on the standards and requirements of this ordinance. The Planning Commission may table, recommend approval, recommend approval subject to conditions, or recommend denial of a proposed special land use to the Board of Trustees as follows:
1. **Table.** The application may be tabled if it is determined to be incomplete, if the applicant has not fully responded to any deficiencies identified in the Zoning Administrator's and consultants' review, or if the Planning Commission determines more time is needed to evaluate the special land use request. The application will be tentatively rescheduled for a future meeting date.
 2. **Recommend Approval.** The Planning Commission shall recommend approval of the special land use to the Board of Trustees if the Commission determines it complies with this ordinance, including the standards set forth in section J below.
 3. **Recommend Conditional Approval.** The Planning Commission may recommend approval to the Board of Trustees of the proposed special land use subject to conditions, provisions, or limitations necessary for the protection of the public health, safety and welfare. The conditions stated as part of the approval of the special land use by the Board of Trustees shall be a continuing obligation of the owner of the land. The conditions that the Planning Commission recommends shall provide for adequate public services and facilities to accommodate increased loads caused by the proposed land use or activity, protection of the natural environment, conservation of natural resources and energy, and compatibility with adjacent uses of land.
 4. **Recommend Denial.** The Planning Commission shall recommend denial of an application to the Board of Trustees if the special land use does not comply with this ordinance or any provisions specific to the zoning district that the proposed use is permitted by right.
- D. **Board of Trustees Review and Public Hearing.** Following action by the Planning Commission, the Village Clerk shall forward the special land use application and the Planning Commission's recommendations to the Board of Trustees. The Board of Trustees shall schedule the application for public hearing on the next available agenda with proper notice as stated in Article 3.
- E. **Board of Trustees Consideration.** At the public hearing, the Board of Trustees will review all of the findings presented prior to the meeting, the Planning Commission's findings and recommendation, and any public comments presented at the meeting. The Board shall then make a determination on the proposed special land use. The Board may table, approve, approve subject to conditions, or deny a proposed special land use as follows:
1. **Table.** The application may be tabled if it is determined to be incomplete, if the applicant has not fully responded to the deficiencies identified in the review or if

the Board of Trustees determines more time is needed to evaluate the special land use request. The application will be tentatively rescheduled for a future meeting date.

2. **Approval.** The Board of Trustees shall approve the special land use if the Board determines it complies with this ordinance, including the standards set forth in section J below.
 3. **Conditional Approval.** The Board of Trustees may approve the proposed special land use subject to conditions, provisions, or limitations necessary for the protection of the public health, safety and welfare. The conditions shall be a continuing obligation of the owner of the land. The conditions the Board imposes shall provide for adequate public services and facilities to accommodate increased loads caused by the proposed land use or activity, protection of the natural environment, conservation of natural resources and energy, and compatibility with adjacent uses of land.
 4. **Denial.** The Board of Trustees shall deny an application if the special land use does not comply with this ordinance or any provisions specific to the zoning district that the proposed use is permitted by right.
- F. **Appeals.** There is no appeal of a denial of a special land use.
- G. **Record.** Each action taken with reference to a special land use review shall be duly recorded in the minutes of the meetings of the Planning Commission and Board of Trustees. The findings supporting the Commission's and Board's actions shall be recorded in the minutes. After the minutes have been approved, the Village Clerk shall transmit to the applicant (a) one copy of the site plan and the final approved minutes and (b) two copies of the special use permit, if the permit has been approved or conditionally approved. In addition, the property owner will be required to sign two copies of the special land use permit to be recorded at the Washtenaw County Register of Deeds at the expense of the applicant. One copy with a liber and page number stamped by the Register of Deeds shall be retained by the Clerk.
- H. **Expiration.** The special land use permit will expire one year from the date of special use approval by the Board of Trustees if the special land use is not established or the site work is not completed. The applicant may request a one year extension from the Planning Commission, provided a written request is received before the expiration date and the special land use complies with the current requirements of the zoning ordinance, including any amendments, and the following conditions are satisfied:
1. The applicant has obtained all subsequent required approvals for the approved use.
 2. The applicant is diligently pursuing site and construction plan approval.

3. The applicant is diligently pursuing a certificate of zoning compliance through completion of site improvements.
 4. The applicant holds a valid building permit for the principal buildings associated with the approved use.
- I. **New Application.** A new application for a special use on a parcel that was previously denied will not be considered until at least one year after the date of the denial and will begin the full review process again. However, if conditions have sufficiently changed since the denial, the Planning Commission may in its discretion consider a new application for the same site within less than a year from the previous denial.
- J. **Standards for Special Land Uses.** In reviewing an application for a special land use, the Planning Commission and the Board of Trustees shall consider whether the proposed use:
1. Is designed, located, planned, and operated so that the public health, safety and welfare will be protected.
 2. Is compatible and harmonious with the surrounding land uses and available services, taking into consideration the size, location, and character of the proposed use within the context of surrounding land uses. The proposed use shall not cause substantial injury to the value of other property in the area in which it is located and shall not unreasonably burden the capacity of public services or facilities.
 3. Is in general agreement with the Master Plan designation for the area where the use is proposed.
 4. Provides facilities for safe and convenient vehicular and pedestrian traffic, including turning movements, traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking, and provisions for pedestrian traffic.
 5. Is designed, constructed and operated in a manner that prevents detrimental impacts to surrounding properties such as noise, dust, fumes, smoke, air, water, odor, light, vibration, etc. The special land use shall be designed, constructed and operated in a manner that does not detract from area aesthetics.
 6. Complies with any supplemental use regulations and standards for specific special land uses that apply to the use under this ordinance.

SECTION 7.04 STANDARDS FOR SPECIFIC SPECIAL LAND USES

In addition to the standards set forth in Section 7.03.J, the following standards shall apply to specific uses:

A. **Places of Worship.**

1. **General Standards.**

- a. Religious facilities shall only be located on a lot of record that has at least 150 feet of frontage on a paved road. All ingress and egress to the site shall be directly onto such road.
- b. All buildings, structures, and parking and loading areas shall be set back a minimum of 100 feet from any abutting residential zoning district. Such setback area shall be heavily landscaped so as to create a complete visual and physical separation between the two land uses.
- c. All religious activities shall take place in a fully enclosed building, except as may be approved by the Board of Trustees. There shall be no outside loudspeakers or amplified sound outside of a totally enclosed building.
- d. Facilities incidental to the main religious sanctuary must be used for church, worship, or religious education purposes, in a manner that is consistent with residential zoning and compatible with adjacent residential property. Associated uses on the site, such as recreation centers, retreat facilities, conference centers, schools (if not the primary use), and convents, shall meet all requirements of this ordinance for such uses.
- e. No buildings shall be used, leased, or rented for commercial purposes, except by the Board of Trustees' approval upon findings that the use will not negatively impact the surrounding neighborhood.
- f. Traffic from events (including church worship services) and other large assemblies shall be controlled by the facility so as not to create congestion or unreasonable delays on the public street.

B. **Wireless Communications Facilities.**

- 1. **Intent.** The purpose of this section is to carry out the will of the United States Congress by permitting facilities within the Village that are necessary for the operation of wireless communications systems and making adequate and efficient provision for wireless communications facilities sites. Specifically, it is the intent of this section to:
 - a. Permit the location of wireless communication facilities within certain areas of the Village, while protecting the safety and character of nearby residential areas and the Village as a whole;
 - b. Require collocation of transmission and receiving apparatus and antennas on existing towers, unless it can be reasonably demonstrated that such collocation is not technically feasible;

- c. Require new and replacement wireless communication towers to include provision for collocation wherever technically feasible;
- d. Prevent potential damage to adjacent properties from tower failure and promote the timely removal of facilities upon the discontinuance of use;
- e. Require wireless communication towers and antennas to be configured in a way that minimizes adverse visual impacts through careful design, siting, landscaping, screening elements, and camouflaging techniques;
- f. Establish consistent review procedures and information requirements for construction, alteration, and enlargement of wireless communication facilities; and
- g. Permit administrative review and approval of certain types of projects that have a limited scope and impact, such as amateur radio antennas, satellite dish antennas, and collocation of additional antennas on an existing approved wireless communication tower.

