

**VILLAGE OF BUCKLEY  
ZONING ORDINANCE**

**ORDINANCE NO. \_\_\_ OF 2004  
AN ORDINANCE PURSUANT TO ACT 207  
OF THE PUBLIC ACTS OF 1921, AS AMENDED.**

**Administration of this ordinance,  
amendments to this ordinance and all other matters concerning operation of this ordinance  
shall follow the procedures pursuant to PA 110 of 2006, as amended.**

**This Ordinance is amended through November 11, 2020**

**THE VILLAGE OF BUCKLEY ORDAINS:**

**ARTICLE I PURPOSE AND AUTHORITY**

A. It is the purpose of this Ordinance to promote the safety, health, morals, convenience and general welfare; to encourage the use of lands in the Village in accordance with their character and suitability for particular purposes; to lessen congestion on the public streets and highways; to facilitate the adequate provision of streets and highways, sewage disposal and water supply systems; to insure compatibility between land uses and to preserve property values by establishing standards for physical development.

B. Unlisted Property Uses: the zoning board of appeals shall have the power on written request of any property owner, the zoning administrator or the planning commission to classify uses not listed in this Zoning Ordinance according to the provisions of Article XIII, Section 13.04 part b, # 3. The board shall consider the characteristic of the use under consideration in relation to similar and comparable uses listed in this ordinance. Once classified, the use is subject to all applicable regulations pertaining to the similar uses in that district.

B. Prohibited Uses: uses that are not specifically listed in and permitted by this ordinance or otherwise determined to be similar to listed uses and permitted uses by the Board of Appeals, are hereby determined to be prohibited uses. Uses for enterprises or purposes that are contrary to federal, state or local laws are prohibited.

**ARTICLE II SHORT TITLE**

This Ordinance shall be known as the “Buckley Village Zoning Ordinance.”

## Table of Contents

Article	Page
I Purpose and Authority.....	1
II Short Title.....	1
III Rules Applying to Text.....	3
III Definitions.....	3
IV General and Supplemental Regulations.....	15
V Zoning Districts.....	36
VI District Regulations.....	38
VII Off-Street Parking Requirements.....	56
VIII Signs.....	61
IX Special Use Permits.....	66
X Site Plan Review.....	77
XI Reserved.....	83
XII Non-Conformities.....	84
XIII Board of Zoning Appeals.....	87
XIV Administration and Enforcement.....	92
XV Amendment Procedure.....	98
XVI Savings Clause, Validity, Effective Date.....	100

## **ARTICLE III RULES AND DEFINITIONS**

### **SEC 3.00 RULES APPLYING TO THE TEXT**

For the purpose of this Ordinance, certain rules of construction shall apply to the text as follows:

- A. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- B. The word "person" includes an individual, corporation, partnership, firm, association, limited liability company, or other legal entity.
- C. The word "lot" includes "plot," "tract," "parcel" or "condominium unit"
- D. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- E. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- F. Any word or term not interpreted or defined by the Article shall be used with a meaning of common or standard utilization.

### **SEC 3.01 DEFINITIONS**

For the purpose of this Ordinance, terms and words are defined as follows:

**Access** – Any driveway, street or other means of providing for the movement of vehicles to and from property.

**Access Management** – The process of managing access to property from m-37 in a manner that preserves traffic capacity and maintains safety.

**Accessory Building or Structure** – A structure that is customarily incidental and subordinate to the principal building and located on the same lot as and spatially separated from the principal building.

**Accessory Dwelling** – A second dwelling unit contained within a one-family detached dwelling (granny flat) a garage, or above a garage (coach house) on the same lot as a one-family detached dwelling for use as a complete, independent living quarters, with provision for living, sleeping, bathing, and cooking.

**Accessory Use** – A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

**Adult Foster Care** – A state licensed residential facility as defined by MCLA 125.583b; MSA 5.2933 (2) that is used for the care and supervision of six (6) or fewer persons under 24 hour supervision but excluding persons released from or assigned to adult correctional or psychiatric institutions.

**Agricultural Operations** – The production, keeping, or maintenance, for sale, lease, or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock including beef cattle, llama, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur bearing animals; trees and forest products; fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery, floral, ornamental, and greenhouse products; or lands devoted to a soil conservation or forestry management program, but excluding intensive livestock operations.

**Alternative Access** – A means of access that is not directly to the Highway including frontage roads, backage roads and access to existing or proposed roads.

**Antenna** – An exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.

**Backage Road** – An alternative roadway, which generally runs parallel to and behind the development that fronts on the Highway.

**Basement** – That portion of the building that is partly or completely underground and does not satisfy the access requirements of the Wexford County Building Code.

**Bed and Breakfast Inn** – A private home that is occupied by a resident family which provides short term lodging for tourists and guests and features a personalized service and a full breakfast.

**Buffer Yard** – A required setback area from a street or property line that is designed for the exclusive purpose of buffering nonresidential uses from residential uses and public streets by means of landscaping and the use of other buffering materials.

**Building** – A structure either temporary or permanent, having a roof supported by columns or walls.

**Building Height** – The vertical distance measured from the mean elevation of the natural ground at the front of the building to the highest point of the roof.

**Building Official** – The administrator of the building, housing, plumbing, electrical or other codes that have been adopted by the Township or County.

**Child Care Center** – a commercial facility where twelve (12) or more minor children are received for care and supervision for periods of less than twenty four (24) hours a day.

**Colocate/Colocation** - The location by two or more wireless telecommunication providers of wireless telecommunication facilities on a common structure, tower or building with the intent of reducing the overall number of structures required in the community.

**Commercial Garage** – A building, structure, or lot or, a portion thereof, used for the repair, cleaning, sewing, equipping, painting or diagnosing of motor vehicles when operated as a business, whether or not registered as a Motor Vehicle Repair Facility pursuant to Act 300 of the public acts of 1974, as amended.

**Commercial Kennel** – A commercial establishment in which MORE THAN FOUR (4) dogs and domesticated animals are housed, groomed, bred, boarded, trained, or sold for compensation.

**Condominium Subdivision** - Any development undertaken under the provisions of the Michigan Condominium Act, Act 59 of Public Acts of 1978 as amended, or any other act of the Legislature of the State of Michigan providing for the development of property under joint or concurrent ownership.

**Cross Access** – A method whereby access to property crosses one or more contiguous or adjacent properties. These may include driveway or parking lot connections with cross easements.

**Districts** – Districts as used herein is synonymous with the word “zones” or “zoning districts.”

**Drive-through Business** – A business which by design, physical facilities or service permits customers to receive goods or services while remaining in their motor vehicles.

**Driveway** – An access allowing ingress and egress from a lot to a street, road, or highway.

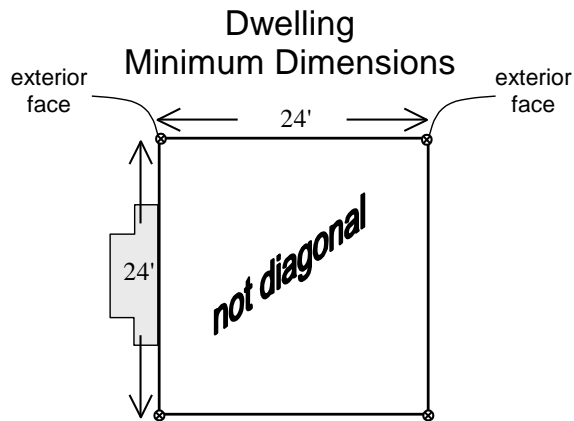
**Dwelling** – Any building, or portion thereof, which is designed or used exclusively for residential purposes.

**Dwelling, Multiple** – A building located on one lot and designed for or occupied by three or more families living independently of each other.

**Dwelling, One-family** – A detached building containing one dwelling unit and designed for occupancy by only one family.

**Dwelling, Standard** – A dwelling unit that meets the following requirements:

- A. The dwelling has a minimum dimension on any side of the first floor of a dwelling, as measured in a straight line from the exterior faces of the exterior walls of the building, exclusive of porches, garages and breezeways;



- B. The dwelling complies with the minimum development standards for the district within which it is located;
- C. The dwelling complies in all respects with the Michigan State Construction Code as promulgated by the State Construction Commission in accordance with Act 230 of the Public Acts of 1972, as amended;
- D. The dwelling is firmly attached to a permanent foundation constructed on the site in accordance with the County building code;
- E. The dwelling is compatible in design and appearance with other residences in the vicinity including roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; and has not less than two exterior doors with the second one located in either the rear or side wall of the dwelling;
- F. The dwelling has no additions or rooms or other areas, which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein;
- G. The dwelling complies with all pertinent County building and fire codes;
- H. The forgoing standards do not apply to a mobile home located in a Housing Cluster Option development as permitted in the "A" District, Section 6.05 D. 4., except to the extent required by state or federal law or otherwise specifically required by the Village pertaining to such developments.

**Dwelling, Two-family** – A building designed for or occupied by two families living independently of each other.

**Dwelling Unit** – A building or portion thereof, designed for permanent residential occupancy by one family.

**Essential Services** – The installation, construction, alteration or maintenance by public utilities or governmental agencies of underground, surface or overhead communication, telephone,

electrical, gas, water distribution, sewage collection, streets, alleys, sidewalks or trails including pavement, traffic control devices, signs, poles, wires, mains, drains, sewers, pipes, conduits, cables, pad mount transformers, fire alarm and police call boxes, traffic signals, hydrants, and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or government agency for the general public health, safety, convenience or welfare and including structures 800 cubic feet or less which are enclosures or shelters for service equipment. Telecommunications towers or facilities, alternative tower structures and wireless communication antennae are not included within this definition.

**FAA** - means the Federal Aviation Administration.

**FCC** - means the Federal Communications Commission.

**Family** – An individual, or two (2) or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than three additional unrelated persons, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include rooming or boarding houses or any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonable nature or for an anticipated limited duration of a school term or other similar determinable period.

**Family Child Care Home** – A state licensed private home in which no more than six (6) minor children are given care and supervision for periods of less than 24 hours per day unattended by parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption.

**Floor Area** – The area of a floor computed by measuring the exterior faces of the exterior walls of a building.

**Frontage, cul-de-sac**- The distance measured along the cul-de-sac street line measured at the front of the lot.

**Frontage, Street**– The distance along a street line measured at the front of a lot. Street frontage may only occur on a private or public street as defined in this Ordinance and is required for all new parcels.

**Garage** – A detached accessory building or portion of the main building which is used for the parking of automobiles, boats, and such other vehicles as may be used by the occupants of the building to which it is accessory.

**Gasoline Service Station** – Any building or land area or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; and the servicing and repair of automobiles. Such uses may also include as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

**Group Child Care Home**— A private home in which more than 6 but not more than 12 minor children are received for care and supervision for periods of less than 24 hours a day, for more than four (4) weeks during a calendar year, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

**Highway** – This word shall refer specifically to M-37.

**Home-Based Business** - A business operating out of a residence where the residence serves as the base of operation for a business conducted elsewhere. Such as house painter or electrician.

**Housing Cluster Option** – An open space community where the allowable density for the District shall remain unchanged if 50% or more of the site shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.

**Home Occupation** – An accessory use of a dwelling for business purposes.

**Livestock Operation, Intensive** – Any livestock operation that exceeds the allowable intensity of use allowed by Section 6.05 D. 5.

**Lot** – A parcel of land occupied or intended for occupancy by a use permitted by this Ordinance, including one principal building together with accessory buildings, open spaces and parking areas required by this Ordinance and having its principal frontage on a street or on an approved private street.

**Lot, Corner** – A lot, which has at least two contiguous sides abutting on and at the intersection of two or more streets, which streets intersect at an angle of less than 135 degrees.

**Lot Coverage** – That portion of a lot that is covered by buildings. This shall include porches, arbors, breezeways, patios, garages, buildings, and all accessory buildings.

**Lot, Interior** – A lot other than a corner lot.

**Lot of Record** – A lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of Wexford County, or a parcel of land described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds of Wexford County.

**Lot Line** – The boundary line between two lots. In the case of property abutting a street, road, Highway, or alley, the right-of-way line.

**Lot Width** – The horizontal distance between side lot lines measured at the required front setback.

**Manufacturing Uses** – The production, assembly, processing, compounding, packaging and storage of semi-finished or finished products from previously prepared materials.



**Mobile Home** – A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

**Mobile Home Community** – A cluster of mobile homes that is regulated as a Housing Cluster Option (Section 6.05 D. 4.).

**Nonconforming Use** – A use legally existing at the time of adoption of this Ordinance, which does not meet the use requirements of the district within which located.

**Nonconforming Structure** – A structure legally existing at the time of adoption of this Ordinance, which does not meet the dimensional requirements of the district within which located.

**Nursing and Residential Care Facilities** - Establishments that provide residential care combined with either nursing, supervisory, or other types of care as required by the residents.

**Offices, Business** – A building or portion of a building where services are performed of an administrative nature including such uses as insurance, real estate and financial services offices.

**Offices, Professional** – A building or portion of a building where services are performed of a professional nature including architectural, engineering, accounting, and similar professional service offices.

**Ordinary High Water Mark** – The boundary of lakes and streams which elevation shall be the elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape; commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

**Outdoor Sales** – The display and sale of merchandise beyond the perimeter of a building, including autos, boats, farm equipment and similar items.

**Owner** – A person having an ownership interest in premises regardless of whether such deed or land contract is recorded.

**Person** – An individual, partnership, association, trust or corporation, or any other legal entity or combination thereof.

**Principal Use** – The main use of the property as distinguished from an accessory use.

**Public Facility** – A facility that is owned by a governmental entity such as, but not limited to, offices, libraries, museums, post offices, courts, and civic centers.

**Recreation Vehicle** – A vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and is primarily designed as a temporary living accommodation for

recreational, camping, and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

**Recreational Equipment** – Vehicles that are used for off-road recreation including boats, snowmobiles, all-terrain vehicles, and similar equipment, and trailers that are used to transport such vehicles.

**Recreation Vehicle and Equipment Parking** – The parking of recreation vehicles and equipment during seasons of use of said vehicles and equipment.

**Recreation Vehicle and Equipment Storage** – The parking of recreation vehicles and equipment during seasons when such vehicles and equipment are not customarily in use.

**Religious Institution** – A building where persons regularly assemble for religious worship that is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

**Retail, Low Impact** – Businesses that sell products or services that demonstrate a lower than average parking demand attributable to low customer volume and relatively few employees.

**Riding Stable** – An establishment where horses are boarded and cared for and where instruction in riding, jumping, and showing is offered and where horses may be hired for riding.

**Right-of-Way** – A public or private street, alley or easement permanently established for the passage of persons or vehicles.

**Right-of-Way Line** – The edge of the right-of-way.

**Setback** – The minimum distance required between a lot and/or a right-of-way line and a structure.

**Sexually Oriented Businesses** – Businesses where 35% or more of the physical stock by quantity or 35% or more of the floor area consists of the sale, display or provision of services characterized by their emphasis of matter depicting, describing or relating to specified sexual activities, specified anatomical areas or both. Such businesses are commonly referred to as adult book and video stores, adult cabarets, adult arcades, adult motion picture theaters, adult theaters, adult novelty stores, adult panoramas, burlesque halls, adult motels and hotels, adult massage parlors, nude model studios, escort agencies and sexual encounter centers.

### **Sexually Oriented Business Definitions**

**Adult Arcade** – Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images for any form of consideration to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas as defined herein.

**Adult Book and Video Store** – A business which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- a) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- b) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

**Adult Cabaret** – A nightclub, bar, restaurant or similar business, which regularly features:

- a) persons who appear in a state of semi-nudity or nudity;
- b) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities;
- c) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
- d) persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

**Adult Massage Parlor** – A massage parlor that provides for any form of consideration, the rubbing, stroking, kneading, tapping or rolling of the body in a manner that is characterized by an emphasis on specified sexual activities or specified anatomical areas.

**Adult Motel and Hotel** – A hotel or motel or similar commercial establishment that:

- a) offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproduction;
- b) offers a sleeping room for rent for any form of consideration for a predesignated period of time that is less than twelve hours; or
- c) allows a tenant or occupant of a sleeping room to sub-rent the room for any form of consideration for a period of time that is less than twelve hours.

**Adult Motion Picture Theater** – A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction of specified sexual activities or specified anatomical areas.

**Adult Novelty Store** – A business that sells devices for any form of consideration that stimulate human genitals or are designed for sexual stimulation.

**Adult Panoram** – A business where patrons are entertained for any form of consideration by viewing individual booths, films, tapes or live entertainment showing specified sexual activities or specified anatomical areas.

**Adult Theater** – A theater, concert hall, auditorium or similar business establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

**Burlesque Hall** – A business that regularly features entertainers showing specified anatomical areas or specified sexual activities.

**Escort Agency** – A person or business, who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for any form of consideration.

**Nude Model Studio** – A place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.

**Sexual Encounter Center** – A business that, as one of its principal business purposes, offers for any form of consideration:

- a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

**Specified Anatomical Areas** – The male genitals and female breasts in a state of arousal and/or the vulva or more intimate parts of the female genitals.

**Specified Sexual Activities** including any of the following:

- a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- b) sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
- c) masturbation, actual or simulated; or
- d) excretory functions as part of or in connection with any of the activities set forth in a. through c. above.

**Shared Access** – A method whereby adjoining property owners share a common access to a street or Highway. These accesses are generally located at the common property line but may be located entirely on one property with access to another property by easement or other access agreement.

**Sign** - A name, advertisement, identification, device, description, display, or illustration, which is attached to, painted or represented, directly or indirectly, on a lot, building, structure or natural feature; which advertises, informs of, or directs attention to an object, product, service, place, activity, person, institution, organization, or business.

**Sign, Accessory** - A sign, which is not the principal sign on the property on which it is displayed.

**Sign Advertising** - A sign that provides information about a product, service, business, or activity, which is offered, conducted, or sold.

**Sign, Subdivision or Development** – A means a temporary sign, which identifies an architect, engineer, builder or other contractor working on the property.

**Sign, Area** - The entire space of a sign, used for lettering and symbols on a single surface but not including the supporting structure. On a two-sided sign where the faces are parallel to each other, only one (1) face is counted in computing the sign area.

**Sign, Flashing or Moving** - An illuminated sign, which flashes intermittently or creates the illusion of movement.

**Sign, Free-standing** - A sign supported by one or more uprights, poles, or braces placed in or upon the ground surface and not attached to any building.

**Sign, Illuminated** - A sign made visible by means of an artificial light source, either external and/or internal.

**Sign, Public Institution** - A 'changeable information' sign, which identifies a religious or governmental institution, school, library, community center or similar institution and its institutional services or activities.

**Sign, Moving or Revolving** - A sign that moves or creates the illusion of movement.

**Sign, Nonconforming** - A sign, legally existing at the time of adoption or amendment of this Ordinance, which does not conform to the requirements hereof.

**Sign, Outdoor Advertising** - A sign that directs attention to a business, product, service, or entertainment, which is offered, conducted or sold at a location other than the premises on which the sign is located.