2. **Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.**

- a. No new tower shall be permitted to be located in an AG or RC District unless the applicant demonstrates to the reasonable satisfaction of the Board of Trustees that no existing tower, structure, or alternative technology can accommodate the applicant's proposed antenna. An applicant shall submit the following information related to the availability of suitable existing towers, other structures, or alternative technology.
 - (1) No existing towers or structures are located within the geographic area that meets the applicant's engineering requirements.
 - (2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 - (4) The applicant's proposed antenna would cause electromagnetic interference with antennas on existing towers or structures, or the antennas on existing towers or structures would cause interference with the applicant's proposed antenna.
 - (5) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

- (6) The Village may hire specialized experts to review data submitted by the applicant. The applicant shall incur all costs associated with such review.
- b. In the following circumstances, a proposal to establish a new wireless communication facility shall be deemed a permitted use:
 - (1) An existing structure, including public utility poles and structure, which will serve as an attached wireless communication facility where the existing structure is not, in the discretion of the Board of Trustees, proposed to be either materially altered or materially changed in appearance, provided the accessory equipment building is either not visible from any residence or can be screened in accordance with the standards set forth in Section 8.03.B.
 - (2) A proposed collocation upon an attached wireless communication facility that had been preapproved for such collocation as part of an earlier approval by the Board of Trustees.
 - (3) A proposed collocation that will not do any of the following:
 - (a) Increase the overall height of the wireless communication support structure by more than 20 feet or 10% of its original height, whichever is less.
 - (b) Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.
 - (c) Increase the area of the existing equipment compound to greater than 2,500 square feet.
- 3. **Information Required.** In addition to any information required by this section, an applicant for a wireless communication facility shall submit the following information.
 - a. **Site Inventory.** Each applicant shall provide an inventory of the existing towers, antennas, or sites approved for towers or antennas that are within the Village and within one mile of its border, including specific information about the location, height, and design of each tower.
 - b. **Site Plan.** A site plan shall be submitted containing the following information, along with any other information required by this Article.
 - (1) All applicable information required for site plan approval, per Article 6, Site Plan Review.

- (2) The location, type, and height of the proposed tower; on-site and abutting land uses and zoning, including across road rights-of-way; adjacent roadways and proposed means of access; topography, parking; setbacks from property lines, elevation drawings of the proposed tower, and any other structures.
- (3) A maintenance plan to ensure long-term continuous maintenance to a reasonably prudent standard for the site, structures, fences, access, and landscaping.
- (4) Legal description of the parent parcel and leased parcel (if applicable).
- (5) Setback distances between the proposed tower and the nearest residential unit.
- (6) Fencing and screening details, proposed methods of camouflage where applicable, and details of any tower illumination.
- (7) The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall. The certification will be used, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
- (8) The application shall include a copy of the lease agreement between the applicant and the property owner to verify terms of the agreement.

4. **General Regulations.**

- a. All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, the facility shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Board of Trustees.
 - (1) Facilities shall not be injurious to neighborhoods or otherwise detrimental to the public health, safety, and welfare.
 - (2) Facilities shall be located and designed to be harmonious with the surrounding areas.

- (3) Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
- (4) Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs that might result in lower heights.

b. The following additional standards shall be met:

- (1) **Height.** The maximum height of the new or modified support structures, towers, and antennas shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to collocate on the structures). The ground equipment and accessory buildings contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.
- (2) **Setback.** The minimum setbacks for ground equipment and accessory structures shall be equal to the height of the tower or antenna or the antenna fall zone as demonstrated by a certification by the licensed professional engineer.
- (3) **Access.** There shall be unobstructed access to the wireless communications facility for operation, maintenance, repair, and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts; minimizing disturbance to the natural landscape; and the type of equipment, including emergency vehicles, that may need to access the site.
- (4) **Division of Property.** The division of property for the purpose of locating a wireless communication facility is prohibited unless all requirements and conditions of this ordinance are met.
- (5) **Ground Equipment Enclosures.** Ground equipment enclosures for wireless communication facilities proposed on the roof of a building shall be designed, constructed, and maintained to be architecturally compatible with the principal building. An equipment enclosure may be located within the principal building or may be an accessory building. If the equipment enclosure is proposed as an accessory building, then it shall conform to all district requirements for principal buildings, including yard setbacks.

- (6) **Color.** The Planning Commission shall review and approve the color of towers, support structures, and all accessory buildings. The color must minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings.
- (7) **Lighting.** If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views and otherwise comply with this ordinance. The use of strobe lights on a tower shall be prohibited in the absence of a demonstrated need.
- (8) **State and Federal Regulations.** All wireless communication facilities shall meet or exceed applicable federal and state regulations and standards.
- (9) **Engineering Certification.** Any civil, mechanical, or structural engineering information supplied by the applicant shall be certified by a licensed professional engineer.
- (10) **Structural Design and Installation.** The plans for the tower construction shall be certified by a registered structural engineer, and the applicant shall submit verification that the installation is in compliance with all applicable codes. All structures must meet all applicable standards of the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC).
- (11) **Maintenance.** To ensure its structural integrity, the owner of a tower shall ensure that it is maintained in compliance with applicable state construction codes, other applicable building, fire, and electrical codes, and applicable standards for structures.
- (12) **Soils Report.** A soils report from a geotechnical engineer licensed in the State of Michigan shall be submitted with the application. The soils report shall include soil borings and statements indicating the suitability of soil conditions for the proposed use.
- (13) **Collocation.** All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.

5. **Conditions Requiring Removal.**

- a. Wireless communications facilities not used for 180 days or more must be removed. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission or reception of radio signals) shall be considered as the beginning of a period

of non-use. The applicant shall notify the Village upon cessation of operations or removal of an antenna.

- b. Wireless communication facilities must be removed 180 days after new technology is available, at a reasonable cost, that permits the operation of the communication system without the requirement of towers. Reasonable cost shall be determined by the Board of Trustees.
- c. If removal of a wireless communication facility is required, the owner of the wireless communication facility shall immediately apply for and secure demolition permits, and immediately proceed with and complete the demolition, removal, and restoration of the site to an acceptable condition as determined by the Board of Trustees.
- d. If the required removal of a wireless communication facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, the Village, on 15 days prior written notice from the Zoning Administrator to the owner of the facility, may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected in accordance with the development agreement.

6. Refusal of Collocation.

- a. If the owner of a wireless communication facility fails or refuses to alter a structure so as to accommodate a technically feasible collocation, such facility shall be deemed to be a non-conforming structure and use, and shall not be altered, expanded, or extended in any respect, except to allow a conforming collocation.
- b. If failure to allow a technically feasible collocation results in the construction or use of a new facility, the owner of the wireless communication facility where collocation was refused shall be deemed to be in direct violation of this ordinance and shall be prohibited from receiving approval for a new wireless communication support structure within the Village for a period of five years from the date of the failure or refusal to permit the collocation.
- c. A variance may be obtained from the Zoning Board of Appeals if the applicant demonstrates that enforcement of the five year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

C. Day Care Homes.

1. General Standards.

- a. It is the intent of this section to establish standards for day care facilities that will ensure compatibility with adjacent land uses and maintain the character of the neighborhood.
- b. A state licensed family day care home shall be considered a residential use of property, subject to special land use approval in accordance with the procedures and standards set forth in Article 7.