**Sign, Portable** - A free-standing temporary sign, not permanently anchored or secured to either a building or the ground, and capable of being easily moved from place to place.

**Sign, Temporary** - A sign, display, banner, or other advertising device, which is intended for, or limited by this Ordinance to, short-term use.

**Sign, Wall** - A sign affixed to, and which projects no more than twelve (12) inches from, the exterior wall or surface of the building or structure to which it is attached.

**Street** – A public or private way that is permanently established for the passage of vehicles.

**Storage Unit – Mobile** - a repurposed semi-trailer or shipping container used for storage in commercial and industrial zoned areas and meeting the development standards of that district.

**Story** – A level of occupancy approximating a height of 10 and 15 feet. One story equals one dwelling or occupancy level, exclusive of the basement.

**Structure** – Anything constructed or erected which is permanently located on or above the ground including buildings, fences, signs, parking lots, sidewalks, driveways, drain fields, patios, and similar structures.

**Subdivision** – A subdivision as defined by the State Land Division Act of 1967.

**Substandard Lot** – A legally existing lot of record at the time of adoption of this Ordinance which does not meet the lot area or width requirements of the district within which it is located.

**Telecommunications Tower** – Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communications purposes, including self-supporting lattice and monopole towers and guyed towers. The term includes towers such as radio and television transmission towers, microwave towers, common-carrier towers and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**Technical and Trade Schools** – This industry comprises establishments primarily engaged in offering vocational and technical training in a variety of technical subjects and trades. The training often leads to job-specific certification.

**Testing Laboratories** – This industry comprises establishments primarily engaged in performing physical, chemical, and other analytical testing services, such as acoustics or vibration testing, assaying, biological testing (except medical and veterinary), calibration testing, electrical and electronic testing, geotechnical testing, mechanical testing, nondestructive testing, or thermal testing. Testing may occur in a laboratory or on-site.

**Veterinarian Clinics and Animal Hospitals** – A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

**Yard** – An open space, on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. A yard shall be construed as the minimum horizontal distance between the lot line and the structure.

**Yard, Front** – All land extending across the width of the property and lying between the building and the front lot line. The front yard for a corner lot shall be the narrowest dimension fronting on a street.

**Yard, Interior Side** – A yard extending between the side lot line and the nearest line of the building extending from the front yard to the rear yard.

**Yard, Rear** – All land extending across the width of the property and lying between the building and the rear lot line. The rear yard shall be the yard opposite the front yard.

**Yard, Street Side** – A yard between the side lot line that is adjacent to a street and the nearest line of the building extending from the front yard to the rear yard as measured from the right-of-way line.

**Zoning Administrator** – The administrator of this Ordinance, appointed by Village Council.

**Zoning Permit** – A standard form issued by the Zoning Administrator, upon application and declaration by the owner or his or her duly authorized agent, granting approval for the construction or use for which an application was made.

## **ARTICLE IV GENERAL AND SUPPLEMENTARY REGULATIONS**

### **SEC 4.00 PURPOSE**

General and supplementary regulations apply to all districts except as noted herein. Where requirements of a general or supplementary nature differ with a specific district regulation, the more restrictive regulation shall prevail.

### **SEC 4.01 APPLICATION OF REGULATIONS**

Except as hereinafter specified, no building, structure or premises shall hereafter be used or occupied and no building, structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified. Furthermore, no lot shall be divided, no yard or setback reduced, or building height, density or

lot coverage increased so as to be in violation of this Ordinance, except where such reduction or increase has been brought about by the expansion or acquisition of a public right-of-way and/or a variance has been approved by the Zoning Board of Appeals.

#### **SEC 4.02 ONE BUILDING PER LOT**

Hereafter, every building erected, altered or moved shall be located on a lot of record as defined herein, and, except in the case of an approved multiple dwelling development, not more than one (1) principal building and its permitted accessory structures shall be located on a lot in a residential district.

#### **SEC 4.03 STREET ACCESS REQUIRED**

Each lot shall have frontage on a street, as defined herein, equal to the minimum required lot width for the District within which located unless otherwise provided for by this ordinance. In the case of a lot having frontage on a cul-de-sac, in any zoning district, the minimum frontage may be reduced to 50 ft provided the minimum width of the lot is met at the required front yard setback line.

#### **SEC 4.04 PRIOR PERMITS**

Any building and/or zoning permit issued prior to the adoption of this Ordinance, shall be valid, provided it complies fully with the regulations in effect at the time of issuance of the building and/or zoning permit and further provided the construction is meaningfully commenced within six (6) months of the date of issuance of the building or zoning permit. In the event construction is not so commenced within the six-month period following issuance, the building, structure, or use for which the permit was issued shall be required to conform to all of the provisions of this Ordinance.

#### **SEC 4.05 PERMITTED HEIGHT AND YARD EXCEPTIONS**

- A. Permitted Height Exceptions.** The following structural appurtenances shall be permitted to exceed the height limitations of the district within which located:
1. Ornamental appurtenances such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles, and monuments to a maximum height of 75 feet.
  2. Mechanical and structural appurtenances such as chimneys, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, amateur radio towers, television antennas, satellite dishes one meter (39 inches) or less in diameter, fire and hose towers, and cooling towers but excluding telecommunication towers to maximum height of 100 feet.
  3. Structural extensions deemed necessary for appropriate building design such as cornices or parapet walls that may extend to a maximum of five (5) feet above the height limitations for the district and shall have no openings. The foregoing



permitted height exceptions may be authorized only when all of the following conditions are satisfied:

- a. No portion of any building or structure, permitted as an exception to a height limitation, shall be used for human occupancy or the conduct of a business.
  - b. Any permitted structural exception to a height limitation shall be erected only to such height as is necessary to accomplish the purpose it is intended to serve, and no higher.
  - c. If the roof area of such structural elements that are allowed to exceed the height limitations, exceed more than 20% of the gross roof area, they shall be considered to be integral parts of the whole structure and shall not be eligible to exceed the height limitations.
4. Agriculture-related structures, such as barns, silos, and elevators to a maximum height of 100.

**B. Permitted Yard Encroachments.** The following encroachments within required yards shall be permitted subject to the stated conditions:

1. Paved terraces, patios, decks, uncovered porches, and ramps for the physically disabled provided the area is not roofed, the highest elevation of the surface of the improvement does not extend more than two (2) feet above the average surrounding finished grade level, and no portion of the improvement extends more than five (5) feet into a required yard or closer than ten (10) feet from any property line or right-of-way line.
2. Special structural elements such as cornices, eaves, gutters, sills, chimneys, belt courses, and ornamental features and similar features and roof overhangs provided they do not project more than three (3) feet into a required yard.
3. Unenclosed porches, either roofed or unroofed, provided no part of the structure is closer to a lot line than ten (10) feet, and, further provided, there shall be no more than one such encroachment in any one yard.
4. Enclosed and unenclosed balconies provided they project no more than five (5) feet into any required yard.
5. Enclosed porches built at ground level and having solid foundations shall be considered to be an integral part of the building and shall be subject to the yard and area dimensional requirements established for principal buildings.
6. Open fire escapes and stairways may project into a required rear yard to a maximum of five (5) feet.

#### **SEC 4.06 ACCESSORY BUILDINGS**

Accessory buildings in districts which allow single-family dwellings shall be subject to the following additional regulations, except as otherwise permitted by this Ordinance. These standards do not apply to accessory dwellings.

- A. Attached garages and breezeways shall be considered part of the principal building and shall comply in all respects with the Ordinance requirements applicable to principal buildings. Attached garages shall not exceed a floor area of 832 square feet.
- B. No detached accessory building shall exceed a height of eighteen (18) feet and the sum of all detached accessory buildings shall not exceed an area equal to the ground floor

area of the principal dwelling or 1,200 square feet, whichever is less. This requirement shall not apply to the Agricultural District.

- C. A detached accessory building shall not be closer than ten (10) feet to any other building or structure on the lot.
- D. No accessory building shall be closer than ten (10) feet to an interior side or rear lot line. No detached accessory building shall be located in the front yard.

#### **SEC 4.07 ACCESSORY DWELLINGS – GRANNY FLATS AND COACH HOUSES**

No accessory building or use on the same lot as a principal dwelling shall be used as a dwelling, except by family members, provided all other applicable requirements of this Ordinance are satisfied. An accessory dwelling may have separate sleeping, cooking, and sanitary facilities provided it meets the specific provisions of the zoning district within which it is located. Not more than one (1) accessory dwelling shall be permitted on any one (1) lot.

- a. The floor area of the accessory dwelling unit shall not be greater than 600 square feet or less than 400 square feet.
- b. The accessory dwelling unit is developed within an existing or proposed one-family dwelling (granny flat) and/or over a garage (coach house) as defined by this Ordinance.
- c. A granny flat shall have access from within the principal dwelling. Access to a coach house shall not be visible from a street.
- d. The proposed use has been issued a building permit and a zoning permit and complies fully with the requirements of the current State Of Michigan or County Building Code.
- e. The temporary accessory dwelling shall be clearly subordinate to the principal dwelling unit on the lot in terms of size, location and appearance.
- f. The accessory dwelling shall have the same architectural style as the principal dwelling in terms of building height, materials of construction and roofline slope.

#### **SEC 4.08 TEMPORARY BUILDINGS**

Only the following temporary buildings shall be placed on a lot upon issuance by the Zoning Administrator of a zoning permit:

- A. Temporary buildings and structures incidental to construction work, except single-family dwellings. Said temporary buildings and structures shall be removed within fifteen (15) days after construction is complete, but in no case shall the temporary building be allowed to occupy the premises for more than twelve (12) months, unless expressly authorized by the Zoning Board of Appeals.

- B. Temporary buildings incidental to a church or school, provided all wiring, plumbing, fire protection, and exits are approved by the Fire Chief, Building Inspector, and relevant State Agencies.

#### **SEC 4.09 TEMPORARY DWELLINGS**

No structure shall be used for dwelling purposes that is not considered a standard dwelling or a mobile home as defined by this Ordinance except for tents and recreation vehicles, which may be located on private property and be occupied as a temporary dwelling on the premises for not more than 14 consecutive days. No garage or other accessory building, basement, partial structure or other temporary structure shall be used in whole or in part for dwelling purposes in any district for any length of time unless approved as a special exception by the Board of Zoning Appeals (BZA). BZA approval shall be subject to all of the following conditions:

- A. Issuance of such temporary permit shall be for a period not to exceed six (6) months.
- B. The permanent dwelling of the resident applicant has become uninhabitable due to damage caused by fire, wind, or other natural disaster.
- C. Due to undue hardship, the applicant is unable to obtain another dwelling unit as a temporary residence.
- D. Adequate provision is made for temporary public or private water supplies and sewage disposal to and from said structure.
- E. The dimensional requirements of the District are satisfied.
- F. The structure is constructed so as to meet the minimum requirements for the health, safety and welfare of the dwelling's occupants and the surrounding neighborhood in accordance with the current Village or County Building Code.

#### **SEC 4.10 RECREATION VEHICLE AND EQUIPMENT PARKING AND STORAGE**

Recreation vehicles and equipment shall not be stored in front, interior side, or street side yards. Recreation vehicle and equipment storage shall be permitted in a rear yard and the interior side yard adjacent to a rear yard. Recreation vehicles and equipment may be parked temporarily in areas where storage is permitted and in street side yards or driveway areas within a front yard during the season of use. The season of use for summer use vehicles and equipment shall be May 1 through October 31 and the season of use for winter use vehicles and equipment shall be November 1 through March 31.

#### **SEC 4.11 MOVING OF BUILDINGS**

The moving of an existing building to a different location, even if on the same lot, shall be considered the same as the erection of a new building and all provisions, regulations or requirements relative to the erection of a new building shall be applicable thereto. No existing

building shall be moved to the Village or relocated within the Village to any lot in the Village unless the building design and construction are compatible with the general architectural character, design, and construction of other buildings and structures located in the immediate area of the proposed lot; the building and all materials are in conformity with the Village (County) Building Code; and the building or structure can be located on the lot in conformance with the district and other requirements of this Ordinance.

#### **SEC 4.12 RAZING OF BUILDINGS**

No building shall be razed until the Zoning Administrator has issued a Zoning Permit. Permit issuance shall be subject to the razing of the building within a specified timeframe and compliance with all regulations pertaining to the removal of debris, the filling of excavations, and disconnections from existing utilities.

#### **SEC 4.13 SEWER AND WATER REQUIREMENTS**

Every building hereafter erected, altered or moved upon any premises and used in whole or in part for dwellings (year-round or seasonal), recreational, business, commercial or industrial purposes, including churches, schools and other buildings in which persons customarily congregate, shall be provided with a safe and sanitary water supply system with means for collecting and disposing of all human excreta and of all water-carried domestic, commercial, industrial and other wastes that may adversely affect the public health.

#### **SEC 4.14 FENCES**

- A. **Compliance Required.** It shall be unlawful for any person to construct a fence or hedge on property within the Village except in compliance with the following regulations. A Zoning Permit shall be required, but a fee shall not.
  
- B. **Regulations.** The following regulations shall apply to fences and hedges within the Village, unless otherwise required by this Ordinance:
  - 1. Fences and hedges located in a front or street side yard shall be no more than 38 inches in height, as measured vertically from the surface of the ground.
  - 2. Fences shall be constructed of chain link, brick, stone, wood boards, split rails, wrought iron, decorative concrete blocks, decorative chains, decorative rope, or similar material. No pallet or slab wood fences shall be permitted.
  - 3. Fences located in a rear or interior side yard shall be no more than six (6) feet in height, as measured vertically from the top of the fence to the lowest point of the approved grade located perpendicular to and within five (5) feet on either side of the fence; provided, however, that fences and hedges exceeding 38 inches in height and located in an interior side yard shall not extend closer to the front lot line than the front of the principal building or the required front yard setback, whichever point is farther from the front lot line.
  - 4. Except as otherwise provided herein, all fences and hedges shall be located entirely on the property of the person constructing the fence or hedge. Where a fence is to be erected on or within six (6) inches of the lot line, a Registered Land Surveyor shall verify and mark the lot line.

5. In order to provide for snow removal, fences established along alleys maintained by the Village, setback shall be a minimum of two (2) feet from the property line. Setbacks from sidewalks shall be a least one (1) foot.
6. The portions of all fences facing property other than the property of the fence owner or facing a road right-of-way shall be constructed finished side out, so that, to the extent possible by the design of the fence, the fence posts and the horizontal and/or vertical fence supports are not visible from that other property or from the road right-of-way.
7. Fences shall be maintained in good repair and a safe condition.
8. Such fences, walls or hedges shall not obstruct sight distances needed for safe vehicular traffic, nor create a hazard to traffic or pedestrians from streets, alleys and sidewalks in accordance with the requirements of Article IV, Section 4.15.  
**Section 4.14 amended by amendment #11-01 adopted on October 12, 2011**

#### **SEC 4.15 INTERSECTION SAFETY**

No fence, wall, sign, hedge, screen, or landscaping shall be erected or maintained so as to obstruct vision between the height of three (3) and ten (10) feet, as measured from the elevation of the intersecting centerlines, within 30 feet of the point of intersection of the right-of-way lines of any two streets. No fence, wall, sign, hedge, screen, or landscaping shall be erected or maintained to obstruct vision from a driveway between the heights of three (3) and ten (10) feet as measured from the elevation of the street centerline, within ten (10) feet of any front property line.

#### **SEC 4.16 ESSENTIAL SERVICES**

Essential services as defined herein shall be exempt from the requirements of this Ordinance.

#### **SEC 4.17 KEEPING OF ANIMALS**

It shall be unlawful to keep farm animals in the Village, except as provided for in the Agricultural District. It shall also be unlawful to keep wild animals in the Village. This provision shall not prohibit the keeping of ordinary household pets such as dogs, cats, birds, fish and small rodents or exotic pets such as pot-bellied pigs or small wild animals such as amphibians and reptiles that are unlikely to be injurious to the health, welfare and safety of the public.

#### **SEC 4.18 STREET VACATIONS**

Whenever any road, street, alley or other public right-of-way, or railroad right-of-way, is vacated by official action of the appropriate agency or governmental body, the zoning district adjoining each side of such right-of-way shall automatically be extended to the center of such vacation, and all areas included in the vacation shall then be subject to all of the regulations of the extended districts.

#### **SEC 4.19 OUTDOOR LIGHTING**

The outdoor lighting of yards, parking areas, buildings, grounds, signs, private roads, and waters shall be designed and constructed to insure that direct or directly reflected light is confined to the site on which the light is located and lamps and luminaries are hooded to insure that there will be no direct light spillage beyond the boundaries of the site or private road right-of-way.

#### **SEC 4.20 SATELLITE DISHES**

A satellite dish that is one meter or less (3 feet 3 inches) in diameter, is or is not attached to a building or structure, and conforms to the setback requirements of the district within which located, shall not require the issuance of a Zoning Permit. Satellite dishes larger in size than one meter, whether located on the ground or on a structure, shall conform to the setback requirements of the district within which located and shall not be erected in a front or side yard. Such dishes shall require the issuance of a Zoning Permit by the Zoning Administrator.

#### **SEC 4.21 PLATTED LOT DIVISIONS**

A lot in a recorded plat may be divided if the following standards and procedures are satisfied.

##### **A. Required Standards.**

1. The division shall meet the requirements of the Land Division Act, PA 288 of 1967, as amended and the minimum lot size requirements of this Ordinance.
2. The resultant lots shall satisfy the area requirements of the County Health Department.
3. The lot shall be divided into no more than four (4) parts.

##### **B. Procedures.** The following procedures shall apply to the division of a lot in a recorded plat:

1. An application shall be filed with the Zoning Administrator along with the application fee. The application shall include a drawing of the division drawn to scale in accordance with PA 132 of 1970, as amended, with dimensions and information in sufficient detail to determine that the division meets the requirements of this Ordinance for lot width, access, drainage, the provision of utilities, and the effect on adjoining properties.
2. The application shall be forwarded to the Village Council for review and action by resolution. The Council shall approve, approve with conditions, or deny the request for the lot division based on whether the proposed division satisfies the above standards.

#### **SEC 4.22 LOT COMBINATION REQUIRED**

Where two or more contiguous lots are owned by the same person, no zoning permit shall be issued for a new or expanded structure and no excavation or construction of any kind shall be commenced thereon unless the setback requirements of the district are fully complied with for each individual lot or the applicant files a Notice of Intent to Combine form with the Village Assessor.

#### **SEC 4.23 SUPPLEMENTARY FRONT YARD SETBACK REGULATIONS**

Notwithstanding the minimum required front setback, where 40% or more of the lots are occupied with buildings within 200 feet in both directions of the proposed building lot, the required minimum setback shall be the average of the setbacks of the existing buildings. Where the average established setback exceeds the required minimum setback, the average setback shall be required, provided this requirement shall not require a front setback of more than 50 feet. In cases where there is no established front yard setback, the structure shall not be located closer to the street than the minimum required setback.