2. A day care home shall be located no closer than 1,500 feet to any of the following facilities:

- a. Another licensed group day care home;
- b. An adult foster care small or large group home licensed by the state;
- c. A facility offering substance abuse treatment and rehabilitation service to seven or more people that is licensed by the state; or
- d. A community correction center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the state department of corrections.

3. A day care home shall meet the following requirements:

- 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 is provision of an outdoor play area that is enclosed by a fence;
- d. The hours of operation do not exceed sixteen hours within a 24-hour period, with a limitation on activity between the hours of 10:00 p.m. and 6:00 a.m.;
- e. One off-street parking space for each employee who is not a member of the group day care home family shall be provided;
- f. Inspection for compliance with these standards shall be conducted by the Village prior to occupancy and once every twelve months thereafter within ten days of the anniversary of the certificate of occupancy;
- g. No exterior identification sign shall be permitted; and

- h. Appropriate licenses with the state shall be maintained.

ARTICLE 8
SITE DESIGN STANDARDS

SECTION 8.01 INTENT

The intent of this Article is to promote the public health, safety, and welfare of Village residents and to improve the site design and visual appearance of the Village by requiring consistent standards for certain site elements.

SECTION 8.02 TRASH CONTAINERS

- A. **Where Required.** The standards set forth in this section apply only to uses that have refuse disposal service by collective trash container. This section does not apply to trash pickup for single-family dwellings.
- B. **Standards.**
1. Containers used to dispose of trash, grease, recyclables, and similar materials shall be screened on all sides with a wall and gate at least as high as the container, but no less than six feet in height. They shall be constructed of durable material and construction that is compatible with the architectural materials used elsewhere on the site.
 2. Containers shall be consolidated to minimize the number of collection sites, be located in close proximity to the building they serve, and be located so as to be easily accessed by refuse vehicles without potential damage to parked vehicles.
 3. Containers and enclosures shall be located in a side or rear yard and screened from public view whenever possible.
 4. Containers and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.
 5. Concrete pads and aprons of appropriate size and construction shall be provided.

SECTION 8.03 EQUIPMENT SCREENING

- A. **Where Required.** The standards set forth in this section shall apply to all uses for which mechanical equipment is placed on a roof of any structure or on the ground outside of the structure. Mechanical equipment includes generators and heating, ventilation, and air conditioning units. This section applies both to residential and to non-residential districts.
- B. **Screening Requirements.** All equipment shall be screened as follows:

1. **Rooftop screening.**
 - a. Rooftop equipment shall be screened with architectural materials matching or harmonious with the structure.
 - b. Screens provided to obscure mechanical equipment shall be an opaque barrier at least as high as the equipment being screened.
 - c. Rooftop equipment shall be located on the side or rear of a pitched-roof building, screened from public view.
 - d. Rooftop equipment shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.

2. **At-grade equipment.**
 - a. At-grade equipment shall be screened with architectural or landscape materials matching or harmonious with (i) the structure or (ii) landscape materials provided elsewhere on site.
 - b. Landscape materials shall be evergreen species so as to provide a screen year-round.
 - c. Walls provided to screen mechanical equipment shall be an opaque fence or wall, with a gate at least as high as the equipment being screened.
 - d. At-grade equipment shall be located in a side yard, screened from public view. For residential uses, it shall be sufficient that the screening, either adjacent to the at-grade equipment or elsewhere on the lot, screens the equipment from view from the street and from adjacent lots.
 - e. At-grade equipment shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.

SECTION 8.04 LIGHTING

- A. **Where Required.** The standards set forth in this section shall apply to all uses for which exterior lighting is provided.

- B. **Lighting Plan Requirements.** The following information must be provided on all site plan submissions required under Article 6, Site Plan Review:
 1. Location of all free-standing, building-mounted and canopy light fixtures on the site plan and on building elevations.

 2. Photometric grid overlaid on the proposed site plan, indicating the overall light intensity throughout the site (in foot-candles) and ten feet beyond the parcel lines. The Zoning Administrator may waive this requirement for sites with park-

ing lots of 20 spaces or less or for sites that are not adjacent to residentially-zoned property.

3. Specifications and details for the type of fixture being proposed, including the initial lumen rating, type of lamp, method of shielding, type of lens and all applicable accessories. The details shall include a depiction of the lighting pattern and light levels applicable for the proposed pole height.

C. **Freestanding Pole Lighting.**

1. **Residential Uses.** Freestanding pole lighting is limited to structures ten feet in height (as measured from grade) that meet all the requirements for structures in the particular residential district. All other freestanding pole lighting is prohibited for residential uses.

2. **Non-Residential Uses.**

- a. **Fixture Design.**

- (1) Exterior lighting shall be a full cut-off fixture or a fully shielded fixture, downward directed with a flat lens to prevent glare.
- (2) Decorative or historic light fixtures may be approved as an alternative to shielded fixtures when it can be shown that there will be no off-site glare through the use of low wattage lamps and that the proposed fixtures will be more consistent with the character of the site.

- b. **Lighting Levels.**

- (1) The intensity of light at the base of a light fixture pole shall not exceed 20 foot-candles during business hours and ten foot-candles after business hours.
- (2) Light shall not exceed 0.10 foot-candle along any boundary adjacent to residentially zoned or used property, and one foot-candle along all nonresidential property boundaries.
- (3) Light levels shall be measured on the horizontal plane at grade level within the site, and on the vertical plane of any property line boundary or street right-of-way line at a height of five feet above grade level.

- c. **Height.** The maximum height of a base, a pole and fixtures shall be 25 feet.

- d. **Duration.** All outdoor lighting fixtures (whether existing at the time of the effective date of this ordinance or installed later) and maintained upon pri-

vate property, shall be turned off or reduced in lighting intensity between 11:00 p.m. and sunrise. An exception may be approved by the Planning Commission where greater lighting levels are necessary for security or safety purposes.

D. **Building-Mounted Lighting.** Building-mounted lighting for the purpose of lighting entrances, adjacent sidewalks, parking areas and loading areas is permitted subject to the following restrictions:

1. **Residential Uses.** All building-mounted lighting shall be directed downward or use decorative or historic light fixtures consistent with the site. No building-mounted lighting may be used that adversely affects adjoining property owners.

2. **Non-Residential Uses.**

- a. Building-mounted lighting shall be a full cutoff fixture or fully shielded and directed downward to prevent glare. The intensity of light shall not exceed 20 foot-candles during business hours and ten foot-candles after business hours at the ground level for any building-mounted fixture. Maximum height shall be 20 feet.
- b. The light emitted shall not exceed 0.10 foot-candle along zoned or existing residential property lines and one foot-candle along non-residential property lines.
- c. Decorative or historic light fixtures may be approved as an alternative to shielded fixtures when it can be proven that there will be no off-site glare through the use of low wattage lamps and the proposed fixtures will be more consistent with the character of the site.

E. **Prohibited Lighting Types.** The following lighting types are prohibited in all districts and for all uses:

- 1. The use of search lights or any similar high intensity light for outdoor advertisement or entertainment.
- 2. Flashing, moving or intermittent type lighting.
- 3. Exterior exposed luminous tube lighting, except neon lighting used for signage or lighting approved by the Zoning Administrator as an element of the building façade.

F. **Exemptions.** The following are exempt from the lighting requirements of this section, except that the Zoning Administrator may require a lighting and photometric plan when deemed desirable to protect the public health, safety, and welfare.

- 1. Temporary holiday decorations, for a period not to exceed 45 continuous days.