#### **SEC 4.24 ANNEXATION**

Any land that may be annexed to the Village shall be classified R-1 Residential District immediately upon annexation to the Village and shall remain as such until said land is officially rezoned. If the R-1 zoning is inconsistent with the zoning and use of surrounding properties, the Village shall initiate the rezoning of the property within six (6) months of the date of the annexation.

#### **SEC 4.25 PRIVATE STREETS**

A private street that provides access to and from a public road for two or more dwellings or principal buildings on separately owned parcels shall submit a Site Plan in accordance with Article X of this Ordinance and meet the following standards:

**Minimum Right-Of-Way Width.** Sixty-six (66) feet.

- A. Minimum Street Width.** Twenty-two (22) feet.
- B. Paving Required.** A private street for four (4) or more units shall have a hard surface consisting of bituminous, sealcoat, concrete or similar materials. A private street for less than four (4) units may have a gravel surface.
- C. Storm Water Drainage.** Private streets shall be designed to control storm water drainage utilizing collection and storage systems or seepage systems in according with Michigan Best Management Practices. An engineer licensed in the State of Michigan shall prepare the drainage plan. The plan shall be approved by the Wexford County Soil Erosion and Sedimentation Control Officer and the County Drain Commissioner.
- D. Centerline Grade.** The minimum street centerline grade shall be four-tenths percent (0.4%). The maximum road centerline grade shall be ten percent (10%).
- E. Vertical Clearance.** The Fire Chief shall determine whether vertical clearances are adequate to provide for the passage of emergency vehicles.
- F. Utility Easements.** Utility easements shall be required on both sides of the street in conjunction with a private street project. Such easements may be located either within or adjacent to the right-of-way and shall be a minimum of ten (10) feet in width.

- G. Access to County Roads.** The Wexford County Road Commission shall approve all accesses to County roads.
- H. Performance Guarantees.** As a condition of approval, The Village may require surety by the developer to make the street improvements shown on the site plan and to insure completion of filing requirements. Performance guarantees shall be pursuant to Article XIV of this Ordinance.

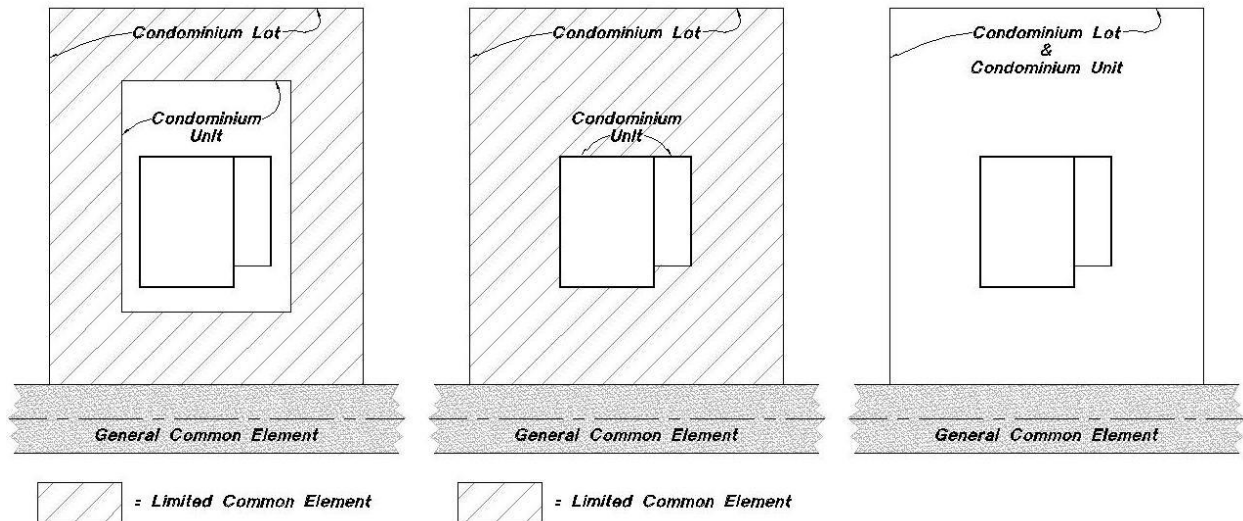
## **SEC 4.26 SUBDIVISIONS**

The purpose of this Section is to regulate the creation and use of regular subdivisions and condominium subdivision developments within the Village and to promote and protect the health, safety and general welfare of the public. These regulations and controls shall in no way repeal, annul or in any way interfere with the provisions and standards of any other State and Federal laws and regulations.

- A. General Requirements.** The following general requirements shall apply.
1. **Compliance with Federal, State and Local Laws.** All regular subdivisions and condominium subdivisions shall comply with all applicable Federal, State and local laws and ordinances.
  2. **Zoning Standards.** Subdivision and condominium subdivisions shall comply with all of the zoning standards of this Ordinance.
  3. **Required Review and Approval.** Prior to the recording of a subdivision under the Land Division Act of 1967, or a master deed, required by Section 72 of the Condominium Act, the project shall undergo Site Plan Review and approval by the Village Council in accordance with Article X of this Ordinance. Approval under this Ordinance shall be required as a condition to the right to construct, expand or convert a regular subdivision or a condominium subdivision in the Village.
  3. **Compliance of Condominium Lot.** For the purposes of these regulations, each lot in a regular subdivision and each lot in a condominium subdivision shall be considered as a single lot and shall comply with all of the regulations of the Zoning District in which it is located. In a regular subdivision and a condominium subdivision containing single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a lot and no dwelling unit shall be located on a lot with any other principal structure or use. Required yards shall be measured from the boundaries of a regular subdivision or condominium lot.
  4. **Easements for Utilities.** Road rights-of-way shall be dedicated to the public or an association. The rights-of-way shall be for roadway purposes and for maintaining, repairing, altering, replacing, and/or removing pipelines, wires, poles, mains, conduits, and other installations of a similar nature, hereinafter collectively called "public infrastructure," for the purpose of providing public utilities, including electric, communications, water, drainage and sewers. Private streets shall be designed in accordance with Section 4.26 of this Ordinance.



### Three Scenarios of Condominium Elements In a Single Family Detached Condominium Project



**B. Procedures for Site Plan Review.** The following procedures shall apply.

1. Required Information.
  - a. All regular subdivisions and condominium subdivisions shall include the information required by the respective Acts and all other information required under the regulations pertaining to the Zoning District in which the subdivision or condominium subdivision is proposed or located.
  - b. In the case of a regular subdivision or a condominium subdivision consisting of single-family detached dwelling units, the location and dimensions of regular subdivision lots and condominium lots and units and required yards shall be shown on the Site Plan.
2. Site Plan Review.
  - a. An application for Site Plan approval shall be filed for review per the requirements of Article X of this Ordinance. All procedures and standards of Article X shall apply to regular subdivisions and condominium subdivisions.
  - b. For regular subdivisions deed restrictions, if any, shall accompany the application. For condominium subdivisions, the application for Site Plan Review shall also include a copy of the proposed Master Deed. Both shall be reviewed and approved by the Village Council and thereafter recorded with the County Register of Deeds.
  - c. For regular subdivisions deed restrictions, if any, and for condominium subdivisions, the Master Deed shall be reviewed with respect to all matters subject to regulation by the Village, including but not limited to: the description, boundaries, use and preservation of common elements; the maintenance of drainage, retention ponds, wetlands and other natural areas; and the maintenance of landscaping in common areas of the project. For a condominium subdivision, the Master Deed shall provide for the means by which any private road right-of-way may be dedicated to the public entity

having jurisdiction in the future should the Condominium Association deem such dedication later appropriate.

3. Performance Guarantees. As a condition of approval of the Site Plan for a regular subdivision or a condominium subdivision, the Village Council may require surety by the developer to make improvements shown on the Site Plan and to insure completion of filing requirements in accordance with Article XIV of this Ordinance.
4. Mobile Home Condominium Project. Mobile home condominium developments shall conform to the Housing Cluster Option requirements of Section 6.05 D. 4 of this Ordinance, the Condominium Act, and other applicable local and state laws, ordinances, and regulations.
5. Additional Filings Required. Subsequent to the recording of the subdivision, and associated deed restrictions, or the Master Deed for a condominium subdivision, and subsequent to the construction of improvements, the developer shall file the following information with the Village Clerk:
  - a. One (1) mylar copy and five (5) prints of the as-built subdivision or Condominium Subdivision plans.
  - b. Two (2) copies of the recorded deed restrictions for a regular subdivision or the Master Deed for a condominium subdivision with all pertinent attachments.
  - c. Certification from the developer's engineer that improvements have been installed in conformance with the approved construction drawings and monuments.
  - d. Upon fulfillment of all requirements, the developer shall apply to the Village Clerk for release of performance guarantees.

#### **SEC 4.27 GRADING AND FILLING**

The grading or filling of a land area exceeding 10,000 square feet shall not be commenced until the Zoning Administrator has issued a Zoning Permit.

#### **SECTION 4.28 FREESTANDING OUTDOOR FURNACES DESIGNED FOR STRUCTURE HEAT.**

Purpose: It is the purpose of this section to prohibit or limit the construction and operation of freestanding outdoor furnaces within certain zoning districts in the Village for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the village and its inhabitants. It is generally recognized that the types of fuel used, and the scale and duration of the burning by such furnaces create noxious and hazardous smoke, soot, fumes, odors, air pollution, particles, and other products of combustion that can be detrimental to citizens health, and can deprived neighboring residents of the enjoyment of their property or premises.

Definition: A freestanding outdoor furnace is any device or structure that:

- a. Is deigned, intended, or used to provide heat and/or hot water to any residence or other structure.

- b. Operates by the burning of wood or any other solid fuel, including but not limited to, coal, pellets, and agricultural products, or any other type of combustible material; and
- c. Is not located within a residential structure.
- d. Excluded from this definition is any device that is not designed or used to heat a structure other than the structure in which it is located.

Prohibitions:

- a. It shall be unlawful to install or operate a freestanding outdoor furnace, and to cause or permit the installation or operation of a freestanding outdoor furnace within the CBD Central Business District.
- b. In addition to prohibiting freestanding outdoor furnaces within the CBD zoning district, no freestanding furnace will be allowed in any other zoning district within two hundred (200) feet of the nearest lot line. Any freestanding outdoor furnace allowed in the GB General Business and LI Light Industrial zoning districts shall be limited to heating a single structure.
- c. This prohibition shall not apply to an industrial manufacturer or processor located within the Light Industrial district, which produces wood waste product's in its manufacturing or processing operation.
- d. This prohibition is further not intended to prohibit typical fire pits and backyard campfires in any zoning district, so long as they are safely constructed and attended and in accordance with authorized burn regulations of the Michigan Department of Natural Resources.

Conflicts: This section shall not be construed as an exemption or exception to any other provision of any other code or ordinance of the Village. In the event of a conflict between the provisions of this section and any other ordinance or other provision of law, the more restrictive provision shall apply.

Existing Uses: This section shall not apply to any freestanding outdoor furnace that was installed, connected, and operating as of the effective date of this section. However, this section shall not be deemed as specific authorization for the use of any pre-existing freestanding outdoor furnace and shall not be deemed to bar, limit, or otherwise affect the rights of any person to take private legal action regarding damage or nuisance caused by the use of a freestanding outdoor furnace.

Violations: Any freestanding outdoor furnace installed or operated in violation of this section is hereby declared to be a nuisance per se.

**SECTION 4.29 MEDICAL MARIHUANA PRIMARY CAREGIVERS AS A HOME OCCUPATION AND PROHIBITION OF MEDICAL MARIHUANA DISPENSARIES**

A. **Intent:** The purpose of this section is to implement land use regulations to address the medical use of marihuana in the Village of Buckley only to the extent specifically authorized by the enactment of the Michigan Medical Marihuana Act (or "MMA") Initiated law 1 of 2008, MCL 333.26421, et seq, and its administrative rules , R 333.101 et seq ("MMA Rules").

B. **Definitions:**

The following definitions apply for purposes of this Section:

1. "Enclosed, locked facility" means an enclosed, locked facility as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423.
2. "Medical marihuana or medical use of marihuana" as defined in Section 7106 Of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being MCL 333.7106, that meets the definition of "medical use" in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423.
3. "Primary caregiver" means primary caregiver as defined by Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423 who has registered with the appropriate Michigan department under the MMA.
4. "Qualifying patient" means a qualifying patient as defined by Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423, who has registered with the appropriate Michigan department under the MMA.
5. "Medical marihuana provisioning center" or "provisioning center" means a commercial entity such as, but not limited to, a dispensary, cooperative, store or other entity located in this state that acquires, possesses, manufactures, delivers, transfers, or transports medical marihuana and sells, supplies, or provides medical marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where medical marihuana is sold to registered qualifying patients and registered primary caregivers. The location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's medical marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this Ordinance.

C. **Conditions Applicable to Primary Caregivers:**

1.Nothing in this section, or in any companion regulatory section adopted in any other provision of this Ordinance, is intended to grant, nor shall they be construed as granting immunity from prosecution for growing, selling, consuming, using distributing or possessing of marijuana under applicable federal or state law.

2.A primary caregiver shall be permitted to conduct the medical use of marihuana pursuant to the MMA and the MMA Rules, and the requirements of this section. The requirements of this section are not intended to supersede or to conflict with the requirements of the MMA or MMA Rules but as a supplement to address zoning concerns.

A primary caregiver shall be considered a Home Occupation. No land use permit shall be required. In addition, a primary caregiver, shall comply with the following requirements:

a.The medical use of marihuana shall comply at all times and in all circumstances with the MMA and the MMA Rules as they may be amended from time to time.

b.Any medical use of marihuana beyond what is permitted by the MMA and MMA Rules is expressly prohibited.

c.Each qualifying patient's medical marihuana plants and product shall be kept in a separate enclosed, locked facility, pursuant to the MMA and MMA Rules that permits access only by the primary caregiver.

d.A primary caregiver may only conduct the medical use of marihuana from the primary caregiver's principal dwelling and residence. No more than one (1) primary caregiver per dwelling unit shall be permitted.

e.Medical marihuana shall be delivered to the qualifying patient where the qualifying patient resides. Pick up of medical marihuana from the primary caregiver's dwelling is prohibited. In addition, no compensation to a primary caregiver by a qualifying patient shall occur at a primary caregiver's dwelling.

f.A dwelling unit at which a primary caregiver is conducting the medical use of marihuana; shall have no sign related to the dwelling's use by a primary caregiver visible from outside the dwelling unit including, but not limited to, any symbol portraying or representing a marijuana plant or portion thereof.

g.If a room with windows within the dwelling or accessory building is utilized to grow marihuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.

D. **Exceptions:** This Section shall not be deemed to prohibit or restrict or require a permit for the following:

1. The cultivation, storage and/or use of marihuana by a qualifying patient solely for his/her personal use at his/her residence or at a hospital or hospice at which he/she is receiving care and in accordance with the provisions of the MMA and the MMA Rules as amended.

2.The cultivation, storage and/or distribution of marihuana in accordance with the MMA and MMA Rules, as amended, by a primary caregiver solely to provide services to not more than one qualifying patient who is a member of the primary caregiver's household and whose residence dwelling is shared with the primary caregiver.

3.The provision of assistance to a qualifying patient by his/her designated primary caregiver relating to medical marihuana use, including distribution or other assistance, in accordance with the MMA and the MMA Rules as amended, at the residence of the qualifying patient or at a hospital or hospice at which the qualifying patient is receiving care.

E. **Medical Marihuana Provisioning Centers are Prohibited:** Medical Marihuana Provisioning Centers or Provisioning Centers of any kind are prohibited in the Village of Buckley in all zoning districts.

G. **Violations and Enforcement:** A violation of this section shall subject the offender to the enforcement provisions and penalties in Section 14.01

Section 4.29 added by amendment # 14-02 adopted 8/13/14 and effective 8/18/14

#### **Section 4.30 Home Based Business:**

- a. The home-based business shall be clearly secondary and incidental to the use of the premises as a residence.
- b. All activities shall be conducted entirely within the interior of the principal dwelling or garage.
- c. Home-based businesses shall be owned and operated solely by persons residing in the residence except that not more than one person not in residence on the premises may be employed on the premises. For a beauty or barbershop, not more than one chair shall be permitted.
- d. No alterations to the exterior of the dwelling, accessory building or yard shall be permitted which alters the residential character of the premises.

- e. Parking shall be allowed only within improved driveway areas.
- f. Not more than one identification sign shall be permitted provided it is not larger than two (2) square feet in area, is not illuminated, and denotes only the name of the business and/or the name or profession of an occupant of the dwelling.
- g. Limited retail sales on the premises may be permitted if incidental to the furnishing of a service.
- h. No traffic shall be generated in greater volumes than would normally be expected for a residential use.
- i. No equipment shall be used in the home-based business that will create electrical interference for surrounding properties.
- j. The use shall not generate noise; vibration, odor, glare, or airborne particulates, other than those customarily associated with a residence, beyond the property line of the home-based business.
- k. Instruction in crafts and fine arts are recognized as permitted home-based businesses if they meet the above conditions.
- l. If there is a dispute about whether a use qualifies as a home occupation, the Board of Zoning Appeals shall have the responsibility to interpret use is permitted based on these development regulations.

**Section 4.31 Bed and Breakfast Establishments:**

- a. The exterior of the structure shall not be altered from its single-family character and appearance.
- b. There shall be no separate or additional kitchen facility or facilities for guests.
- c. The number of rental rooms permitted shall depend on the ability of the lot to accommodate parking at one space per room in accordance with the provisions of this Ordinance.
- d. Off street parking is subject to all of the requirements established in Article VII of this Ordinance.

**Section 4.32 Parks and Public Buildings**

- a. Facilities shall be owned and operated by a government agency or a non-profit neighborhood group.
- b. Fifty (50) foot side and rear yards shall be required for structures when the property abuts any residentially zoned lots.
- c. Off street parking is subject to all of the requirements established in Article VII of this Ordinance

**Section 4.33 Living Quarters above Commercial Business:**

- a. The principal use is a business.
- b. The living quarters shall be designed to be compatible with the architectural style and character of the principal business in terms of materials of construction and roofline slope.
- c. At a minimum, two (2) parking spaces per unit shall be provided on the site.

**Section 4.34 Multi Family Uses:**

- a. The building shall be designed to be compatible with the architectural style and character of the downtown area.
- b. At a minimum, two (2) parking spaces per unit shall be provided on the site. Parking shall be located at the rear of the building and shall comply fully with the provisions listed in 6.2.F.2. Shared parking is encouraged.

**Section 4.35 Outdoor Sales:**

- a. The outdoor display and sale of merchandise shall be accessory to a principal use on the same lot.
- b. The outdoor display of merchandise for sale shall not be located in any required setback area.
- c. Not more than ten (10) percent of the outdoor lot area, excluding required setbacks, shall be used for the sales and display of merchandise.