2. Ornamental low voltage lighting (12 volts or less), low wattage ornamental landscape lighting fixtures, and solar operated light fixtures having self-contained rechargeable batteries, where no single light fixture exceeds 100 lumens.
3. Street lights or lights within a public or private road right-of-way when installed or maintained by the Village.

SECTION 8.05 PARKING AND CIRCULATION

A. Where Required.

1. **Residential Uses.** There shall be provided at least two parking spaces (one or more of which may be in a garage) for each dwelling unit. No off-street parking area for any residential use may be created or enlarged so as to extend into any front or side yard setback.
2. **Non-Residential Uses.** The standards set forth in subsections B through G below shall apply to any non-residential use in any district for which off-street parking and circulation is required under this ordinance.

B. General Off-Street Parking Requirements for Non-Residential Uses.

1. There shall be provided at the time of erection or enlargement of any principal building or structure, automobile off-street parking with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses, shall be provided to the Village prior to the issuance of a certificate of occupancy, zoning compliance permit, or building permit.
2. Off-street parking shall be on the same lot as the use or building served by the parking, unless joint parking with abutting properties and uses is provided in a form acceptable to the Board of Trustees and executed and recorded by the parties sharing the parking.
3. Parking areas shall be approved as part of a site plan. Minor changes to the parking layout, as determined by the Zoning Administrator, shall require a submittal of a parking plan.
4. No off-street parking that exists at the effective date of this ordinance shall thereafter be reduced below the requirements established by this ordinance.
5. Off-street parking for continuous periods of more than 24 hours shall be prohibited, with the exception of automobiles and commercial vehicles owned and operated in conjunction with the principal use of the property.
6. The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited.

7. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers is similar in type.
8. Off-street parking areas shall be designed to provide for removal and storage of snow.

C. Parking Location and Setbacks for Non-Residential Uses.

1. Parking spaces shall be provided either on the same lot, within lots under the same ownership or, where a shared parking easement is provided on an adjacent lot, within 300 feet of the building it is intended to serve, measured from the nearest public building entrance to the nearest parking space of the off-street parking lot.
2. In the discretion of the Planning Commission, off-street parking may be allowed in required yard setbacks, provided all other standards of this ordinance are met; however, no parking area shall be allowed in any required yard setbacks that abut an adjacent residentially zoned or used property.
3. The developed parking for adjacent zoning lots may be shared, provided a signed agreement is provided by the property owners and the applicant can demonstrate that the peak usage will occur at different periods of the day.

D. Units and Methods of Measurement for Non-Residential Uses. For the purpose of determining off-street parking requirements, the following units of measurement shall apply:

1. **Floor Area.** Where floor area is the unit for determining the required number of off-street parking spaces, floor area shall mean the net floor area, as defined by this ordinance, unless otherwise indicated.
2. **Employees.** For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
3. **Places of Assembly.** For places of assembly, seating capacity shall be based on the building code requirements currently in effect. In cases where a place of assembly has both fixed seats and open assembly areas, requirements shall be computed separately for each type and added together.
4. **Fractional Requirements.** When the number of required parking or loading spaces result in a fractional space, then the fraction shall be counted as one additional space if it equals one-half or greater.

E. Schedule of Required Off-Street Parking Spaces for Non-Residential Uses. The minimum number of off-street parking spaces shall be determined by the type of use in ac-

cordance with the following schedule. For uses not specifically listed below, the required parking shall be in accordance with that of a similar use as determined by the Zoning Administrator, or as determined by the Planning Commission during site plan review, based on documentation regarding the specific parking needs of the use.

Schedule of Required Off-Street Parking Spaces	
Residential	
Adult foster care homes	1 space per 4 residents, plus 1 space for each employee during peak shift
Family/group day care homes	1 space per 4 clients, plus 1 space for each employee during peak shift
Institutional and Places of Gathering	
Places of worship	1 space for each 3 seats or 6 feet of pews in the main unit of worship
Recreational	
Country clubs and other similar uses	1 space for each 3 member families

F. **Design Standards and Requirements for Off-Street Parking for Non-Residential Uses.** The following requirements apply to all off-street parking for non-residential uses.

1. **Drainage.** All parking areas shall be graded or drained to dispose of storm water runoff. No surface water shall be permitted to drain directly onto adjoining property unless a drainage easement has been obtained. Discharge of drainage into a public right-of-way, county drain or municipal storm sewer shall require written approval from the appropriate local, county, or state agency.
2. **Illumination.** All illumination of parking areas shall be designed and installed to comply with the requirements of this Article.

G. **Specific Design Standards and Requirements for Non-Residential Uses.** The following additional requirements apply to site plans for non-residential uses.

1. **Barrier-Free Parking.** Off-street parking lots are required to provide Barrier-Free Parking spaces in accordance with the Michigan Department of Labor, Construction Code Commission Barrier-Free Design Division.
2. **Pavement.** All driveways and parking lots shall be hard surfaced with concrete or asphalt and shall have either concrete curbing or bumper blocks for wheel stops. However, alternative paving materials, such as permeable or grass pavers

may be approved or required by the Planning Commission, in consultation with the Village Engineer.

3. **Dimensions.**

- a. Plans for the layout of off-street parking facilities shall be in accordance with the minimum requirements set forth in Table 13.06-B.

Table 13.06-B Parking Dimensions				
Parking Angle	Stall Width	Aisle Width	Parking Stall Length	Curb to Curb
<i>0 Deg. to 15 Deg.</i>	9.0 Ft.	12 Ft.	23 Ft.	30.0 Ft
<i>16 Deg. to 37 Deg.</i>	9.0 Ft.	11 Ft.	19 Ft.	46.6 Ft
<i>38 Deg. to 57 Deg.</i>	9.0 Ft.	13 Ft.	19 Ft.	53.2 Ft
<i>58 Deg. to 74 Deg.</i>	9.0 Ft.	18 Ft.	19 Ft.	60.4 Ft
<i>75 Deg. to 90 Deg.</i>	9.5 Ft.	24 Ft.	19 Ft.	62.0 Ft

- b. All spaces shall be provided adequate access by means of maneuvering lanes. Parking spaces with parking angles less than 90 degrees shall be accessed by one-way drives. Parking spaces that are perpendicular to the drive (90 degree angle) may be accessed by two-way movements.

- 4. **Landscaping.** Parking that abuts single-family residential property shall be screened by a landscaped berm at least three feet in height along the common boundary within the adjoining property. The berm shall be planted with ever-green trees a minimum of six feet in height that will create a solid screen within three years from the time of planting. Alternative landscape plantings or a solid wall that does not exceed three feet in height may be approved where it is found that space limitations or visibility for vehicular circulation prevent construction of a landscape berm.

- 5. **Parking Abutting Sidewalks.** Where a parking space overhangs a sidewalk, the minimum sidewalk width shall be seven feet.

6. **Construction and Maintenance.**

- a. Plans and specifications for parking areas shall be submitted and approved following the site plan review requirements of Article 6, Site Plan Review.
- b. Required parking lots shall be installed and completed before issuance of an occupancy permit.
- c. Any area once designated as required off-street parking shall not be changed to any other use until equal facilities meeting the standards of this Article are provided elsewhere or the parking requirements of the site are changed.
- d. Pavement shall be maintained in good condition. The visibility of pavement markings delineating parking spaces and directional control shall be maintained.
- e. All off-street parking and loading facilities required by this section shall be maintained free of accumulated snow, debris or other materials that prevent full use and occupancy of the parking facilities, except for temporary periods of no more than five days in the event of heavy rainfall or snowfall.
- f. The storage or repair of merchandise, materials, equipment or vehicles are prohibited on required off-street parking or loading spaces.

SECTION 8.06 OFF-STREET LOADING AND UNLOADING REQUIREMENTS

- A. **Where Required.** On-premise space for standing, loading and unloading vehicles shall be provided for each use involving the receipt or distribution of goods.
- B. **Location.** The location of the loading area shall be sufficient to prevent undue interference with adjacent, required parking spaces, maneuvering aisles, or traffic flow and unloading on public streets. Loading and unloading areas and docks shall not be provided in the front yard. Where possible, loading areas shall be integrated into the design of the building to minimize visibility.
- C. **Alleys.** Where an alley exists at the rear of the building, the required loading area may be computed from the centerline of the alley.
- D. **Size.** The size of all required loading and unloading spaces shall be at least 10 feet by 50 feet or 500 square feet in area, with a clearance of at least 14 feet in height. The Planning Commission may modify this requirement for uses that will involve smaller delivery trucks.
- E. **Pavement.** Loading dock approaches shall be constructed of asphalt or concrete with a base sufficient to accommodate expected vehicle weight.

ARTICLE 9
NONCONFORMING LOTS, USES AND STRUCTURES

SECTION 9.01 INTENT

- A. It is the purpose of this Article to provide regulations governing lots, buildings, structures, and uses that were lawful prior to the effective date of this ordinance, or amendments to it, but that are regulated under the provisions of this ordinance.
- B. It is recognized that there exists within the districts established by this ordinance lots, structures, and uses of land and structures that were lawful before this Article was passed or amended, but that would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. Such uses are declared by this Article to be incompatible with permitted uses in the districts involved. It is further the intent of this Article that nonconformities shall not be enlarged upon, expanded or extended, except as expressly permitted in this Article, and that nonconformities not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- C. Nothing in this Article shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption of or amendment to this ordinance, provided progress has been diligently pursued and substantial construction has occurred.
- D. The authorization of nonconformities that were legally established prior to enactment or amendment of this ordinance to continue shall not apply to building structures or uses that were not legally established prior to the enactment or amendment of this ordinance. Those nonconforming uses or nonconforming structures that have not been legally established shall be declared illegal and shall be discontinued at the effective date of this ordinance.

SECTION 9.02 NONCONFORMING LOTS OF RECORD

- A. **Use of Nonconforming Lots.** In any district where single-family dwellings are permitted, any single lot of record existing at the effective date of adoption or amendment of this ordinance that fails to meet the applicable district requirements for area or width, or both, shall be considered to be a nonconforming lot of record. Notwithstanding section 9.04 below or anything else to the contrary in this ordinance, a single-family dwelling and customary accessory dwellings may be constructed, altered, or enlarged, or an existing structure demolished and a new single-family dwelling and customary accessory dwellings constructed, on such a nonconforming lot of record, provided setbacks and all other requirements of this ordinance are met.
- B. **Nonconforming Contiguous Lots under Same Ownership.** If two or more lots or combinations of lots with contiguous 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 lots or combination

of lots involved shall be considered to be an undivided parcel for the purposes of this ordinance. No portion of the parcel shall be used or occupied in a manner that diminishes compliance with lot width and area requirements established by this ordinance, and no division of the parcel shall be made that creates a lot width or area below the requirements stated in this ordinance.

SECTION 9.03 NONCONFORMING USES OF LAND

A lawful use of (1) land or (2) a structure and land in combination, existing at the effective date of adoption or amendment of this ordinance that is no longer permissible under the terms of this ordinance as enacted or amended, shall be considered a nonconforming use. A nonconforming use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. A nonconforming use shall not 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.
- B. A nonconforming use shall not be moved in whole or in part to any other portion of the lot or parcel not occupied by such use at the effective date of adoption or amendment of this ordinance.
- C. A nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use, and that existed at the time of adoption or amendment of this ordinance.
- D. A nonconforming use that is replaced by a permitted use shall thereafter conform to the regulations for the district in that the use is located, and the nonconforming use may not later be resumed.
- E. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
- F. An existing structure devoted to a nonconforming use shall not 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 that it is located, or to bring the structure into greater conformity with this ordinance.
- G. A nonconforming use that is determined to be abandoned shall not be reestablished, and any subsequent use shall conform to this ordinance. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exist:
 - 1. Utilities, such as water, gas, or electricity, to the property have been disconnected for a continuous period of 90 days.
 - 2. The property, building, or grounds have fallen into disrepair in a manner that result in violation of applicable zoning and property maintenance codes or would otherwise give the appearance of neglect or abandonment.

3. Signs or other indications of the existence of the nonconforming use have been removed.
4. Equipment or fixtures necessary for the operation of the nonconforming use have been removed.
5. Other actions that in the opinion of the Zoning Administrator constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.

SECTION 9.04 NONCONFORMING STRUCTURES

A lawful structure that existed prior to the effective date of adoption or amendment of this ordinance that is no longer permissible under the terms of this ordinance as enacted or amended shall be considered a nonconforming structure. A nonconforming structure may be continued, enlarged, or altered, so long as it remains otherwise lawful, subject to the following provisions:

- A. A nonconforming structure shall not be enlarged or altered in a way that increases its nonconformity.
- B. A nonconforming structure that is destroyed by any means to an extent of more than 70% percent of its replacement cost, exclusive of the foundation at the time of destruction, shall not be reconstructed except in conformity with the provisions of this ordinance.
- C. A nonconforming structure that is moved for any reason for any distance shall thereafter conform to the regulations for the district in that it is located after it is moved.
- D. A nonconforming building or structure that is altered so as to eliminate, remove or lessen any or all of its nonconforming characteristics, shall not be altered or modified and any time thereafter to reestablish the nonconforming characteristics.

SECTION 9.05 REPAIRS AND MAINTENANCE

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding 70% percent of the assessed value of the building, provided that the floor area of the building as it existed at the time of passage or amendment of this chapter shall not be increased.
- B. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SECTION 9.06 CHANGE OF TENANCY OR OWNERSHIP

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

ARTICLE 10
ZONING BOARD OF APPEALS

SECTION 10.01 BOARD AND MEMBERSHIP

- A. A zoning board of appeals is established in accordance with the Michigan Zoning Enabling Act, in such a way that the objectives of this ordinance shall be observed, public health, safety and welfare secured, and substantial justice done. The purpose of the ZBA is to help ensure that the objectives of this ordinance are more fully and equitably achieved, that a means is provided for competent interpretation of this ordinance, and that reasonable relief is provided in the application of this ordinance.
- B. The Board of Trustees shall act as the ZBA on all questions arising under this ordinance. The President of the Board shall be the Chairperson of the ZBA and shall appoint a Vice-Chairperson and such other officers as he or she deems necessary. The Village Clerk shall be the Secretary of the ZBA.

SECTION 10.02 PROCEDURES

- A. **Rules.** The ZBA may adopt rules or bylaws consistent with this Article to govern its procedures.
- B. **Votes.** A concurring vote of a majority of the members of the ZBA shall be necessary for any decision related to administrative review, interpretation, and variances other than use variances. Use variances shall require an affirmative vote of two-thirds of the members for approval. A member of the ZBA who is also a member of the Planning Commission shall not participate in a public hearing or vote on the same matter that the member voted on as a member of the Planning Commission.
- C. **Representation.** An applicant may appear on the applicant's own behalf at a hearing or may be represented by an agent or attorney.
- D. **Time Limit.** The ZBA shall hear and decide on all matters properly before it within a reasonable time. The decision of the ZBA shall be in the form of a resolution containing a full record of its findings and determinations in each case. The time limit may be extended by written agreement between the applicant and the ZBA.
- E. **Meetings and Record of Proceedings.** Meetings of the ZBA shall be held at the call of the Chairperson and at such times as the ZBA might specify in its rules or bylaws. The ZBA shall not conduct business unless a majority of the members is present. The ZBA shall record into the minutes all its official actions. The vote of each member on a question, or a member's absence or abstention, shall be recorded in the minutes of the meeting, which shall be filed in the office of the Village Clerk.