**Section 4.36 Used Merchandise:**

- a. The sale of used merchandise shall be within a building.
- b. Not more than ten (10) percent of the outdoor lot area, excluding required setbacks, shall be used for the sale or display of merchandise.
- c. Merchandise shall not be stored outdoors overnight. All outdoor displays shall be moved indoors or to a fenced or screened area so that merchandise is not visible from adjoining properties or a street.

**Section 4.37 Drive Through Businesses:**

- 1. The drive-in function shall be physically separated from customer parking areas. The physical separation shall be achieved through structures, curbs, islands, or other permanent structures.
- 2. The drive-in function shall be physically separated from customer parking areas. The physical separation shall be achieved through structures, curbs, islands, or other permanent structures
  - i. Service lanes shall be designed for a one-way traffic flow only.
  - ii. Sufficient vehicle stacking space shall be provided so that motor

**Section 4.38 Outdoor Display:**

- a. The outdoor display and sale of merchandise shall be accessory to a principal use on the same lot.
- b. The outdoor display of merchandise for sale shall not be located in any required setback area.



- c. With the exception of automobile and recreation vehicle sales, not more than ten (10) percent of the outdoor lot area, excluding required setbacks, shall be used for the sales and display of merchandise.

#### **Section 4.39 Used Merchandise**

- a. The outdoor display and sale of merchandise shall be accessory to a principal use on the same lot.
- b. The outdoor display of merchandise for sale shall not be located in any required setback area.
- c. With the exception of automobile and recreation vehicle sales, not more than ten (10) percent of the outdoor lot area, excluding required setbacks, shall be used for the sales and display of merchandise.

#### **Section 4.40 Roadside Stands:**

Each farm may have a maximum of one (1) temporary roadside stand.

- b. The structure shall have a maximum height of fourteen (14) feet.
- c. The floor plan of the structure shall not be larger than twenty by twenty (20 x 20) feet.
- d. The stand shall be located no closer than thirty (30) feet from the nearest pavement or other traveled surface.
- e. The area between the stand and the traveled surface shall be reserved exclusively for parking.
- f. The stand shall be of portable construction, permitting it to be removed from its roadside location during the seasons when it is not in use.
- g. Signs used in connection with the roadside stand shall be temporary, and shall be removed when the stand is not in use. No sign shall be placed within a public right-of-way.

#### **Section 4.41 Home Occupations:**

The home-based business shall be clearly secondary and incidental to the use of the premises as a residence.

- b. All activities shall be conducted entirely within the interior of the principal dwelling, barn, and garage.
- c. Home-based businesses shall be owned and operated solely by persons residing in the residence except that not more than one person not in residence on the premises may be employed on the premises. For a beauty or barbershop, not more than one chair shall be permitted.
- d. No alterations to the exterior of the dwelling, accessory building or yard shall be permitted which alters the residential or agricultural character of the premises.
- e. Parking shall be allowed only within improved driveway areas.

- f. Not more than one identification sign shall be permitted provided it is not larger than four (4) square feet in area, is not illuminated, and denotes only the name of the business and/or the name or profession of the occupant of the dwelling.
- g. No equipment shall be used in the home-based business that will create electrical interference for surrounding properties.
- h. The use shall not generate noise, vibration, odor, glare, or airborne particulates, other than those customarily associated with an agricultural use, beyond the property line of the home-based business.
- i. Instruction in crafts and fine arts are recognized as permitted home-based businesses if they meet the above conditions.

**Section 4.42 Residential Clustering:**

1. The clustering of one-family dwellings, including mobile home communities, may be permitted on lots of lesser width and land area than allowed by the District provided as follows:

- a. The site is developed as a condominium subdivision in accordance with the provisions of Section 4.26 of this Ordinance.
- b. The minimum land area shall be 10 acres.
- c. The overall density of development shall remain the same as allowed by the District for one-family dwellings (1.0 unit per acre).
- d. A minimum of thirty percent (30%) of the land area shall be preserved as permanent open space in a perpetually undeveloped state by means of a restrictive covenant, plat dedication, conservation easement, or other legal means that runs with the land. The Village Council, at their discretion may permit public utilities to be located within open space provided it is determined that it will benefit the community.
- e. To the maximum degree possible, dedicated open space shall correlate with wetlands, shorelines, steep slopes, woodlands, farmlands, and other environmentally sensitive areas.
- f. Dedicated open space may be used for permanent open space, public recreation, trails, environmental education, and agriculture that is not offensive to residential areas. Such permanent open space areas shall not be used for commercial recreation facilities like golf courses.
- g. Dwelling units shall be accessed via an interior private street(s) in accordance with the standards and procedures of Section 4.25 of this Ordinance.
- h. The minimum lot size may be established by the Village Council.
- i. The Village Council shall review and approve, approve with conditions, or deny a Housing Cluster Option application in accordance with Sections 4.25, 4.26, and Article X of this Ordinance.

**Section 4.43 Livestock:**

- a. The number of large animals like horses, ponies, and cattle shall not exceed one animal per two acres of land area.
- b. The number of medium-sized animals like pigs, sheep and goats shall not exceed one animal per acre of land area.
- c. The number of small animals like chickens, ducks, and rabbits shall not exceed one animal per one-quarter (1/4) acre of land area.
- d. No building, enclosure, or space for the housing of livestock shall be located closer than 100 feet to a dwelling on an adjoining property.
- e. The raising of livestock as a commercial venture shall require a minimum lot area of 10 acres.
- f. The raising and keeping of livestock for 4-H and FFA projects or consumption by the residents of the premises, may be conducted on a lot of less than 10 acres provided Section 6.05. F is satisfied.

**Section 4.44 Veterinary Clinics:**

The site shall have a minimum of five (5) acres of land area.

- a. Buildings used to board animals overnight shall not be located closer than 200 feet to any lot line.
- b. All animals shall be housed indoors during the period 9:00 p.m. to 6:00 a.m. to minimize animal noise.

**Section 4.45 Semi Trailers and Storage Containers:**

- a. May be used as an accessory structure in the light industrial district provided they are not stored in the setback area and are kept in good condition .

**ARTICLE V  
ZONING DISTRICTS ESTABLISHED**

**SEC 5.00 ESTABLISHMENT OF DISTRICTS**

In order to regulate and restrict the location, erection, alteration or use of buildings, structures or land and to carry out the purposes of this Ordinance, the Village of Buckley is hereby divided into the following zoning districts:

- "R" Section 6.00 - Residential District
- "LB" Section 6.01 - Limited Business District
- "CBD" Section 6.02 - Central Business District
- "GB" Section 6.03 - General Business District

"LI" Section 6.04 - Light Industrial District

"A" Section 6.05 - Agricultural District

## **SEC 5.01 ZONING DISTRICTS MAP**

The locations and boundaries of districts so established are shown on the map, entitled "Village of Buckley Zoning Map," which accompanies and is hereby declared to be a part of this Ordinance with the same force and effect as if the districts shown thereon were fully set forth by legal description or metes and bounds herein. A current and up-to-date Village of Buckley Zoning Map, with all amendments noted, shall be kept on file in the office of the Village of Buckley, and this map shall be the final authority as to the current zoning status of land, buildings and other structures in the Village of Buckley.

## **SEC 5.02 INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

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

- A. Where district boundaries are indicated as approximately coterminous with street or highway centerlines or right-of-way lines, such centerlines or right-of-way lines shall be construed to be said boundaries.
- B. Where district boundaries are indicated as approximately coterminous with platted lot lines, section lines, quarter-section lines, or other survey lines, such lines shall be construed to be said boundaries.
- C. Where district boundaries are indicated as approximately parallel to section lines, quarter-section lines or other survey lines, such boundaries shall be construed to be parallel thereto and at such distance therefrom as indicated on the Zoning Districts Map.
- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be coterminous with the center line of the main track of said railroad line.
- E. Where the boundary of a district approximately follows the centerline of any river or stream, the boundary line shall be interpreted as following such centerline of said river or stream.
- F. Where the boundary of a district approximately follows the shoreline of a lake, the boundary shall be construed as following the ordinary high water elevation of the lake.
- G. Where the application of these rules leaves a reasonable doubt as to the boundaries of a district, the interpretation of boundaries shall be by the Board of Zoning Appeals.

**ARTICLE VI  
DISTRICT REGULATIONS**

**SEC 6.00 “R” RESIDENTIAL DISTRICT**

- A. District Purpose.** The purpose of this district is to create a low-density residential area for standard one-family dwellings and complementary uses that are customarily found in neighborhood settings and are compatible in all respects with adjacent homes.
- B. Uses Permitted by Right.** Land and buildings within the R-1 District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Requirements of Section 6.00 F. of this Article.
1. One (1) standard one-family dwelling on each lot.
  2. Standard two (2) family dwellings.
  3. Adult foster care facilities for six (6) or less persons (State licensed residential facility as defined by MCLA, 125.583b; MSA 5.2933(2) but excluding persons released from adult correctional OR PSYCHIATRIC institutions.
  4. Family child care homes for six (6) or fewer children licensed by the State of Michigan.
  5. Essential services

**C. Permitted Accessory Uses.**

1. Swimming pools.
2. Automobile parking subject to the provisions of Article VII, but excluding the parking of trucks exceeding a maximum gross weight of 30,000 pounds and/or three (3) axels.
3. Pens or enclosures for household pets.
4. Not more than two (2) accessory buildings subject to the provisions of Section 4.06.
5. Satellite dishes, amateur radio antennas and television antennas.

**D. Uses Permitted with Site Plan Approval.** Land and buildings shall be used for the following purposes upon approval of a site plan by the Planning Commission as provided for in Article X and subject to general provisions specified in article IV:

1. Home Occupations such as business and professional offices and telecommuting businesses subject to Article IV.
2. One standard accessory dwelling unit per lot subject to Article IV General Provisions.
3. Bed and breakfast inn, subject to provisions of Article IV, General Provisions.
5. Parks, playgrounds, community centers and other public buildings subject to Article IV, General Provisions.
6. Group Child Care Homes subject to standards of act 116 of pa 1973, as amended.
7. Home Based Businesses subject to Article IV, General Provisions, Section 4.30.

**E. Uses Permitted by Special Use Permit.** The following uses are permitted by Special Use Permit provided the Planning Commission finds that all of the requirements of Section 6.00 F and Article IX are satisfied.

1. Standard Multiple-Family Dwellings.
2. Conversion of existing large single-family homes on existing lots.
3. Buildings owned and/or operated by the public including such as libraries, public utility buildings and structures, and electric transformers.

**F. District Development Regulations.** The following development requirements shall apply to all uses and structures within the “R” Residential District.

1.	Minimum Lot Area One-Fam Two-Fam Multi-Fam	12,000 SQ FT 7,500/Unit See section 9.08 B	
2.	Min Lot Width One Fam Two-Fam	100 FT <sup>1</sup> 50 FT/Unit	Accessory Buildings
3.	Maximum Structure Height	35 FT	
4.	Minimum Front Yard	35 FT	25 FT. <sup>4</sup>
5.	Minimum Interior Side Yard <sup>6</sup>	10 FT	10 Ft.
6.	Minimum Street Side Yard	25 FT	25 Ft.
7.	Minimum Rear Yard	35 FT	5 Ft.

8.	Maximum Lot Coverage	30%
9.	Minimum Lakeshore Setback	50 FT <sup>2</sup>
10.	Minimum Floor Area Per Unit	890 SQ FT <sup>3</sup>
11.	Minimum Dwell. Dimension	24 FT <sup>5</sup>
12.	Minimum lot width on a cul-de-sac	50 FT <sup>7</sup>

<sup>1</sup> As measured at the front setback line.

<sup>2</sup> As measured from the ordinary high water mark

<sup>3</sup> Exclusive of basements, garages, porches, and breezeways.

<sup>4</sup> Shall not be closer to the street than the house.

<sup>5</sup> The minimum dimension of any side of the first floor of a dwelling, as measured in a straight line from the exterior faces of the exterior walls of the building, exclusive of porches, garages, and breezeways.

<sup>6</sup> A substandard lot of record less than 100 feet in width shall have a minimum ten (10) foot interior side yard for the principal building and a minimum five (5) foot interior side yard for an accessory building.

<sup>7</sup> In the case of a lot having frontage on a cul-de-sac the minimum frontage may be reduced to 50 ft provided the minimum width of the lot is met at the front setback line.



## SEC 6.01 “LB” LIMITED BUSINESS DISTRICT

- A. District Purpose.** The purpose of this District is to maintain the residential character of the north M-37 entry to the Village while providing opportunities for compatible businesses to occupy existing residential buildings or new buildings that have a residential appearance. This District is intended to allow for a mixture of residential uses, low intensity offices and retail, and service establishments while emphasizing the preservation of the existing residential character. New buildings are intended to be designed to be compatible with existing dwellings in terms of building height, materials of construction, roofline slope, porches, and windows. All uses should generate relatively small volumes of traffic and have minimal parking demand that can be accommodated on the street, within improved driveway areas, or in small minimally visible parking lots. Vehicular access is intended to be adequately spaced to minimize traffic conflicts.
- B. Permitted Principal Uses.** Land and buildings in the “LB” District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Regulations of this Ordinance.
1. Business and professional offices.
  2. Family child care homes.
  3. Adult foster care facilities licensed by the State of Michigan.
  4. Nursing and residential care facilities.
  5. Standard multiple-family dwellings.
  6. Personal care services such as beauty salons, barbershops, funeral homes, and photo finishing businesses, but excluding sexually oriented businesses.
  7. Uses permitted by right in the “R” District subject the minimum lot area and width and floor area requirements of said District.
  8. Low impact retail establishments, which require minimal parking, but excluding sexually oriented businesses.
  9. Essential services but excluding NEW telecommunication towers.
- C. Permitted Accessory Uses.** Accessory uses permitted in the “R” Residential and “CBD” Districts.
- D. Uses Permitted with Site Plan Approval.** Uses permitted with site plan approval in the “R” Residential District provided the Planning Commission finds that the conditions listed therein are satisfied and further provided that the use satisfies all of the District Development Regulations of this Ordinance.
- E. Uses Permitted by Special Use Permit** Uses permitted by Special Use Permit in the “R” Residential District provided the Planning Commission finds that the conditions listed therein are satisfied and further provided that the proposed use satisfies all of the District Development Regulations of this Ordinance.
- F. District Development Regulations.** The following regulations shall apply to all uses within the “LB” Limited Business District.

1. Minimum Setback Requirements. Except as otherwise specifically provided in this Ordinance, no structure shall be erected within the required minimum setback areas listed below.
  - a. Front yard – Thirty-five (35) feet.
  - b. Street side yard – Twenty-five (25) feet.
  - c. Interior side yard – Ten (10) feet.
  - d. Rear yard – Twenty-five (25) feet.
  - e. Street wall exception. Where existing buildings within 300 feet on either side of a proposed building establish a street wall, new buildings shall maintain and continue the average setback of the existing buildings.
2. Access Spacing. Access spacing in the “LB” District shall be as regulated by Section 6.03 F. 2. of this Ordinance
3. Building Design. New buildings and expansions to existing buildings shall be designed to have or retain an entryway facing a public road right-of-way. Buildings shall be designed to encourage pedestrian activity and to be of similar size, scale, and character with adjacent buildings. When a building faces two (2) or more public road rights-of-way, the building entryway shall face the road with the highest traffic volume.
4. Existing Buildings. Remodeling, improvement, or expansion of an existing dwelling unit shall be done in an architectural style consistent with the existing dwelling unit.
5. Parking. Parking shall not be located between a building and the front street or Highway line.
6. Height Requirements. Except as otherwise specifically provided in this Ordinance, no structure shall exceed 35 feet in height.
7. Outdoor Storage. No outdoor storage of supplies, materials, equipment or merchandise shall be permitted.
8. Conducted Within a Building. All activities shall be conducted within the interior of the principal or accessory buildings.
9. Open Space. At a minimum, 30% of the total lot area shall remain as open space and shall be landscaped.

**SEC 6.02 “CBD” CENTRAL BUSINESS DISTRICT**

- A. District Purpose.** The purpose of this District is to regulate land uses within the downtown area to accommodate a compact mixture of retail and personal service, office, public administration, arts and entertainment and eating and drinking establishments and parking in an integrated fashion which reflects historical development patterns and encourages pedestrian activity. It is also the intent of this District to encourage residential uses on the upper stories of buildings with retail and service uses at street level. Development in this District is intended to be designed to promote shared parking and is not intended to meet the parking space requirements as established by Article VII, Off-Street Parking Regulations. This District is primarily intended to be supported by on-street parking and shared parking lots. This District is not intended to accommodate sexually oriented businesses. *Amended by # 17-01 on 4/12/17*
  
- B. Permitted Principal Uses.** Land and buildings in the “CBD” District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Regulations of this Ordinance.

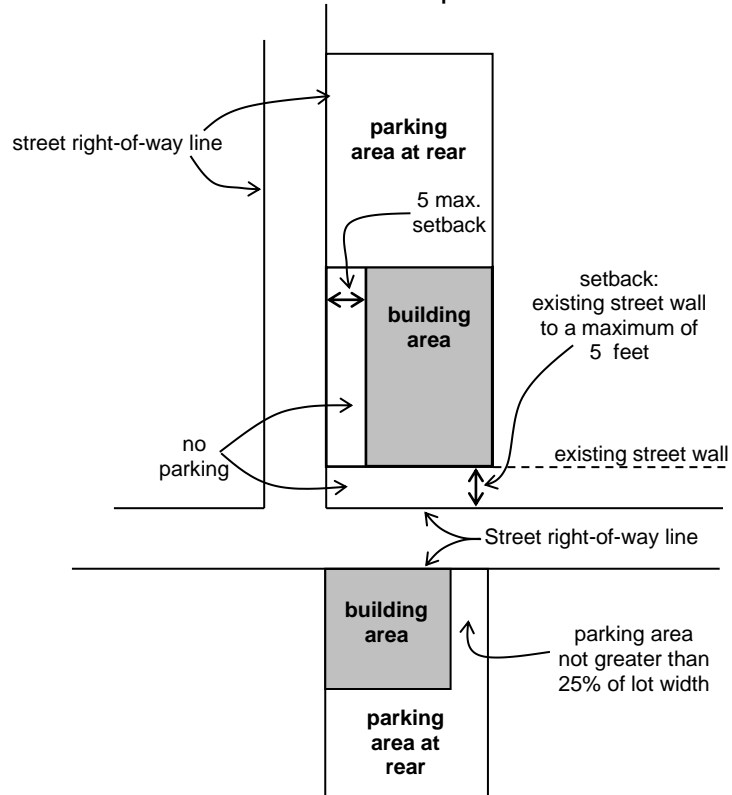
  - 1. Principal uses as permitted in “GB” General Business District, but excluding yard sales and sexually oriented businesses.  
*Amended by #17-01 on 4/12/17*
  
- C. Permitted Accessory Uses.**

  - 1. Signs pursuant to Article VIII.
  - 2. Automobile parking.
  
- D. Uses Permitted with Site Plan Approval.** Land and buildings permitted with site plan approval shall be used for the following purposes, provided the Planning Commission finds that the following conditions are satisfied and further provided the proposed use satisfies all of the District Development Regulations.

  - 1. Living quarters above a principal structure subject to Article IV General Provisions.  
a Standard multiple-family dwelling units subject to Article IV General Provisions.
  - 2. Outdoor display and sales of new merchandise subject to Article IV General Provisions.
  - 3. Used merchandise stores and yard sales subject to Article IV General Provisions
  
- E. Uses Permitted by Special Use Permit. (Reserved)**
  
- F. District Development Regulations.** The following regulations shall apply to all uses with the Central Business District:

1. **Building Placement.** New buildings and additions to existing buildings shall maintain and continue the “street wall” created by adjacent buildings. In keeping with this street wall effect, no building shall be placed more than five (5) feet from the street right-of-way line.

### CBD District Requirements



2. **Minimum Required Lot Area.** The minimum lot area shall be as determined by the District Health Department.
3. **Minimum Setbacks Required.** The following minimum setbacks shall apply only where a “CBD” District abuts a residential district.
  - a. Front and street side yard – Twenty (20) feet.
  - b. Interior side yard – Twenty (20) feet
  - c. Rear yard – Thirty (30) feet.
4. **Parking.** Wherever possible, parking shall be located at the rear of buildings. Parking shall not be located between a building and the street line. Parking in front of buildings shall be limited to on-street parking. Side yard parking shall occupy no more that 25% of the width of the primary street frontage. Parking space requirements shall not be applicable to this District, with the exception of the requirements described in Section 6.02.D.
5. **Maximum Building Height.** Except as otherwise specifically provided in this Ordinance, no structure shall exceed 50 feet in height.
6. **Building Design.** New buildings and expansions to existing buildings shall be designed to have or retain the primary entry on the front street. They shall be designed to have windows and doors at street level and sidewalks to encourage pedestrian activity and to be of similar size, scale and character with adjacent buildings.
7. **Outdoor Storage.** No outdoor storage of supplies, materials, equipment or merchandise, other than for temporary sidewalk sales, shall be permitted.
8. **Accessory Buildings.** Accessory buildings shall be located in the rear yard.

9. Waste Materials. Waste materials, which are normally discarded from a commercial use may be stored outdoors for a reasonable period of time provided such storage areas are completely screened by a 100% opaque fence or screen not less than five (5) feet in height.

## SEC 6.03 “GB” GENERAL BUSINESS DISTRICT

- A. District Purpose.** It is the intent of this District to provide for a wide range of retail goods and service establishments primarily along M-37. These uses are intended to serve the convenience needs of local residents and passing motorists. They are intended to have coordinated and spaced accesses to allow for the efficient flow of traffic and minimal traffic conflicts. When these uses are immediately adjacent to residential uses, they are intended to exercise extraordinary measures to insure compatibility with such uses.
- B. Permitted Principal Uses.** Land and buildings in the “GB” District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Regulations of this Ordinance
1. Accommodations and food services including rental cabins
  2. Arts, entertainment, and recreation but excluding sexually oriented businesses.
  3. Administrative and support services but excluding waste management and remediation services.
  4. Private Educational services.
  5. Health care and social assistance.
  6. Information services such as newspaper, software, book and music publishers, but excluding sexually oriented businesses.
  7. Management of companies and enterprises.
  8. Personal care and laundry services such as barber shops, beauty salons, dry cleaning establishments, and photo finishing stores, but excluding sexually oriented businesses.
  9. Professional, scientific, and technical services such as veterinary services, tax preparation, engineering and design services.
  10. Public administration services.
  11. Real estate rental and leasing.
  12. Religious institutions, grant making, civic, professional and similar organizations.
  13. Retail trade establishments that sell merchandise and services directly to the consumer, but excluding drive-thru businesses, outdoor sales, gasoline and auto services stations, commercial garages, auto washes, used merchandise stores, yard sales, and sexually oriented businesses.
  14. Essential services but excluding new telecommunications towers. See Sections D and E for uses permitted with Site Plan Approval or by Special Use Permit.
  15. Standard multiple-family dwellings.
  16. One (1) standard one-family dwelling on each lot and subject to Article VI, Section 6, as it pertains to single family residences including but not limited to Table F., District Development Regulations. The General Business District prohibits uses and structures as regulated under PA 96 of 1987.
- C. Permitted Accessory Uses.** Accessory uses as permitted by the “CBD” District.
- D. Uses Permitted with Site Plan Approval.** Land and buildings permitted with Site Plan Approval shall be used for the following purposes, provided the Planning

Commission shall find that the following conditions are satisfied and further provided the proposed use satisfies all of the District Development Regulations.

1. Drive-through businesses, subject to Article IV General Provisions
2. Outdoor display and sales of new merchandise subject to Article IV General Provisions.
3. Establishments that sell used merchandise and yard sales subject to Article IV General Provisions.
4. Repair and maintenance services provided all operations are conducted within a completely enclosed structure.
5. Home Occupations and Home Based Businesses subject to Article IV General Provisions.

**E. Users Permitted by Special Use Permit.** Land and buildings permitted by Special Land Use Permit shall be used only for the following purposes, and shall comply with the District Development Regulations of this Section and are subject to the General Standards and Specific Requirements of Article IX of this Ordinance.

1. Sexually oriented businesses.
2. Gasoline service stations and commercial garages.
3. Auto washes.
4. New Telecommunication towers.

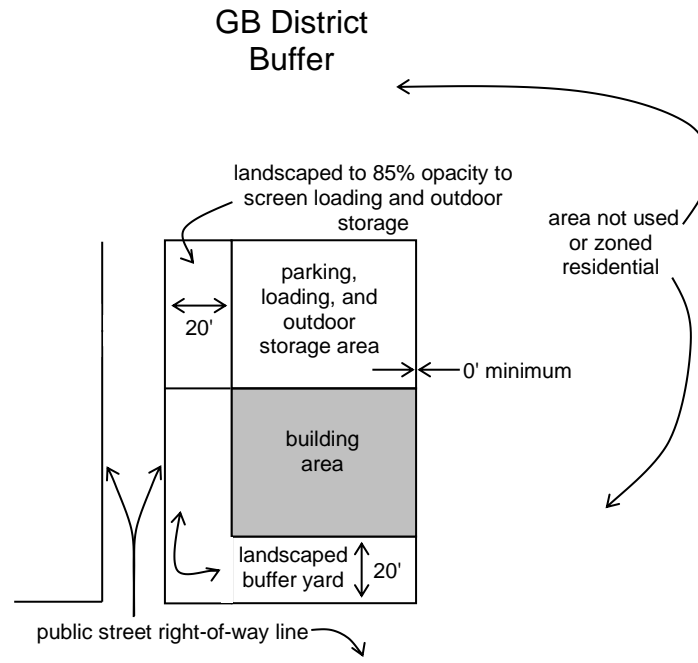
**F. District Development Regulations.** The following regulations shall apply to all uses within the “GB” General Business District.

1. Minimum Setback Requirements. Except as otherwise specifically provided in this Ordinance, no structure shall be erected within the minimum required setbacks listed below.
  - a. Front and street side yard - Twenty-five (25) feet.
  - b. Interior side yard: Ten (10) feet.
  - c. Rear yard: Ten (10) feet.
  - d. Residential setback. When a “GB” District abuts an “R” District, the minimum side and rear setbacks shall be thirty (30) feet.
2. Access Spacing. The following regulations shall apply to all “GB” zoned lots abutting on M-37:
  - a. Access Spacing. The minimum horizontal distance between any two accesses on the same side of the Highway, whether streets or driveways, as measured from their centerlines, shall be 275 feet. This spacing requirement shall apply to all uses and may be accomplished by any of the following means:
    - 1) By owning sufficient frontage on the highway to meet the spacing requirement; or
    - 2) By assembling sufficient frontage to meet the spacing requirement; or
    - 3) By sharing access via shared driveways, easements and/or cross access agreements, or

- 4) In the event the access spacing standards cannot be satisfied on an individual parcel due to frontage deficiencies, one temporary private driveway may be approved, provided an access management plan is submitted by the applicant, and approved by the Village Council, that incorporates the principles of shared driveways, cross easements, or alternative access and, further provided, said access design is approved by the Michigan Department of Transportation. Individual one and two-family dwellings shall not be required to have an access management plan.
- b. Corner Clearance. Where a lot abuts both on the Highway and a crossroad, access to the Highway shall conform to the access spacing requirements for the Highway. The first private driveway or street access to the crossroad, as measured from the edge of the pavement of the Highway, shall be no less than 100 feet.
- c. Residential Access. No new private residential driveway access shall be permitted directly to the Highway unless no other alternative is available. Wherever two or more residential lots are created which have no alternative access, a single shared driveway or road access shall be required.
- d. Existing Individual Driveways. If a lot or use has one or more existing individual driveway accesses to the Highway, said accesses shall be allowed to remain in use provided they are not relocated or altered. In the event such accesses are altered by the owner, they shall be made to more fully comply with the access spacing requirements of this Section.
- e. Access Design and Approval. The design of any direct access to the Highway shall be as required and approved by the Michigan Department of Transportation. The requirements of this Section shall supercede the issuance of a driveway permit by the Michigan Department of Transportation.
- f. Flexibility Allowed. As part of the site plan review process, the actual location of an access may be varied by the Planning Commission if it can be demonstrated that the intent of this Section to minimize the number of individual driveways and coordinate accesses is fulfilled in the interests of maintaining highway capacity, reducing congestion, and improving traffic safety.
3. Parking. All parking lots shall be landscaped to minimize their visual impact from M 37.
4. Building Height. Except as otherwise specifically provided in this Ordinance, no structure shall exceed 35 feet in height.



5. Buffer Yard Required. Where a GB use is located adjacent to or across the street from a residentially zoned parcel or is located on a public street, a landscaped buffer yard at least 20 feet in width shall be provided adjacent to the common



property line or the street. No structures or parking shall be permitted within the buffer yard. The buffer yard shall provide for the year-around screening of parking and loading areas and the outdoor storage of materials and equipment utilizing combinations of landscaping, berming, decorative walls and fencing. Fencing alone shall not be considered to be acceptable screening in any buffer yard.

- a. Minimum Lot Area/Maximum Lot Coverage. Each lot shall have a minimum square footage of 12,000 square feet and maximum building lot coverage of 30%.
- b. Outdoor Storage, Accessory Buildings and Waste Materials. These shall be regulated in accordance with Section 6.02 F. (See "CBD").

## SEC 6.04 “LI” LIGHT INDUSTRIAL DISTRICT

- A. District Purpose.** The purpose of this district is to accommodate manufacturing, scientific research, warehousing and office uses which provide employment for area residents while generating a minimum of noise, odor, glare, dust, vibration, air and water pollution and fire and safety hazards. It is the intent of this district to allow manufacturing, compounding, processing, packaging, assembly, and storage of finished or semi-finished products from previously prepared materials in a manner that is compatible with surrounding uses, views from the Highway and access to the Highway. It is not the intent of this district to accommodate the manufacturing and processing of products from raw materials.
- B. Permitted Principal Uses.** Land and buildings within the “LI” Light Industrial District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District’s Development and Performance Requirements
1. Any manufacturing use from previously prepared materials.
  2. Construction services.
  3. Specialty trade contractors.
  4. Professional, scientific, and technical services.
  5. Technical and trade schools.
  6. Merchant wholesalers, durable goods and merchant wholesalers, nondurable goods but excluding livestock and other live animals.
  7. Administrative and support services but excluding waste management and remediation services.
  8. Essential services but excluding new telecommunication towers.
  9. Accommodations and food services.
  10. Retail trade establishments that sell merchandise and services directly to the consumer.
  11. Management of companies and enterprises.
  12. Personal care and laundry services such as barber shops, dry cleaning establishments, and photo finishing stores.
  13. Real estate rental and leasing.
  14. Public administration services.
  15. Private Educational services.
  16. Warehousing.
  17. Uses customarily incidental and accessory to a permitted principal use.
- C. Uses Permitted with Site Plan Approval**
1. Semi-trailers and storage containers subject to Article IV General Provisions
- D. Uses Permitted by Special Use Permit.** Land and buildings permitted by Special Use Permit shall be used only for the following purposes, provided the Planning Commission finds that all of the District Development Regulations of Section 6.04.E., District Performance Requirements of Section 6.04 F., and the General and Specific Requirements of Article IX of this Ordinance are satisfied.

1. Automobile salvage yards, and private commercial junkyards.
2. New Telecommunication towers.
3. Commercial Garage

E. **District Development Regulations.** The following development regulations shall apply to all uses within the I Industrial District.

1.	Minimum Lot Area	1 Acre
2.	Minimum Lot Width	150 FT <sup>1</sup>
3.	Maximum Structure Height	35 FT

<sup>1</sup> As measured at the front building line.

	The following setbacks are required when Industrial property is abutting industrial or commercial property.	The following setbacks are required when Industrial property is abutting residential property	
4.	<b>Minimum Front Yard</b>	35 FT	35 FT
5.	<b>Minimum Interior Side Yard</b>	25 FT	50 FT
6.	<b>Minimum Street Side Yard</b>	35 FT	35 FT
7.	<b>Minimum Rear Yard</b>	25 FT	50 FT

F. **District Performance Requirements.** The following performance requirements shall apply to uses within the “LI” Light Industrial District:

1. **Enclosed Building.** All activities shall be conducted within a completely enclosed building or within an area enclosed on all sides by a solid non-combustible fence or wall at least six (6) feet in height; provided further, that no goods, materials or objects shall be stacked higher than the fence or wall.
2. **Loading Docks, Trash and Mechanical Equipment.** Loading docks, trash receptacles and mechanical equipment shall not be visible from residential areas, public streets, or state or highways.
3. **Noise.** Noise emanating from a use in this District shall not result in the loss of the peaceful enjoyment of adjacent properties by people of ordinary and reasonable hearing and sensibilities.
4. **Fumes and Gases.** The use shall emit no toxic or corrosive fumes or gases which may be deleterious to the public health, safety or general welfare; except for those produced by internal combustion engines under designed operating conditions.
5. **Odor.** The use shall not emit smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond the boundary of the lot.
6. **Dust and Particulate Matter.** The use shall not discharge into the air dust or other particulate matter.

7. Heat and Glare. The use shall produce no heat or glare which is humanly perceptible at or beyond the lot boundaries.
8. Vibration. The use shall produce no physical vibrations that are humanly perceptible beyond the lot boundaries.
9. Explosive Material. The use shall not involve the production or storage of any material designed for use as an explosive nor shall it use such material in production.
10. Access. No new direct private drive access shall be permitted to M-37 when there is an alternative access available.

## SEC 6.05 “A” AGRICULTURAL DISTRICT

- B. District Purpose.** The purpose of this district is to allow for the continuation of non-offensive agricultural activities for as long as possible and to provide the option to cluster standard residential dwellings at the same density as allowed by the District in order to preserve the Village’s rural character, perpetuate agricultural uses of land, protect the natural environment, and permanently preserve open space. In addition to agriculture, this district is intended to accommodate standard one-family farm and non-farm dwellings, and uses customarily found in agricultural and neighborhood settings
- B. Permitted Principal Uses.** Land and buildings within the “A” Agricultural District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Requirements of Section 6.05 F. of this Ordinance.
1. One (1) standard one-family dwelling on each lot.
  2. Standard two (2) family dwellings general agricultural activities including the raising or growing of crops such as fruits, vegetables, grains, and trees (see definition of Agriculture in Section 3.1), but excluding the raising of livestock.
  5. Greenhouses.
  6. Golf courses and country clubs, public and private
  7. Adult foster care facilities for six (6) or less persons (State licensed residential facility as defined by MCLA, 125.583b; MSA 5.2933(2)).
  8. Religious institutions.
  9. Essential services but excluding new telecommunication towers.
  10. Uses customarily incidental and accessory to a permitted principal use including satellite dishes that are one meter (39 inches) or less in diameter and attached to a building, large satellite dishes located in rear yards, amateur radio antennas and television antennas but excluding telecommunications towers.
- C. Permitted Accessory Uses.**
1. Accessory uses as permitted in the “R” District.
  2. Agricultural buildings and structures that are clearly secondary and incidental to the operation of a farm including barns, silos, sheds and similar structures.
  3. The outdoor storage of equipment and materials but limited to farm machinery, implements, trucks used in the farming operation, and related farm equipment and materials. See Section 6.05 D 7 for other equipment parking and storage.
  4. The parking of not more than one truck including tractor and trailer.
  5. Activities typically associated with the activities and functions of family members participating in such organizations as 4-H and Future Farmers of America.
- D. Uses Permitted with Site Plan Approval.** Land and buildings permitted with special conditions shall be used for the following purposes, provided the Zoning Administrator finds that the following conditions are satisfied and further provided the proposed use satisfies all of the District Development Requirements of Section 6.05 F. of this Ordinance.
1. Roadside stands subject to Article IV General Provisions.

2. Home Occupations subject to Article IV General Provisions
3. Home Based Businesses subject to Article IV General Provisions.
4. Uses as permitted with Site Plan Approval in the “R” District except as modified by this Section for home-based businesses.
5. The housing cluster option subject to the requirements of Article X, Site Plan Review, and Article IV, General Provisions:
6. The raising of livestock as part of an agricultural operation and riding stables, but excluding intensive livestock operations, subject to Article IV General Provisions:
7. Animal hospitals, vet clinics and commercial kennels subject to Article IV General Provisions.
8. The parking of operable occupational vehicles including trucks, tractors and trailers; earthmoving; and similar equipment when accessory to a residential or agricultural use provided as follows:
  - a. The number of pieces of equipment including trucks/trailers and earthmoving equipment shall not exceed six (6).
  - b. The minimum lot size shall be ten (10) acres.
  - c. No such equipment shall be parked or stored in a front yard.
9. Home Based Businesses subject to Article IV General Provisions

**E. Uses Permitted by Special Use Permit.** Land and buildings permitted by Special Land Use Permit shall be used only for the following purposes, provided the Planning Commission finds that all of the District Development Regulations of Section 6.05 F, and the General and Specific Requirements of Article IX of this Ordinance are satisfied.

1. Public facilities and community service installations.
2. Uses permitted by Special Use Permit in the “R” District.
3. New Telecommunications towers.

**F. District Development Regulations.** The following development requirements shall apply to all uses and structures within the “A” Agricultural District.

1.	Minimum Lot Area	1 Acre
2.	Minimum Lot Width	165 FT <sup>1</sup>
3.	Maximum Structure Height	35 FT
4.	Minimum Front Yard	35 FT
5.	Minimum Interior Side Yard	10 FT
		50 FT for Agricultural Buildings
6.	Minimum Street Side Yard	25 FT
7.	Minimum Rear Yard	35 FT

8.	Maximum Lot Coverage	25%
10.	Minimum Struct. Floor Area	890 SQ FT <sup>2</sup>
11.	Setback from Waterfront	25 Ft <sup>3</sup>

<sup>1</sup>As measured at the front building line.