SECTION 10.03 POWERS AND DUTIES OF THE ZBA

- A. **General.** The ZBA has the power to act on matters as provided in this ordinance and the Michigan Zoning Enabling Act. The ZBA's specific powers are enumerated in this section.
- B. **Delegated Duties.** The ZBA shall hear and decide on the following:
1. Appeals of administrative decisions,
 2. Requests for interpretation of the ordinance or zoning map,
 3. Requests for dimensional and other non-use variances,
 4. Requests for use variances, and
 5. All other matters on which it is required to pass under this ordinance.
- C. **Appeals of Administrative Decisions.** The ZBA shall hear and decide appeals when it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official or body in the enforcement of this ordinance.
1. Appeals may be taken by the person aggrieved or by any officer, department, board, agency, or bureau of the Village or the state. In addition, a variance may be applied for and granted under section 4 of the Uniform Condemnation Procedures Act, Public Act 87 of 1980, MCL 213.54. The appeal shall be filed in writing with the Village Clerk within 30 days of the written decision in question. The appellant must have a property interest and standing to be recognized under the law to challenge the decision. The appellant shall submit a clear description of the order, requirement, decision, or determination for which the appeal is made and the grounds of the appeal. The appellant may be required by the ZBA to submit additional information to clarify the appeal.
 2. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the ZBA that a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order granted by the ZBA or a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken, and on due cause shown.
 3. An administrative decision may be reversed, in whole or in part, or may be modified. To that end, the ZBA shall have all the powers of the official or body from whom the appeal is taken. In reaching its decision, the ZBA shall only modify or reverse an administrative decision being appealed if one or more of the following requirements are met:
 - a. The administrative decision was arbitrary or capricious;

- b. The administrative decision was based on an erroneous finding of material fact;
- c. The administrative decision constituted an abuse of discretion; or
- d. The administrative decision was based on erroneous interpretation of this ordinance or state zoning law.

D. Interpretation.

- 1. The ZBA shall hear and decide requests for interpretation of this ordinance or the zoning map, taking into consideration the intent and purpose of the ordinance and the Master Plan. In an interpretation of the zoning map, the ZBA shall be governed by the rules of interpretation set forth in section 4.03, Interpretation of District Boundaries. The ZBA shall not have the power to alter or change zoning district boundaries, except where uncertainty exists as to the location of a boundary, land use classifications of any property, or ordinance text.
- 2. A record shall be kept by the ZBA of all decisions for interpretation of this ordinance or zoning map. The ZBA may request the Planning Commission to initiate an ordinance amendment that would correct or clarify the ordinance.

E. Dimensional and Other Non-Use Variances.

- 1. When a literal enforcement of this ordinance would involve practical difficulties within the meaning of this Article, the ZBA shall have the power to authorize a variation of the provisions of this ordinance with such conditions and safeguards as it may determine are in harmony with the spirit of this ordinance, so that public safety and welfare is secured and substantial justice done.
- 2. Dimensional or other non-use variances shall not be granted by the ZBA unless it can be determined that all of the following facts and conditions exist:
 - a. Exceptional characteristics of the property for which the variance is sought make compliance with dimensional requirements substantially more difficult than would be the case for the great majority of properties in the same district. Characteristics of property that shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics.
 - b. The characteristics that make compliance with dimensional requirements difficult must be related to the premises for which the variance is sought, not some other location.
 - c. The characteristics that make compliance with the dimensional requirements shall not be of a personal nature.

- d. The characteristics that make compliance with dimensional requirements difficult have not been created by the current or a previous owner.
 - e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in nearby streets, increase the danger of fire, endanger the public safety, unreasonably diminish or impair established property value within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of Village residents.
- 3. The ZBA shall not find that any of the above criteria have been met without substantial evidence provided by the applicant to that effect.
 - 4. The proposed variance will be the minimum necessary, and no variance shall be granted when a different solution not requiring a variance would be possible.

F. Use Variances.

- 1. A use variance may be allowed by the ZBA only in cases when there is reasonable evidence of unnecessary hardship in the official record of the hearing, and when all of the following conditions are met:
 - a. The applicant has demonstrated that the site cannot reasonably be used for any of the uses allowed within the current zoning district designation. The ZBA may require submission of documentation from professionals or certified experts to substantiate this finding.
 - b. The condition or situation of the specific parcel of property or the intended use of the property for which the variance is sought must be unique to that property and not commonly present in the general vicinity or the district. The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the district and that these features make it impossible to earn a reasonable return without some adjustment. Such unique conditions or situations include:
 - (1) Exceptional narrowness, shallowness or shape of a specific property on the effective date of this ordinance.
 - (2) Exceptional topographic conditions or other extraordinary situation on the land, building or structure.
 - (3) The use or development of the property immediately adjoining the property in question.
 - (4) Any other physical situation concerning the land, building or structure deemed by the ZBA to be extraordinary.

- c. The use variance will not alter the essential character of the neighborhood or the intent of the Master Plan, or be a detriment to adjacent properties.
- d. The capacity and operations of roads, utilities, other facilities and services will not be significantly compromised.
- e. The unnecessary hardship causing the need for the variance request was not created by the applicant.

G. Dimensional Variances in Special Approval Uses and Planned Unit Developments.

- 1. The ZBA may grant dimensional or other site plan related variances (*e.g.* lot dimensions, setbacks, building height, lot coverage, parking, etc.) for special approval uses. The ZBA shall not have the power to reverse or modify the Board of Trustees' decision to approve or deny a special approval use permit or grant variances to any conditions placed on special use approval.
- 2. The ZBA shall not have the authority to grant variances of any regulations or requirements placed on a project approved as a planned unit development (PUD) or conditional rezoning. However, the ZBA shall have the authority to decide appeal requests by individual lot or unit owners for variances from other sections of the ordinance following final approval of a PUD, provided such variances do not affect the terms or conditions of the original approval.

SECTION 10.04 RULES AND PROCEDURES FOR VARIANCES

A. General.

- 1. An application for a variance shall be filed by the record owner of the lot in question, or by an agent authorized in writing to act on the record owner's behalf, with the Village Clerk. The applicant shall provide such information as is required by way of a completed application form, fee and additional information that the ZBA may request.
- 2. After a public hearing and findings of fact, the ZBA may approve a variance as requested, approve a variance that better complies with the ordinance than that requested, or deny the request.
- 3. The ZBA may impose conditions with an affirmative decision. The conditions may include those necessary to promote the public health, safety and welfare, ensure compatibility with surrounding land uses, and protect and preserve natural features.
- 4. Any variance approved by the ZBA permitting the erection or alteration of a structure shall expire after a period of one year, unless progress has been diligently pursued and the work has been completed in accordance with permits issued by the Village. The ZBA may grant up to two extensions, not to exceed

six months for each extension, on a showing of good cause and good faith effort being made to achieve completion.

5. A variance that is legally used and maintained runs with the property, and any subsequent owners may legally continue the variance under its original or amended terms.
6. An application for a variance that has been denied wholly or in part by the ZBA shall not be resubmitted for a period of one year from the date of denial, except on grounds of new evidence not previously discovered at the time the variance was denied or changed conditions found by the ZBA to be valid.