<sup>2</sup>Exclusive of porches, garages, basements, breezeways, and utility areas.

<sup>3</sup>As measured from the ordinary high water mark. 11 added by amend #10-1 adopted 12/8/10

**ARTICLE VII  
OFF-STREET PARKING REQUIREMENTS**

**SEC 7.00 OFF-STREET PARKING REQUIREMENTS.**

**A. Off-Street Parking Regulations.**

1. When units or measurements determining number of required parking spaces result in the requirement of a fractional space, the fraction shall be considered one (1) required parking space.
2. In all zoning districts, off-street parking shall be provided in amounts not less than specified for the various uses.
3. Requirements for a use not mentioned shall be the same for that use which is most similar to the use not listed, as determined by the Board of Zoning Appeals.
4. Additional parking shall be provided and maintained in proper ratio to any increase in floor area or building use capacity.
5. Where benches, pews, or other similar seating facilities are used as seats, each twenty (20) inches of such seating facilities shall be counted as one (1) seat.
6. In the case of mixed uses in the same building, the total requirements for off-street parking shall be the sum of the requirements for each individual use computed separately.
7. It shall be unlawful to use any of the off-street parking established to meet the requirements of this Ordinance for any purpose other than the parking of licensed vehicles.
8. No commercial repair work, servicing, or selling of any kind shall be conducted on any parking area, except as an accessory use to the principle use of the lot. Required parking spaces shall be used only for the parking of vehicles used to service the establishment to which it is accessory and by its patrons.
9. No advertising sign shall be erected on required parking areas except that not more than one (1) directional sign at each point of ingress or egress may be erected which may also bear the name of the enterprise the lot is intended to serve. Such signs shall not exceed two (2) square feet in area and shall not project beyond the property line of the premises.
10. The joint use of parking facilities by two (2) or more uses is recommended, and may be approved by the Planning Commission when the following can be satisfied.
  - a. Computing Capacities: In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.
  - b. Record of Agreement: A copy of an agreement between joint users, including cross-easements, shall be filed with the application for a zoning permit and recorded with the Register of Deeds for Wexford County. The agreement shall include a recorded easement for continued use of the parking facility for each party to the joint use.



11. The number of required off-street parking spaces in all districts for every residential, recreational, institutional, cultural, business, and industrial use shall be provided in accordance with the following minimum requirements:

**B. Off-Street Parking Space Requirements.**

USE	PARKING SPACE PER UNIT OF MEASUREMENT AS FOLLOWS:	
<b>RESIDENTIAL</b>		
One and Two Family	2	Per each dwelling unit
Multiple family and attached single family	2	Per each dwelling unit
Manufactured Home Developments	2	Per each manufactured home unit
<b>INSTITUTIONAL</b>		
Day care uses	1	Per each four (4) persons based on licensed capacity, plus amount required for accessory uses
	6	off-street stacking spaces
Churches	1	Per each three (3) seats based on maximum seating capacity in the main place of assembly therein.
Convalescent homes, nursing homes, children's homes	1	Per each two (2) beds
Elementary and junior high schools	1	Per classroom, plus requirements of the auditorium or assembly hall therein
Golf courses open to the general public	30	Per nine holes, plus amounts required for accessory uses
High Schools, Colleges and trade schools	1	Per 2 employees plus
	1	Per each eight (8) students, based on maximum occupancy load established by local, county, state, fire, health, or building codes, plus requirements of the auditorium or assembly hall therein
Hospitals	2	Per each bed (bassinets shall not be counted as beds)
Libraries and museums	1	Per each 400 square feet of usable floor area
Private clubs and lodges	1	Per each three (3) individual members allowed within the maximum occupancy load as established by local, county, state, fire, health, or building codes
Private tennis club, swim club, golf club or other similar uses	1	Per each two (2) member families or individuals, plus amount required for accessory uses
Senior independent living units	1.2	Per each living unit
Senior assisted care units, homes for the aged, retirement community housing, etc.	1	Per 3 residents
Auditoriums, stadiums and assembly halls	2	Per each five (5) seats based on maximum seating capacity in the main place of assembly therein
<b>COMMERCIAL</b>		
Animal hospitals and kennels	1	Per each 400 square feet of gross floor area

USE	PARKING SPACE PER UNIT OF MEASUREMENT AS FOLLOWS:	
	Barber shops	2
Beauty shops	3	Per each beauty operator
Bed and breakfast	1	Per rented room, provided on site, plus
	2	For operator's dwelling unit
Bowling lanes	5	Per bowling lane plus amount required for accessory uses
Convenience stores	1	Per 500 square feet of usable floor area
Dance halls, exhibition halls, pool halls, billiard parlors, and assembly halls without fixed seats	1	Per each two (2) persons allowed within the maximum occupancy load as established by local, county, state, fire, health, or building codes
Furniture, appliances, and household equipment repair shops, hardware stores, and other similar uses	1	Per each 800 square feet of gross floor area
Laundromats, coin operated dry cleaning establishment	1	Per three (3) washing or dry cleaning machines
Marinas	1.5	Per boat slip,
	1	Per each four (4) boat storage spaces
Miniature or "Par 3" golf courses	2	Per each hole plus amount required for accessory uses
Mortuary establishments, funeral homes, undertaking parlors	1	Per each 500 square feet of gross floor area
Motels, hotels and tourist home	3	Per two guest rooms plus the amount required for each accessory uses including restaurants, lounges and gift shops
Personal service establishment (not otherwise provided for herein)	1	Per each 300 square feet of usable floor area
Restaurants and other establishments (other than drive-thru restaurants) in which is conducted the sale and consumption on the premises of food, beverages, or refreshments	1	Per each two (2) persons allowed within the maximum occupancy load as established by local, county, state, fire, health, or building codes.
Restaurants (drive-thru) or similar drive-thru uses for the sale of food, beverages, or refreshments	1	Per each 50 square feet of gross floor area plus,
	2	drive-thru short term waiting spaces plus,
	6	stacking spaces for drive-thru service which do not conflict with the use of required spaces plus,
	2	longer spaces designated for recreational vehicles, buses, and semi-trucks
Retail stores	1	1 space for each 200 square feet of gross floor area
Roadside stands	6	Per establishment
Theaters with:	1 to 3 screens or stages	1 per each 4 seats
	4 to 6 screens or stages	1 per each 5 seats
Vehicle repair shops, collision or bump shops, and other similar uses	1	Per each 800 square feet gross floor area, plus
	3	Per each stall or service area

USE	PARKING SPACE PER UNIT OF MEASUREMENT AS FOLLOWS:	
	Vehicle salesrooms, machinery sales and other similar uses	1
Vehicle service stations	3	Per each service stall, plus
	1	Per each service vehicle, plus amount required for convenience store, vehicle wash, or other applicable accessory use
Vehicle wash establishments	1	Per employee during peak shifts plus,
	6	stacking spaces per bay for a semi- or fully automatic car wash plus,
	2	stacking spaces per bay for a self-serve car wash
Wholesale stores	1	Per 200 square feet of gross floor area
<b>OFFICES</b>		
Banks (drive-thru)	4 stacking spaces	Per each drive-thru window which do not conflict with the use of required parking spaces plus requirements for a bank
Banks (other than drive-thru banks) and post offices	1	Per each employee or service window plus
	1	Per each 300 square feet of gross floor area
Business and professional offices	1	Per each 250 square feet of gross floor area
Medical clinic and dental clinic	3	Per each examining room
<b>INDUSTRIAL</b>		
Industrial or manufacturing establishments and research establishments	1	Per each 300 square feet of gross floor area, plus amount required for accessory uses and offices, with a minimum of five (5) spaces
Warehouses and storage buildings	1	Per each 2,000 square feet gross floor area, with a minimum of four (4) spaces

**C. Off-Street Parking Design Standards.** The following design standards shall apply:

1. Parking areas with a capacity of four (4) or more vehicles shall be surfaced with a material that shall provide a durable, smooth, and dustless surface and shall be graded and provided with drainage facilities to accommodate surface runoff on site.
2. Each parking space shall be provided access by means of a maneuvering aisle. Backing directly into a street or highway shall be prohibited. Parking spaces shall be clearly marked and have the following minimum dimensions depending on the parking pattern:

	Stall Width	Aisle Width	Stall Length	Bay <sup>1)</sup> Width	Bay <sup>2)</sup> Width
a. Parallel Parking	9 feet	12 feet	22 feet	30 feet	21 feet
b. 90-Degree Parking	9 feet	24 feet	18 feet	60 feet	42 feet
c. 60-Degree Parking	9 feet	18 feet	18 feet	54 feet	36 feet
d. 45-Degree Parking	9 feet	14 feet	18 feet	50 feet	32 feet
e. 30-Degree Parking	9 feet	12 feet	18 feet	48 feet	30 feet

<sup>1)</sup> With 2 parking stalls and aisle

<sup>2)</sup> With one parking stall and aisle

## **SEC 7.01 OFF-STREET LOADING REQUIREMENTS**

### **A. Off-Street Loading Regulations.**

1. On the same premises with every building or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hotel, hospital, laundry, dry cleaning, or others similarly involving the receipt or distribution of vehicles, material, or merchandise there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services in order to avoid undue interference with street or parking areas.
2. Such loading and unloading space, unless completely and adequately provided for within a building, shall be a minimum area of ten (10) feet by fifty (50) feet, with fourteen (14) foot height clearance, and shall be provided according to the following schedule:
3. Off-street loading spaces shall be screened from view of residential areas and public streets and highways.

## **ARTICLE VIII SIGNS**

### **SEC 8.00 - PURPOSE**

The purpose of these requirements is to provide a framework within which the identification and informational needs of all land uses can be harmonized with the desires and aesthetic standards of the general public. It is intended through the provisions contained herein to give recognition to the legitimate needs of business, industry and other activities, in attaining their identification and informational objectives. It is a basic tenet of this Article that unrestricted signage does not benefit either private enterprise or the community-at-large.

### **SEC 8.01 - SIGNS IN RESIDENTIAL DISTRICTS**

Signs in accordance with the definitions set forth in Article III of this Ordinance shall be permitted subject to the following restrictions:

- A.** Signs no larger than ten (10) square feet in area shall be permitted for any of the following purposes:
  - 1. Real estate signs (real or personal property).
  - 2. Home-based businesses.
  - 3. Political signs.
- B.** Signs advertising new subdivisions or major developments may be permitted by the Village Council for no more than one (1) year, provided they do not exceed twenty-five (25) square feet in area.
- C.** Public institutions and churches permitted in residential districts shall comply with regulations for commercial uses.

### **SEC 8.02 - SIGNS IN COMMERCIAL OR INDUSTRIAL DISTRICTS**

Signs shall be permitted subject to the following restrictions:

- A.** Signs shall pertain exclusively to the business carried on within the building.
- B.** Signs shall be placed flat against the main building or parallel to the building on a canopy and may face only the public street or parking areas as part of the development. Signs shall not project above the roofline or cornice.
- C.** Signs painted or affixed to a building shall not exceed ten (10) percent of the surface area of the building face to which attached.
- D.** Signs may be illuminated, but no flashing or moving illumination shall be permitted. The source of illumination shall be shielded from traffic and adjacent properties and shall not be visible beyond the property line of the parcel on which the sign is located.

- E. In addition to signs painted or affixed to a building, free standing signs shall be permitted subject to the following:
  - 1. No freestanding sign shall obstruct a clear view of traffic.
  - 2. No sign shall exceed twenty-five (25) feet in height.
  - 3. There shall be not more than one freestanding sign per lot regardless of the number of businesses.
  - 4. The sign shall be set back at least ten (10) feet, measured from the right-of-way line, to the leading edge of the sign.
  - 5. The sum of all signs on a freestanding sign structure shall not exceed thirty-two (32) square feet in area.

### **SEC 8.03 - MOVING OR REVOLVING SIGNS**

Any sign which revolves or has any visible moving parts, visible revolving parts or visible mechanical movement of any type, or other apparent visible movement achieved by electrical, electronic or mechanical means, excepting those actions associated with time-temperature signs, shall be prohibited.

### **SEC 8.04 - SIGNS NOT TO CONSTITUTE A TRAFFIC HAZARD**

No sign shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or which makes use of the words "stop", "look", "danger" or any word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic.

### **SEC 8.05 - PORTABLE OR MOVABLE SIGNS**

Any free-standing sign not permanently anchored or secured to either a building or the ground, including but not limited to "A" frame, "T" frame, or inverted "T" shaped structures, including those signs mounted on wheeled trailers, shall be permitted only in accordance with the following provisions:

- A. Portable signs are permitted for grand openings, advertising charitable or community-related events and the like. Being temporary in nature, such portable signs may be permitted for a period not to exceed ninety (90) days.
- B. All illuminated portable signs shall comply with the requirements of Article X, Site Plan Review.
- C. All portable signs shall be located no closer than one-half the setback distance required for a permanent structure, to the street right-of-way line.
- D. Any portable signs shall not exceed fifty (50) square feet in surface display area.
- F. Any portable signage exceeding the above requirements shall necessitate a Special Use Permit.

## SEC 8.06 - OUTDOOR ADVERTISING STRUCTURES

Outdoor advertising structures and billboards as regulated by the Highway Advertising Act, Act 106 of 1972, as amended, may be permitted by Special Use Permit in all districts except Residential in accordance with the following limitations:

- A. **Location.** Outdoor advertising structures shall be located at least fifty (50) feet from the right-of-way line of the street on which it fronts.
- B. **Illumination.** Outdoor advertising structures may be illuminated providing, however, that said illumination is not visible beyond the property lines of the parcel upon which the structure is located.
- C. **Maintenance.** Outdoor advertising structures shall be adequately maintained. Such maintenance shall include proper alignment of structure, continued readability of the message and preservation of the structure with paint or other surface finishing material. If an outdoor advertising structure is not maintained, written notice of any disrepair shall be issued by the Zoning Administrator to the owner of said structure. If the disrepair is not corrected within thirty (30) days, said structure shall be removed at the owner's expense.
- D. **Size.** No outdoor advertising structure shall exceed three hundred (300) square feet in surface display area.
- E. **Spacing.** No outdoor advertising structure shall be located within five hundred (500) feet of any other outdoor advertising structure.

## SEC 8.07 – TEMPORARY SIGNS

Temporary signs are permitted in all zoning districts subject to the following requirements:

- A. Temporary Signs Not Requiring a Permit.
  - 1. Non-illuminated Real Estate signs that are four (4) square feet or less in area, if removed within seven (7) days after the sale, rental, or lease.
  - 2. Yard, garage, and estate sale signs, four (4) square feet or less in area, if removed within 24 hours of sale.
  - 3. Political signs, four (4) square feet in size or less in the "R", and "A" Districts and thirty-two (32) square feet or less in area in the "LB", "CBD", "GB" and "LI" Districts. Political signs specifically related to an election may be erected not more than 30 days prior to the election and shall be removed within seven (7) days following the election. Political signs related to an issue other than an election may be displayed on a lot for a period not to exceed 30 consecutive days and shall not be displayed more than four (4) times during a calendar year.
  - 4. Seasonal signs or displays that are clearly incidental to and are customarily and commonly associated with any national, local, or religious holiday or

celebrations, not to exceed ninety (90) days of display per calendar year.

**B. Temporary (not portable) Signs Requiring a Permit.**

1. Display or informational signs with or without a structural frame and intended for a period not to exceed thirty (30) days of display per calendar year, including, but not limited to: seasonal produce sales, grand opening sales, community events, or special meals. Sign size shall not exceed sixteen (16) square feet.
2. One construction identification sign per project that contains the name of the development, contractor, architect, or engineer, not to exceed 32 square feet in area. The sign shall be removed when 70% of the units have and/or square footage has been completed.

**SEC 8.08 - EXISTING NONCONFORMING SIGNS**

It is the intent of this Section to permit the continuance of a lawful use of any sign or outdoor advertising structure existing at the effective date of adoption of this Section, though such sign or outdoor advertising structure may not conform with the provisions of this Section. It is the intent that nonconforming signs and outdoor advertising structures shall not be enlarged upon, expanded or extended. Furthermore, it is the intent that nonconforming signs and outdoor advertising structures shall be gradually eliminated and terminated upon their natural deterioration or accidental destruction. The continuance of all nonconforming signs and outdoor advertising structures within the Village of Buckley shall be subject to the conditions and requirements set forth herein.

- A. Structural Changes.** The faces, supports, or other parts of any nonconforming sign or outdoor advertising structure shall not be structurally changed, altered, substituted, or enlarged unless the resultant changed, altered, substituted, or enlarged sign or outdoor advertising structure conforms to the provisions of this Article for the use it is intended to serve, except as otherwise provided for herein.
- B. Repairs, Alterations and Improvements.** Nothing shall prohibit the repair, reinforcement, alteration, improvement, or modernizing of a lawful nonconforming sign or outdoor advertising structure, provided such repair does not exceed an aggregate cost of thirty (30) percent of the appraised replacement cost as determined by the Building Inspector/Official, unless the subject sign or outdoor advertising structure is changed by such repair, reinforcement, alteration, improvement, or modernizing to a conforming structure. Nothing in this Section shall prohibit the periodic change of message on any outdoor advertising structure.
- C. Restoration of Damage.** Any lawful nonconforming sign or outdoor advertising structure damaged by fire, explosion, or an act of God, or by other accidental causes, may be restored, rebuilt or repaired, provided that the estimated expense of reconstruction does not exceed fifty (50) percent of the appraised replacement cost as determined by the Building Inspector.
- D. Discontinuance or Abandonment.** Whenever the activity, business or usage of a



premises to which a sign is attached or related has been discontinued for a period of ninety (90) days or longer, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the nonconforming sign attached or related thereto. At the end of this period of abandonment, the nonconformance sign shall either be removed or altered to conform to the provisions of this Section.

- E. Elimination of Non-Conforming Signs.** The Village Council may acquire any nonconforming sign or outdoor advertising structure, with or without acquiring the property on which such sign or structure is located, by condemnation or other means, and may remove such sign or structure.

## **ARTICLE IX SPECIAL USE PERMITS**

### **SEC 9.00 - PURPOSE AND INTENT**

Rather than permitting all of the many and varied land use activities within individual and limited zoning districts, it is the intent of this Ordinance to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the investor or developer, but that will, at the same time, promote the intent and purpose of this zoning ordinance, and insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses. In order to provide controllable and reasonable flexibility, this Article permits detailed review of certain specified types of land use activities, which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land and structure uses possessing these characteristics may be authorized within certain zoning districts by the issuance of a special use permit. By such a procedure, the Planning Commission has the opportunity to impose conditions and safeguards upon each use that are deemed necessary for the protection of the public welfare.

### **SEC 9.01 - PROCEDURES**

An application for a special use permit for any land use or structure permitted under this Article shall be submitted and processed under the following procedures:

- A. Submission of Application.** Any application shall be submitted to the Zoning Administrator on a form for that purpose. Each application shall be accompanied by the payment of a fee as established by the Village Council to cover costs of processing the application.
  
- B. Data Required.** Every application shall be accompanied by the following information and data:
  1. The form supplied by the Zoning Administrator filled out in full by the applicant, including a statement of supporting evidence.
  2. Ten (10) copies of a site plan, drawn to a readable scale (preferably 1"=100').
  3. A written impact assessment to include illustrations of the following information, descriptions of the possible impacts, proposed mitigation measures, and the alternatives considered to minimize impacts:
    - a. Written and graphic illustrations of the existing environmental characteristics of the site and area prior to development including topography, soils vegetative cover, drainage, streams, creeks, wetlands, and ponds.
    - b. Existing land uses and other man-made features on and adjacent to the site and how they will be impacted by the project.

- c. The number of people to be housed and/or employed, the number of visitors or patrons and the vehicular and pedestrian traffic that will be generated by the project.
- d. Phasing of the project including the ultimate development plan.
- e. Natural features, which will be retained, removed and/or altered including vegetation, drainage, streams, wetlands, woodlands, wildlife, water, and topography. The description of the areas to be altered shall include the effects of such changes on the site and adjacent properties. An aerial photo may be used to delineate the areas of change.
- f. The method to be used to serve the project with water and sanitary sewer facilities. If public utilities are not available to the site, the applicant shall submit a letter stating the status of approvals from the District Health Agency.
- g. The methods to be used to control drainage to and from the site and maintain a high level of water quality. This shall include a plan and a description of the measures to be employed to treat surface runoff and control soil erosion and sedimentation during grading and construction operations, until a permanent ground cover can be established. Recommendations for such measures may be obtained from the Wexford County Soil Erosion Agency.
- h. The methods to be used to control any increase in effluent discharge or emissions to the air or any increase in noise levels emanating from the site. Consideration shall also be given to any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lighting.
- i. An indication of how the proposed use conforms to the existing and potential development patterns in the area and any potential adverse effects.
- j. Names(s) and address(es) of person(s) responsible for preparation of the statement.
- k. Type, direction, intensity, and effects of exterior lighting.
- l. A general description of deed restrictions, if any.

- C. Application Review.** An application for a Special Use Permit shall be submitted to the Zoning Administrator at least 30 days prior to the date of the public hearing and shall be accompanied by the payment of a fee as established by the Village Council, no part of which fee shall be refundable. The following procedures shall apply:
- 1. Upon receipt of an application for a Special Use Permit and the associated fee, the Zoning Administrator shall record the date of receipt.
  - 2. The Zoning Administrator shall review the application to determine whether it is in proper form and contains all of the required information. If it is determined that the application is complete, seven (7) copies of the complete application shall be forwarded to the Planning Commission. The Zoning Administrator may also submit one (1) copy of application to each of the following agencies considered to be impacted or affected by the Special Use Permit application.
    - a) Wexford County Road Commission
    - b) Wexford County Health Department
    - c) Wexford County Drain Commissioner
    - d) Wexford County Soil Erosion Control Officer
    - e) Buckley Fire Department

3. In the event the Zoning Administrator finds the application to be incomplete, he/she shall inform the applicant in writing as to any deficiencies.

### **SEC 9.02 Public Hearing**

Upon transference of the application by the Zoning Administrator, the Planning Commission shall set a public hearing on the application. One notice shall be published in a newspaper of general circulation in the Village and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to which real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet, except that the notice shall be given not less than fifteen (15) days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other district spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

- A. Describe the nature of the special land use request.
- B. Indicate the property, which is the subject of the Special Use Permit request.
- C. State when and where the special land use request will be considered.
- D. Indicate when and where written comments will be received concerning the request.
- E. Indicate when and where a copy of the application can be viewed and/or a copy purchased.
- F. Indicate that a public hearing on the Special Use Permit request will be held.

### **SEC 9.03 - Planning Commission Action**

The Planning Commission shall review the application for the Special Use Permit. It shall deny, approve, or approve with conditions the application for Special Use Permit approval. Its decision shall be incorporated in a statement of conclusions relative to the special land use under consideration, and shall specify the basis for the decision and any conditions imposed. In arriving at its decision, the Planning Commission shall refer to and be guided by the General Standards set forth in Section 9.8 A of this Ordinance and the Specific Standards of Section 9.8 B of this Ordinance. A request for approval of a land use or activity, which is in compliance with those standards, other applicable ordinances, and state and federal statutes, shall be approved.

## SEC 9.04 - CONDITIONS

Reasonable conditions may be imposed in conjunction with the approval of a Special Use Permit by the Planning Commission. Such conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all of the following:

- A. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of this Zoning Code and the various zoning regulations of the Village; be related to the standards established in this Ordinance for the land use or activity under consideration; and be necessary to ensure compliance with those standards.
- D. Conditions and requirements stated as part of Special Use Permit authorization shall be a continuing obligation of the Special Use Permit holders.

## SEC 9.05 – PERMIT EXPIRATION AND REVOCATION

- A. **Permit Expiration.** A Special Use Permit issued under Section 9.04 shall be valid for a period of one (1) year from the date of the issuance of said permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this one (1) year period, the Zoning Administrator shall notify the applicant in writing of the expiration or revocation of said permit, provided, however, that the Planning Commission may waive or extend the period of time in which the permit is to expire if it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction.
- B. **Permit Revocation.** The Planning Commission shall have the authority to revoke any special use permit after it has been proved that the holder of the permit has failed to comply with any of the applicable conditions specified in the permit. After a revocation notice has been given, the use for which the permit was granted shall cease within sixty (60) days following the date of the notice.

## **SEC 9.06 - REAPPLICATION**

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

## **SEC 9.07 - CHANGES IN THE SITE PLAN**

The application, as approved, shall become part of the record of approval, and subsequent actions relative to the activity authorized shall be consistent with the approved application, unless a change conforming to this ordinance receives the approval of the Planning Commission.

## **SEC 9.08 — BASIS FOR DETERMINATION**

The Planning Commission, before acting on a Special Use Permit application, shall employ and be guided by standards which shall be consistent with and promote the intent and purpose of this Zoning Code, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The land use or activity shall be consistent with the public health, safety, and welfare of the Village and shall comply with the following General Standards:

- A. General Standards.** The Planning Commission shall review each application for the purpose of determining that each proposed use meets the following General Standards and the Specific Standards of Section 9.08 B. The special land use shall:
1. Be harmonious with and in accordance with the general principles and objectives of the Master Plan of the Village.
  2. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
  3. Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
  4. Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, storm water drainage, refuse disposal, water and sewage facilities and schools.
  5. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive product of traffic, noise, smoke, dust, fumes, glare, or odors.
  6. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with these standards.
  7. Ensure that landscaping shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications, which result in maximum harmony with adjacent areas.

8. Certify that all loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential properties or public thoroughfares, shall be screened by a vertical screen consisting of structural (fence) or plant materials no less than six feet in height.
9. Assure that all direct exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

The foregoing General Standards are basic to all uses authorized by Special Use Permit. The Specific Standards set forth in Sections 9.09 B. relate to particular uses and are requirements, which shall be met by those uses in addition to the foregoing General Standards.

B. **Specific Standards.** The Planning Commission shall have the authority to grant Special Use Permits for uses specifically listed as Special Uses in Article VI of this Ordinance provided the following standards, regulations, and conditions are satisfied. The regulations contained in this Article shall not be construed to override or replace any other applicable standards, conditions, or regulations contained elsewhere in this Ordinance unless specifically noted.

1. **Standard Multiple-Family Dwellings and Conversions** of existing large single-family homes on existing lots in the "R", "LB", and "A" Districts subject to the following:
  - a. Conversions of existing homes into multi-family units shall have a minimum of five hundred (500) square feet of floor area per dwelling unit. Each unit shall be provided with at least **two** (2) off-street parking spaces.
  - b. Multi-Family Dwelling Units shall meet the following site development standards:
    - 1) Maximum lot coverage – 35%.
    - 2) A minimum lot area of 4,000 square feet per dwelling unit.
    - 3) A minimum floor area of 750 square feet per unit. Not more than ten percent (10%) of all units in the building shall be efficiency units.
  - c. Signs and off-street parking shall be in compliance with this Ordinance.
2. **Standard Multiple-Family Developments** in the "R" District subject to the following:
  - a. Minimum Site Area. No multiple-family development shall be authorized with a gross site area of less than one (1) acre.
  - b. Minimum Lot Area. No multiple-family development shall be established on a lot or parcel having a width less than two hundred (200) feet. The lot area per dwelling unit shall not be less than five thousand (5,000) square feet.
  - c. Maximum Lot Coverage. Not more than thirty-five percent (35%) of the area within the property lines within a multiple-family development shall be covered by buildings.
  - d. Yards. The minimum horizontal distance between buildings (front to front, rear to rear, or front to rear) shall be fifty (50) feet. The minimum horizontal distance between sides of buildings shall be not less than twenty (20) feet.

- e. **Yard Dimensions.** No building shall be closer than forty (40) feet to any street, fifty (50) feet to any rear property line, or twenty (20) feet to an interior side property line. No building shall be closer than twenty-five (25) feet to any street right-of-way line.
  - f. **Streets and Access Ways.** All streets and access ways, public or private, shall meet the requirements and specifications of the Wexford County Road Commission.
  - g. **Maximum Building Height.** Thirty-five (35) feet.
  - h. **Signs and Parking.** All signs and off-street parking shall be in compliance with this Ordinance.
3. **Group Child Care Homes** in the "R" District subject to the standards, conditions, and regulations established by Act 116 of the Public Acts of 1973, as amended and further subject to the following:
- a. The lot on which a group child care home is proposed shall not be located within 1,500 feet of any other lot devoted to such use.
  - b. No such group child care home shall be used to house persons released from or assigned to an adult correctional institution.
  - c. The use shall not be located in an apartment or an apartment building.
4. **Public and Institutional Structures and Uses** in the "R" District subject to the following:
- a. **Permitted Institutional Uses.** Churches, convents, cemeteries, parsonages, and other housing for religious personnel, elementary and secondary schools, institutions for higher education, auditoriums and centers for social activity such as lodges and fraternal organizations.
  - b. **Minimum Lot area.** 40,000 square feet.
  - c. **Access Required.** The proposed site shall be so located as to have at least one property line on an all-weather, public thoroughfare. All ingress and egress to the site shall be directly onto said thoroughfare.
  - d. **Minimum Setback.** No building shall be closer than fifty (50) feet to any street right-of-way or property line.
  - e. **Maximum Lot Coverage.** No more than thirty-five percent (35%) of the gross site area shall be covered by buildings.
  - f. **Signs and Parking.** All signs and off-street parking shall be in compliance with this Ordinance.
5. **Public Facilities**, but excluding telecommunications towers, in any District subject to the following:
- a. **Minimum Required Setback.** No building shall be closer than fifty (50) feet to any property or street right-of-way line.
  - b. **Maximum Lot Coverage.** No more than thirty percent (30%) of the gross site area shall be covered by buildings.
  - c. **Minimum Lot Area and Width.** Lot area and width shall not be less than that specified for the district in which the proposed use is located.
  - d. **Screening Required.** When mechanical equipment is located in the open air, it shall be screened from the surrounding view with suitable plant material and



fused to the extent necessary to protect the public safety and to conserve the value of surrounding property.

- e. Signs and Parking. All signs and off-street parking shall be in compliance with this Ordinance.
6. **Telecommunications Towers** subject to the following:
- a. Antennas may be attached to existing structures including light standards, power poles, water towers or buildings in any district. Where located on an existing structure, they shall extend no higher than ten (10) feet above the structure to which they are attached.
  - b. An antenna may be located on a self-supporting monopole or lattice tower but not a guyed tower in the "LI" Light Industrial and "A" Agricultural Districts. Towers shall comply with the following standards:
    - 1) Towers and accessory buildings shall be required to meet the development regulations of the district within which located.
    - 2) A landscape buffer with a minimum height of six (6) feet shall be required to screen the structure base, accessory buildings and enclosure from adjacent uses and public rights-of-way. A maintenance plan detailing maintenance for landscaping shall be submitted with the application.
    - 3) Towers shall not be located within a yard that abuts M 37.
    - 4) The base of the tower shall be enclosed with a six (6) foot high security fence.
    - 5) Towers shall be set back a distance equal to the height of the tower from all property lines but in no case shall a tower be taller than 199 feet.
    - 6) Towers shall not be located within parking lots or other areas where they will interfere with the operation of a business on the property.
    - 7) To reduce visual obtrusiveness, towers shall maintain either a galvanized or concrete appearance unless constructed as a camouflaged tower.
    - 8) There shall not be displayed on the tower advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
    - 9) Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property that is owned and/or leased by the applicant.
    - 10) No tower shall be constructed as a speculative tower. Prior to construction, each tower shall have at least one contracted carrier and evidence shall be provided of such contract at the time of application.
    - 11) Colocation of antennas is required. Each tower shall be designed and built to accommodate multiple antennas.
    - 12) Before any tower is considered, the applicant shall demonstrate in writing that there are no other colocation options available in the area and provide a map that illustrates existing and known proposed wireless communication facilities within the Village and adjacent communities, which are relevant in terms of potential colocation or to demonstrate the need for the proposed facility.
    - 13) A maintenance plan, and any applicable maintenance agreement, for the tower and tower compound shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.

- 14) The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes shall be provided at the time of application and shall be continuously updated during all times the facility is on the premises.
- 15) If a tower ceases to operate for a period of six months, the tower shall be deemed abandoned and shall be removed upon written notice by the Zoning Administrator within one year of abandonment.
- 16) All towers shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- 17) Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.
- 18) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen shall cause the least disturbance to the surrounding views. Any aviation hazard lighting shall be detailed on the plans.
- 19) Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
- 20) Accessory structures shall not exceed six hundred (600) square feet of gross building area. Accessory buildings shall be a maximum of fourteen (14) feet high and shall be set back in accordance with the requirements for principal buildings in that "LI" and "A" Districts.

7. **Sexually-Oriented Businesses** in the "GB" District subject to the following:
  - a. Location. Sexually-oriented businesses shall be located a minimum horizontal distance of 500 feet from another such business, a residential district; and the property line of a religious institution, school, or family child care center.
  - b. Minors on Premises. Persons operating a sexually oriented business shall not permit any person under the age of eighteen to be on the premises either as an employee or a customer.
  - c. Hours of Operation. The sexually oriented business shall operate only between the hours of and 8:00 a.m. and 12:00 midnight, Monday through Saturday.
  - d. Displays. Sexually oriented businesses shall display no services or products or

- pictures or illustrations or gifts so as to be visible from any street or neighboring property.
- e. Signs. Signage shall not include photographs, silhouettes, drawings, or pictorial representations of specified anatomical areas or specified sexual activities, or include animated or flashing illumination.
  - f. Outdoor Storage. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent streets.
  - g. Posting of Entrances. Entrances to a sexually oriented business shall be posted on both the exterior and interior walls in a location clearly visible to those entering and exiting the business. Lettering shall be no less than two inches in height that: 1) "Persons under the age of 18 are not permitted to enter the premises" and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission".
  - h. Lighting of Parking Areas. Off-street parking shall be illuminated during all hours of operation of the sexually oriented business until one hour after the business closes.
8. **Gasoline Service Stations and Commercial Garages** in the "GB", "CBD" and "LI" District subject to the following:
- a. Parking. Parking or storage of inoperative vehicles shall be completely surrounded by an opaque fence not less than six (6) feet in height.
  - b. Minimum lot frontage. One-hundred (100) feet.
  - c. Minimum lot area. The minimum lot area for the "GB" District shall be increased five-hundred (500) square feet for each fuel pump unit in excess of four (4), and one-thousand (1,000) square feet for each service bay in excess of two (2), and three-hundred (300) square feet for each parking space intended for the storage of inoperable vehicles.
  - d. Minimum Setbacks. All buildings and necessary structures including gasoline pumps shall be set back fifty (50) feet from any lot line and seventy-five (75) feet from any street right-of-way line.
  - e. Equipment and Merchandise Storage. All equipment including hydraulic hoist, pits, and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment.
  - f. Enclosure Required. All activities, except those required to be performed at the fuel pump shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
  - g. Tanks. There shall be no above ground tanks for the storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gases.
  - h. Signs and Parking. All signs and off-street parking and loading shall be in conformance with this Ordinance.
  - i. Screening. Where a gas station immediately adjoins a residential district, a decorative screen wall shall be provided of not less than five (5) feet in height.

9. **Auto Washes** in the "GB" District subject to the following:
  - a. Four (4) customer stacking spaces shall be provided for each bay or wash area for a stationary type (coin operated) system and **six (6)** spaces shall be provided for each bay for an automatic system.
  - b. Customer stacking spaces shall be located so they do not obstruct traffic flow on the public right-of-way.
  - c. All operations shall be conducted within a building except for vacuuming.
  - d. Where an auto wash immediately adjoins a residential district, a decorative screen wall shall be provided of not less than five (5) feet in height.
  - e. Excess water shall be collected and managed to prevent its spread onto the public right-of-way.
  
10. **Automobile Salvage and Private Junk Yards** in the "LI" District subject to the following:
  - a. Uses shall be established and maintained in accordance with applicable state laws.
  - b. The site shall be a minimum of three (3) acres in size.
  - c. The site shall have access on a Village primary road as defined in this Ordinance.
  - d. A solid fence, wall or earthen berm at least six (6) feet in height shall be provided around the periphery of the site to screen said site from surrounding property. Such fence, wall or berm shall be of sound construction, painted or otherwise finished nearly and inconspicuously. All activities shall be confined within the enclosed area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the enclosed area.
  - e. Industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
  - f. All fenced-in areas shall be set back at least fifty (50) feet from any front street or property line. Such front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation. The spacing and type of plant materials shall be determined by the Village Council.
  - g. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within an area screened from public view.
  - h. Whenever the installation abuts property within a residential district, a transition strip at least one hundred (100) feet in width shall be provided between the fenced-in area and the property within a residential district. Such strip shall contain plant materials, grass and structural screens to effectively minimize the appearance of the installation and to help confine odors therein

## **ARTICLE X SITE PLAN REVIEW**

### **SEC 10.00 INTENT AND PURPOSE**

Site plan review is intended to insure that developments comply fully with Village ordinances and state, and federal standards and are able to be adequately serviced by public services and facilities while maintaining a high degree of compatibility with surrounding development and the natural environment.

### **SEC 10.01 SITE PLANS REQUIRED AND EXEMPTIONS**

- A. **Site Plans Required.** Except for exempt uses, no building shall be erected or structurally altered, no change in use shall be permitted and no grading, or excavation shall be commenced on any lot or parcel until a site plan that meets all of the requirements of this Article has been approved by the Planning Commission. Site Plan Review shall be required for regular and condominium subdivisions and all special uses.
- B. **Exemptions.** With the exception of lots abutting M-37, where site plans shall be required for all uses, the following uses are exempt from site plan review:
1. Accessory structures that require no new or additional access to/from public roads.
  2. An enlargement of a principal building by less than ten (10) percent of the existing gross floor area provided such enlargement will not result in a requirement for additional parking or access to a public road.
  3. A change in a principal use where such change will not result in the expansion of an existing structure, an increase in impervious surface, additional access, or other alterations to the existing site conditions.
  4. Individual one and two-family dwellings.
  5. Home-based businesses that meet the requirements of this Ordinance.