B. Use Variances. In addition to the information required for other variance requests, an application for a use variance shall include:

1. A site plan with the required information as set forth in Article 6, Site Plan Review, detailing the specific use and improvements proposed by the applicant and a summary of the facts that support each of the following conclusions:
 - a. The property cannot be used for the purposes permitted in the district;
 - b. The applicant's situation is due to unique circumstances peculiar to the property and not to general neighborhood conditions;
 - c. The applicant's suggested use would not alter the essential character of the area;
 - d. The applicant's problem has not been self-created;
 - e. Administrative relief that may afford reasonable use of the property is otherwise unavailable.
2. A list of all persons who will testify at the hearing with respect to each of the facts and proposed conclusions. If any person is to be offered as an expert witness, the application shall include a resume that shows the person's relevant education and experience.

C. Hearing Procedure.

1. **Burden of Proof.** The applicant has the burden of demonstrating each of the factors justifying the proposed variance.
2. **Manner of Presentation.**
 - a. The Zoning Administrator shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the district and any planning, engineering, financial, envi-

ronmental or other considerations that are generally relevant within the zoning district or in the general area of the property at issue.

- b. The applicant may testify and present witnesses or may submit affidavits for the purpose of attempting to prove facts or conclusions. The chairperson of the ZBA may restrict testimony and evidence that would result in unreasonable duplication. In addition, by motion made on its own or at the request of a person at the hearing, the ZBA may require the presence of any witness who has offered testimony by affidavit, to permit members of the ZBA to ask questions of the witnesses.
- c. At the conclusion of the applicant's presentation, interested persons attending the hearing shall be provided with the opportunity to present testimony and evidence in the same manner and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
- d. When interested persons have completed their presentations, at the same meeting or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of the presentation shall be to ensure that all relevant information is before the ZBA for consideration as it relates to the specific application presented.
- e. If testimony or evidence has been offered by or on behalf of interested persons or the community, the applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised. The manner of presenting witnesses, and the requirement of their presence and questioning, shall be the same as provided above for the applicant's principal case.
- f. At the hearing, the ZBA may establish other rules of procedure, such as meeting hours on any given day, procedure for presentations by interested persons or on behalf of the community, or other rules the ZBA finds necessary or appropriate. When questions of procedure arise during the hearing, the chairperson of the ZBA may solicit the recommendation of the representatives of both the applicant and the community.
- g. If a hearing is not completed at a given meeting within the time period allowed by the ZBA, the ZBA shall adjourn the hearing to another date for continuation.

D. Decision of the ZBA.

1. The ZBA may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
2. At the conclusion of the hearing, the ZBA may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision. The ZBA may also request the Zoning Administrator to prepare findings and conclusions.
3. If the ZBA determines to grant variance relief, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. Such relief may be in the form of one or more non-use variances or in the form of a use variance, or both. The motion may include conditions that are authorized by law.

E. Public Hearings and Notification. The ZBA shall hold a public hearing on all appeals, interpretations, and requests for variances. The requirements for the public hearing and notice are set forth in Article 3.

SECTION 10.05 SITE PLAN REQUIREMENTS

If an application to the ZBA requires site plan approval under Article 6, the applicant shall first apply for site plan approval as set forth in that Article. The Planning Commission shall review the site plan, including site layout and other design features, but shall not grant preliminary site plan approval or make a recommendation on the variance. The Planning Commission shall then transmit the site plan and the minutes related to the site plan to the ZBA. The ZBA shall transmit its decision related to the application to the Planning Commission. The Planning Commission shall then take action on the site plan.

**ARTICLE 11
AMENDMENTS**

SECTION 11.01 AUTHORITY

- A. The Board of Trustees may amend the district boundaries or any other provision of this ordinance under the authority and procedure established in the Michigan Zoning Enabling Act. Amendments to the ordinance requirements are referred to as text amendments. Amendments to the zoning map that constitute a change in zoning classifications are referred to as rezonings.

- B. Amendments may be initiated by resolution of the Board of Trustees or by petition of one or more property owners (acting on their own behalf or through agents).

SECTION 11.02 NO VESTED RIGHTS

Nothing in this ordinance shall be interpreted to give rise to any vested rights in the continuation of any particular use, district, zoning classification, or activities deemed permissible under this ordinance. Rather, such matters are subject to subsequent amendment or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

SECTION 11.03 REZONING PROCEDURES

- A. **Procedure for Rezoning of Property.**
 - 1. An applicant seeking the rezoning of property shall file an application with the Village Clerk, together with the appropriate fee, not less than 30 days prior to the date of a regular meeting of the Planning Commission.

 - 2. Not less than 48 hours after filing the application, the applicant shall place a sign on the property to inform the public that an application for rezoning has been filed and to indicate the location of information regarding the request.

 - 3. The Planning Commission shall review the application for rezoning and any supplementary materials and conduct a public hearing. Following the public hearing, the Planning Commission shall make its recommendation to the Board of Trustees.

 - 4. The application for rezoning and the recommendation of the Planning Commission shall be forwarded to the Board of Trustees.

 - 5. The Board of Trustees shall review the application for rezoning and adopt a resolution that:
 - a. Approves the rezoning application for all or part of the property;

 - b. Denies the rezoning application; or

c. Postpones action on the rezoning application.

B. **Application Requirements.** A rezoning application shall be submitted on forms provided by the Village Clerk. Failure to provide the information and materials required as part of the application shall render the application deficient, and the application shall be incomplete until all required items are submitted. The following information shall be required:

1. The current zoning classification of the property.
2. The proposed zoning classification.
3. The name, address and telephone number of the person applying for the rezoning.
4. The name, address and telephone of the person who owns the property.
5. The relationship between the applicant and the property owner.
6. A certified survey that meets the requirements of PA 132, Public Acts of 1970.
7. A location map (minimum scale of 1" = 400') indicating the property, and the zoning classifications and uses of abutting and adjacent properties, on 8-1/2 x 11 pages, shall be attached to the application.
8. The proposed use of the property shall be stated on the application.

SECTION 11.04 CONDITIONAL REZONING PROCEDURES

A. **Authorization and Limitations.** The Board of Trustees shall have the authority to place conditions on a rezoning provided the conditions have been voluntarily offered by the applicant and are acceptable to the Board.

B. **Permitted Conditions and Limitations.** In exercising its authority to consider a conditional rezoning, the Board of Trustees is also authorized to impose the following limitations:

1. An owner of land may voluntarily offer written conditions relating to the use or development of land for which a conditional rezoning is requested. This offer may be made either at the time the application for conditional rezoning is filed or at a later time during the conditional rezoning process as set forth below.
2. The owner's offer of conditions may not authorize uses or developments not permitted in the requested new zoning district. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which the conditional rezoning is requested.

3. Any use or development proposed as part of an offer of conditions that would require a special approval use, variance, or site plan approval may be commenced only as follows:
 - a. in the case of a special approval use, the use or development may only be commenced if a special land use permit for the use or development is ultimately granted;
 - b. in the case of a variance, the use or development may only be commenced if a variance for the use or development is ultimately granted by the ZBA;
 - c. in the case of site plan approval, the use or development may only be commenced if site plan approval for the use or development is ultimately granted.
- C. **Amendment of Conditions.** The offer of conditions may be amended during the process of conditional rezoning consideration, provided that any amended or additional conditions are entered into voluntarily by the owner and confirmed in writing. An owner may withdraw in writing all or part of the owner's offer of conditions any time prior to final rezoning action of the Board of Trustees. However, if the withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred back to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
- D. **Procedure.** The procedure for consideration of a conditional rezoning request shall be the same as provided in section 11.03. The following additional requirements shall also apply:
 1. **Application Requirements.** A conditional rezoning request shall be initiated by the submission of a proposed conditional rezoning agreement. A conditional rezoning agreement shall include the following:
 - a. A written statement prepared by the applicant that confirms the conditional rezoning agreement was proposed by the applicant and entered into voluntarily.
 - b. A written statement prepared by the applicant that confirms that the property shall not be used or developed in a manner that is inconsistent with conditions placed on the rezoning.
 - c. A list of conditions proposed by the applicant.
 - d. A time frame for completing the proposed improvements.
 - e. A legal description of the land.
 - f. A site plan prepared in accordance with the requirements set forth in section 6.03 A.

2. **Public Hearing.** The notice of public hearing on a conditional rezoning request shall include a general description of the proposed agreement being considered. A review of the proposed agreement shall be conducted at the public hearing.
 3. **Standards for Approval.** A conditional rezoning may only be approved upon a finding and determination that all of the following are satisfied:
 - a. The conditions, proposed development, and proposed use of the land:
 - (1) are consistent with the public health, safety, and welfare;
 - (2) are not in material conflict with the Master Plan, or, if there is material conflict with the Master Plan, such conflict is due to one of the following:
 - (a) A change in Village policy since the Master Plan was adopted;
 - (b) A change in conditions since the Master Plan was adopted;
 - (c) An error in the Master Plan;
 - (3) comply with all requirements of the district to which the land is to be rezoned, except as otherwise allowed in the conditional rezoning agreement; and
 - (4) are compatible with adjacent uses of land.
 - b. Public services and facilities affected by the proposed development or use will be capable of accommodating service and facility loads caused by the use or development.
- E. **Amendment to Zoning Map.** Upon approval by Board of Trustees of a conditional rezoning request and a conditional rezoning agreement, the zoning map shall be amended to reflect a new zoning classification along with a relevant designation that will provide reasonable notice of the conditional rezoning agreement.
- F. **Expiration.** A conditional rezoning approval shall expire following a period of two years from the effective date of the rezoning unless progress has been diligently pursued and the work has been completed in accordance with permits issued by the Village.
1. If the conditional rezoning expires, the rezoning and the conditional rezoning agreement shall be void and of no effect.
 2. If the conditional rezoning becomes void, no development shall be undertaken and no permits for development shall be issued until such time as a new zoning district classification of the property has become effective as a result of one or both of the following actions:

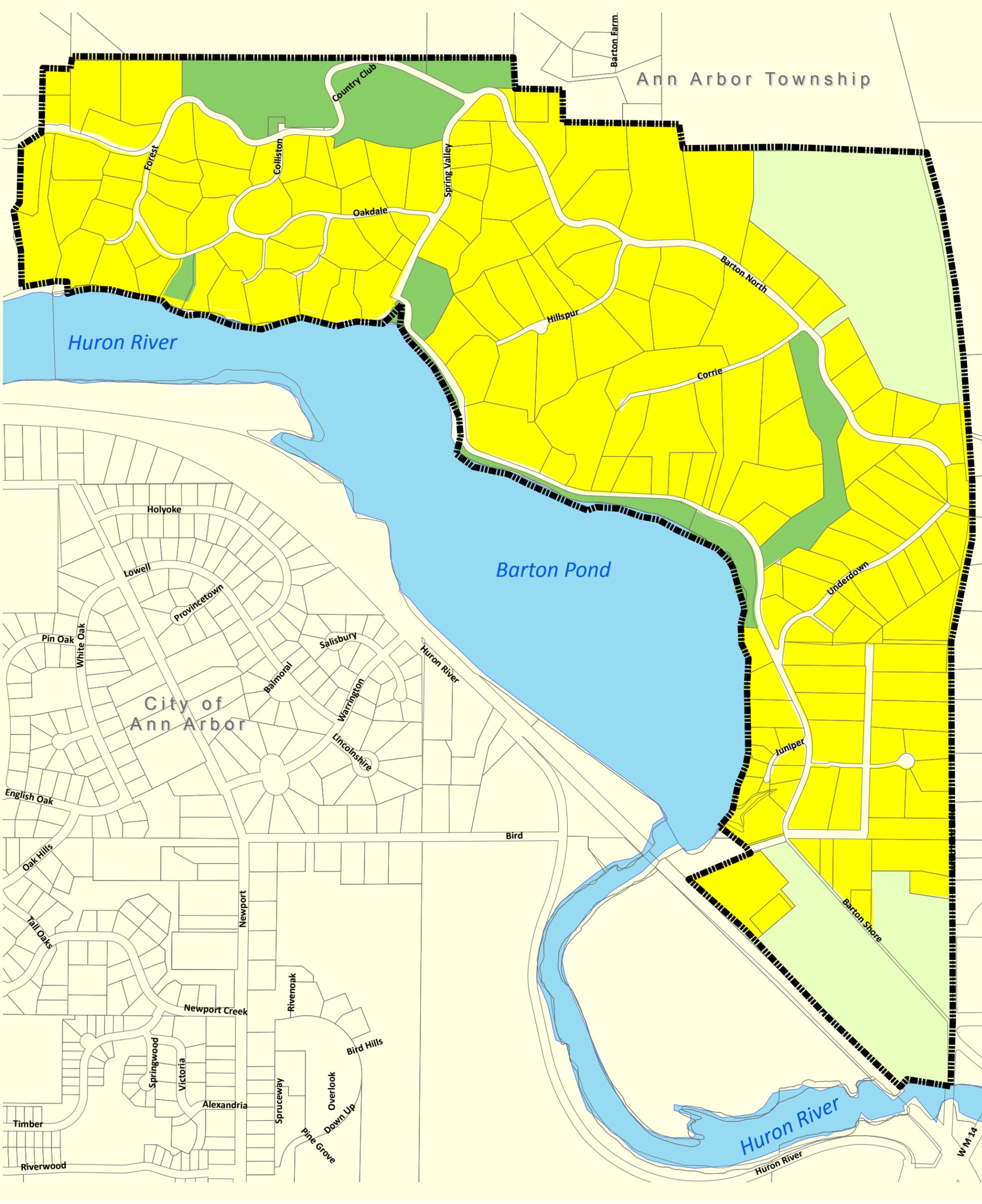
- a. The property owner seeks a new rezoning classification for the property, or
 - b. The Village initiates a new rezoning request for the property to a reasonable district classification, in accordance with the conventional rezoning procedure.
- G. **Recording Required.** A conditional rezoning approval shall not become effective until the conditional rezoning agreement is recorded with the Washtenaw County Register of Deeds and a certified copy of the agreement is filed with the Village Clerk.
- H. **Violations.** If development or actions are undertaken with respect to the property in violation of the conditional rezoning agreement, such development and actions shall constitute a violation of this ordinance and be deemed a nuisance per se. In such case, the Village may issue a stop work order relative to the property and seek any other lawful remedies. Until curative action is taken to bring the property into compliance with the conditional rezoning agreement, the Village may withhold or, following notice and an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of such other lawful action to achieve compliance.

SECTION 11.05 PUBLIC NOTICE OF PROPOSED REZONINGS AND TEXT AMENDMENTS

Public hearing and notification requirements, for proposed rezoning and text amendments are set forth in section 3.04.

SECTION 11.06 PROTEST PETITION

If a protest petition certified by the Village Clerk as meeting the requirements of this section is presented to the Board of Trustees prior to the final adoption of an amendment to this ordinance, the amendment shall not be passed except by a two-thirds vote of the Board of Trustees. A protest petition shall be signed by the owners of at least 20% of the area of land included in the proposed change or by the owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change, excluding publicly owned land. The protest petition shall be submitted to the Village Clerk by noon on the day of the Board of Trustees' public hearing on the proposed amendment, on a form provided by the Village.



- Agricultural
- Residential - Single Family
- Recreational - Conservation
- Village of Barton Hills Limits

ZONING DISTRICTS MAP

The Village of Barton Hills
Washtenaw County, Michigan



Map Data from Washtenaw County GIS (2011 Parcels)

4-8-14
Carlisle/Wortman Associates, Inc.
Ann Arbor, Michigan