### **SEC 10.02 SITE PLAN REVIEW PROCEDURES**

- A. **Procedures for All Site Plans.**
1. **Optional Sketch Plan Review.** Before submitting a formal application, the applicant may request a meeting with the Zoning Administrator and Village President to review the project. The purposes of the optional sketch plan review meeting are to allow the prospective applicant the opportunity to present preliminary sketches of the proposed development and seek input from the Village representatives prior to the preparation of a detailed site plan. Statements made in the course of the sketch plan review meeting shall not be construed to be legally binding commitments on the part of either party.
  2. **Application.** An applicant shall apply for site plan review not less than 21 calendar days before the date on which such site plan shall be reviewed by the

Planning Commission. Ten (10) copies of the application, support documentation, and site plan shall be submitted to the Zoning Administrator, along with the fee as established by the Village Council, for review according to the standards and requirements of this Ordinance.

3. Zoning Administrator Review. The Zoning Administrator shall circulate site plans to the appropriate officials for comments and recommendations as to their conformance with applicable standards and ordinance requirements.
4. Referral to Planning Commission. Once the Zoning Administrator deems the site plan to be complete, the site plan shall be referred to the Planning Commission for review. If modifications are recommended by the Zoning Administrator, the applicant shall be notified in advance of the Planning Commission meeting so that adjustments can be made prior to such meeting.

**B. Planning Commission Review.** Once a site plan is forwarded to the Planning Commission, the Commission shall review the site plan according to the standards and requirements of this Article. The Commission shall approve the site plan if it is in conformance with the requirements of the Zoning Ordinance and is in substantial compliance with and is consistent with the Village Master Plan, other applicable Village plans and ordinances and state and federal statutes. If the Commission finds that the site plan is not in conformance with applicable Village plans and ordinances, the Commission shall deny the site plan, stating the reasons for denial in writing. A site plan shall be deemed approved only upon the signature of the Planning Commission Chairperson.

### **SEC 10.03 SITE PLAN REQUIREMENTS.**

**A. Submission Requirements.**

1. Support Documentation. At a minimum, the following support documentation shall be provided with the application:
  - a. The property owner's and applicant's full name, address, telephone number and proof of ownership;
  - b. A signed statement that the applicant is either the owner or officially acting on behalf of the owner of the property;
  - c. The name and address of the engineer, architect or landscape architect who prepared the site plan;
  - d. Project description including the total number of structures, units, bedrooms, square feet of floor area, parking spaces, residents, employees, customers, and related information;
  - e. The tabulation of the gross and net acreage of all parcels in the project;
  - f. Existing land uses, zoning, and existing structures on and within 100 feet of the subject parcel;
  - g. A written description identifying the probable project impacts on the existing infrastructure and services (streets, schools, and utilities), the natural environment and the surrounding neighborhood and the measures to be employed to mitigate such effects.

2. Site Plan. The site plan shall consist of an accurate reproducible drawing or drawings, illustrating the site and areas within 100 feet of the site. Site plans shall be sealed by a registered architect, engineer, or landscape architect and shall be drawn to scale and rendered on a minimum sheet size of 24 inches by 36 inches. Site plans shall include the following:
  - a. Legal description, property lines, lot lines, property dimensions, and required setback lines;
  - b. Scale, north arrow, date and vicinity map;
  - c. Road locations and names, existing road and alley pavement and right-of-way widths, the location and width of existing and proposed utility easements, the size and location of existing and proposed public utilities, building service lines and wells and the location and number of curb cuts and driveways;
  - d. Existing topography and a detailed grading plan at two (2) foot contour intervals;
  - e. Location and type of existing vegetation and any significant site amenities and how they will be altered by the project;
  - f. Location and elevations of water bodies and courses, floodplains, drainage ways and wetlands and how they will be protected or altered by the project;
  - g. Location, size, height and dimensions of existing and proposed structures and typical elevation drawings for proposed structures;
  - h. Location and dimensions of proposed streets, drives, curb cuts, intersection clear zones and acceleration and deceleration lanes that are to serve the project and any access management measures that are required to minimize traffic conflicts along M-37;
    - i. Location, size and design of sidewalks, walkways, bicycle paths and other areas of public use;
    - j. Size, number, dimensions, location and design of parking and loading areas;
    - k. Location of all other utilities on and adjacent to the site including, but not limited to, natural gas, electricity, cable TV and telephone services;
    - l. Proposed location of accessory structures, buildings and uses including, but not limited to, docks, flagpoles, storage sheds, transformers and similar facilities.
    - m. Required setback lines, lot size, lot coverage and any variances to be requested;
    - n. Proposed layout, dimensions and locations of common open spaces and recreation facilities;
    - o. The proposed location, size and dimensions of drainage areas and storm water detention and retention ponds;
    - p. A storm water management and soil erosion control plan;
    - q. The location, size, height, and orientation of all existing and proposed signs.
    - r. Detailed landscaping plan illustrating the size, location, species and numbers of plant materials;
    - s. The location and design of exterior ornamental and security lighting;

- t. Location, design, materials, and height of proposed fences, walls, and other screening devices.
- u. Location, size and screening of all trash receptacles and solid waste disposal facilities;
- v. Location of any existing and proposed above or belowground storage facilities for salts, flammable or hazardous materials, and any requirement for containment structures or clear zones as may be required by governmental agencies.
- w. The following additional information may be requested by the Planning Commission if, in the Commission's judgment, there will be measurable impacts:
  - 1) A report describing the soil types and the ability of soils to accommodate the proposed development;
  - 2) A tree location survey signed by an engineer, surveyor or landscape architect, showing all existing trees having a diameter at breast height of 10 inches or greater, the common and/or scientific names and the diameter at breast height of these trees, plus an indication of trees to be preserved, to be transplanted, or to be removed during site development. Closely grouped trees shall be designated by the predominate species represented, the number present and the diameter at breast height range of the group or clump;
  - 3) A traffic study indicating the numbers of vehicles that will be generated by the development, potential areas of congestion or conflict, and the improvements that will be required to mitigate traffic impacts

**B. Waiver.** The Planning Commission may waive any or all site plan requirements if the construction or alteration does not affect existing traffic circulation, drainage, grading, the relationship of buildings to each other, landscaping, buffering, lighting, parking and other considerations of site plan review. Any of these requirements may be waived by the Commission where, in its judgment, such data will not bear on the decision of the Planning Commission.

## **SEC 10.04 BASIS FOR DETERMINATION**

- A. Standards for Granting Site Plan Approval.** Before approving or disapproving a site plan, the Planning Commission shall review each application to determine that the proposed use meets the following general standards. The Commission shall find that each proposed use on the proposed location:
1. Shall be designed, constructed, operated, and maintained to be harmonious, compatible, and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area or neighborhood in which it is proposed to be located.
  2. Shall not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
  3. Shall be adequately served by essential public facilities and services, such



as streets, police and fire protection, drainage improvements, refuse disposal, water and sewage services, and schools or that persons responsible for the establishment of the proposed use shall, in the opinion of the Planning Commission provide adequate private services and facilities in lieu of public facilities and services.

4. Shall minimize traffic conflicts, maintain traffic capacity, and maximize safety by employing sound access management principles.
5. Shall not create excessive additional public costs for facilities and services.
6. Shall not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by emitting fumes, dust, glare, noise, vibrations or odors.
7. Shall preserve, to the maximum extent possible, the natural resources of the site and area.
8. Shall be consistent with the specific standards and the intent and purposes of this and other Village ordinances and the Village Master Plan.
9. Shall meet the standards and requirements of other governmental agencies and those approvals have already been obtained or assured.

**B. Conditional Approvals.** The Planning Commission may attach conditions and safeguards deemed necessary to the approval of the site plan, for the general welfare, for the protection of individual property rights, and to insure that the purposes and spirit of this Ordinance and the district will be satisfied when such conditions:

1. Insure that public services and facilities affected by a proposed land use or activity are capable of accommodating increased service and service facility loads caused by the land use or activity,
2. Protect the natural environment and conserve natural resources and energy,
3. Insure compatibility with adjacent uses of land,
4. Promote the use of land in a socially and economically desirable manner, and
5. Are related to the valid exercise of the police power under this Ordinance and the purposes, which are affected by the proposed use or activity.

**C. Recording Conditions.** The approved application and the conditions and/or safeguards imposed, if any, on the site plan shall be recorded in the record of the approval action and shall remain unchanged except upon mutual consent of the Village and the landowner. The Village shall maintain a record of the proceedings and the conditions that have changed or been imposed.

## **SEC 10.05 SITE PLAN AMENDMENTS.**

No change shall be made to an approved site plan prior to or during construction except upon application to the Village in accordance with the following procedures:

**A. Minor Change.** A change to a site plan involving minor changes in the siting of buildings, the adjustment of utilities, walkways, traffic ways and parking areas and similar minor changes may be approved or disapproved by the Zoning Administrator or referred to the Planning Commission by the Zoning Administrator.

- B. Major Change.** A change or amendment involving a change in the number and location of accesses to public streets and alleys; an increase or decrease of over ten percent in gross floor area or in the number of parking spaces; a major relocation or re-siting of a building, a reduction in open space and similar major changes shall require the approval of the Planning Commission. A major change to a site plan before or during construction shall be approved by the Planning Commission.

#### **SEC 10.06 SITE PLAN EXPIRATION AND REVOCATION**

- A. Expiration.** An approved site plan shall expire if a zoning/building permit has not been issued within 12 months following the date of approval of the site plan. The Planning Commission may, upon written request by the applicant, waive or extend the period of time in which the site plan is to expire if the Commission is satisfied that the applicant has demonstrated a good faith effort to proceed with construction. In the event no such request is made in writing by the applicant within the initial 12-month approval period, the Zoning Administrator shall notify the applicant in writing of the expiration of said site plan. If a zoning/building permit has been obtained within the 12-month period following approval of the site plan, but work ceases or substantial progress is not made during the 12-month period thereafter, the site plan shall expire and the applicant shall be so notified in writing by the Zoning Administrator.
- B. Revocation.** The Planning Commission shall have the authority to revoke site plan approval at any time, following a hearing, if construction of the approved project is deemed by the Zoning Administrator not to be in conformance with the approved site plan. Upon discovery of a violation, the Zoning Administrator may issue a stop work order and a notice to the applicant to appear before the Planning Commission. Notice of the hearing date shall be provided to the applicant no less than 10 days prior to the date of the hearing.

**ARTICLE XI  
RESERVED**

**ARTICLE XII  
NONCONFORMITIES.**

**SEC 12.00 PURPOSE.**

It is the purpose of this section to provide for the regulation of uses, structures and lots, which do not, at the time of adoption of this Ordinance, conform to the requirements of this Ordinance. The provisions of this section shall govern such uses, structures and lots.

**SEC 12.01 - NONCONFORMING USES.**

No nonconforming use of a structure or land shall be enlarged, expanded, extended, or altered except in conformance with the provisions of this Section.

- A. Maintenance.** Nothing in this Ordinance shall prevent any such necessary repairs and incidental alterations of a building which is or which contains a nonconforming use on the effective date of this Ordinance as may be necessary to secure a reasonably advantageous use thereof during its natural life.
- B. Completion of Nonconforming Buildings Containing Nonconforming Uses.** Nothing in this ordinance shall require any change in the construction or intended use of a building or structure, the construction of which shall have been substantially underway on the effective date of this ordinance.
- C. Damage or Total Destruction of Nonconforming Uses.** Any building or structure which contains a nonconforming use shall not be reconstructed if destroyed by explosion, fire or by acts of God to the extent of 50% or greater of its SEV, unless the reconstructed building is built and used in accordance with the use requirements of the district.
- D. Alterations.** A building or structure containing a nonconforming use may not be repaired or remodeled during its natural lifetime if the aggregate cost of such reconstruction or remodeling exceeds 25% of the fair market value of the building as determined by a qualified appraiser, unless the use within the building or structure is changed to a conforming use. No such repair or remodeling shall increase the available floor area of the structure containing a nonconforming use except as provided in Paragraph G below.
- E. Discontinuance of a Nonconforming Use.** If a property owner abandons a nonconforming use and, in fact, abandons this nonconforming use for a continuous period of one (1) year, then any subsequent use of the property shall conform to the requirements of this Ordinance. When determining the abandonment of a nonconforming use, the Zoning Administrator shall consider all of the following factors:

  - 1. Whether utilities, such as water, gas, and electricity to the property have been disconnected.
  - 2. Whether the property, buildings, and grounds have fallen into disrepair.

3. Whether signs or other indications of the existence of the nonconforming use have been removed.
4. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
5. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use.

**F. Change of Nonconforming Use.** If no structural alterations are made, the Board of Appeals may authorize a change from one (1) nonconforming use to another nonconforming use provided the proposed use would be more suitable to the zoning district in which it is located than the nonconforming use which is being replaced. Whenever a nonconforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to a nonconforming or less conforming use.

**G. Expansion or Extension.** The Board of Appeals may authorize the expansion or extension of a nonconforming use, provided the expansion or extension will not increase the size of the building or the parking requirements of the use, will not change the appearance of the use from either a residential area or a public street, and, in the judgment of the Board of Appeals, will have no adverse effects on adjoining uses and properties.

## **SEC 12.02 - NONCONFORMING BUILDINGS AND STRUCTURES – REPLACEMENT AND ENLARGEMENT**

- A. Enlargement.** It is the intent of this Ordinance to allow the continuation of nonconforming buildings and structures that contain conforming uses and to allow the extension, enlargement, and alteration of those nonconforming structures, even if the extent of the nonconformity is increased, provided the degree of the nonconformity is not increased (i.e. the distance to the lot line is not further decreased when it does not currently meet the required setback), the other dimensional requirements of the district are satisfied, and the improvement complies fully with the requirements of the District Health Agency. In addition, such nonconforming buildings and structures may be allowed to be rebuilt if partially or totally destroyed by explosion, fire, or by acts of God, provided the same requirements are satisfied.
- B. Replacement.** A legal nonconforming building or structure may be replaced with the approval of the Board of Appeals even if the extent of the nonconformity is increased provided as follows:
1. The replacement building or structure does not exceed the general height, size, or scope of the existing building or structure, and
  2. The degree of the nonconformity is not increased (i.e. the distance to the property line is not further decreased when it does not currently meet the required setback).

**SEC 12.03 - SUBSTANDARD LOTS.**

Any lawful nonconforming lot that was of record as of the effective date of this ordinance may be used for any permitted principal use even though the lot area and/or the width is less than required by the district provided the other dimensional requirements of the district are satisfied, no contiguous land is owned by the owner of the lot in question or was owned at the time of adoption of this Ordinance, and the lot can be serviced by utilities that are satisfactory to District Health Department No. 1.

**ARTICLE XIII  
BOARD OF ZONING APPEALS**

**SEC 13.00 - INTENT AND PURPOSE**

The purpose of this Article is to insure that the objectives of this Ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that flexibility be provided for in the strict application of this Ordinance, that the spirit of the Ordinance be observed, public safety secured and substantial justice done.

**SEC 13.01 - ESTABLISHMENT AND CONFLICTS OF INTEREST**

- A. Establishment.** The Village Council shall serve as the Board of Zoning Appeals.
- B. Conflicts of Interest.** A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so shall constitute misconduct in office.

**SEC 13.02 – ORGANIZATION/RULES OF PROCEDURE**

- A. Rules of Procedure.** The Board of Zoning Appeals shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The Village President shall serve as Chairperson of the Board. The Village Clerk shall act as secretary and maintain the record of proceedings for the Board.
- B. Meetings and Quorum.** Meetings of the Board of Zoning Appeals shall be held at the call of the Chairperson and at such other times as the Board in its Rules of Procedure may specify. A majority of the total membership of the Board shall comprise a quorum. All meetings shall be open to the public.
- C. Oaths and Witnesses.** The chairperson may administer oaths and compel the attendance of any witness in order to insure a fair and proper hearing.
- D. Records:** The minutes of all meetings shall contain the grounds for every determination made by the Board including all evidence and data considered, all findings of fact and conclusions drawn by the Board for every case, along with the vote of each member and the final ruling on each case. The Board of Zoning Appeals shall file its minutes and the record of proceedings in the office of the Village Clerk.

**SEC 13.03 - JURISDICTION**

The Board of Zoning Appeals shall act upon questions as they arise in the administration of this Ordinance. The Board shall perform its duties and exercise its powers as provided in Act 110 of the Public Acts of 2006, as amended. The Board of Zoning Appeals shall not have the power to alter or change the zoning district classification of any property, or make any change in the terms of intent of this Ordinance, but does have the power to act on those matters for which this

Ordinance provides an appeal, interpretation, or variance. Within this capacity, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Zoning Administrator or any official administering or enforcing the provisions of this Ordinance as set forth in Section 13.04.

#### **SEC 13.04 - AUTHORIZED APPEALS**

The Village of Buckley Board of Zoning Appeals shall hear the following specified categories of appeals in accordance with the following standards:

- A. Administrative Review:** The Board of Zoning Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official responsible for administering or enforcing the provisions of this Ordinance.
- B. Interpretation of the Ordinance:** The Board of Zoning Appeals shall hear and decide, upon request, the following:
  - 1. Interpretation of the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Board of Zoning Appeals shall insure that its interpretation is consistent with the intent and purpose of the Ordinance and the Article in which the language in question is contained.
  - 2. The precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator.
  - 3. Classification of a use, which is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted use, in accordance with the purpose and intent of each district.
  - 4. The parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed in Article VII by an analysis of the specific needs.
- C. Variances.** The Board of Zoning Appeals shall have the power to authorize specific variances from site development requirements such as lot area and width regulations, building height and bulk regulations, yard width and depth regulations, off-street parking and loading space requirements and sign requirements of this ordinance, provided that all the required findings listed below are met and the record of proceedings of the Board of Zoning Appeals contains evidence supporting each conclusion.
  - 1. That there are practical difficulties or unnecessary hardships, which prevent carrying out the strict letter of this Ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
  - 2. That a genuine hardship exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district, and shall not be recurrent in



- nature.
3. The hardship or special conditions or circumstances do not result from actions of the applicant.
  4. That the variance will relate only to property under the control of the applicant.
  5. That the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district.
  6. That granting the variance will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
  7. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.
  8. That the variance shall not permit the establishment, within a district, or any use which is not permitted by right within that zoning district or any use for which a special use permit is required.
  9. In granting any variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and shall automatically invalidate the permit.
  10. Each variance granted under the provisions of this Ordinance shall become null and void unless:
    - a) The construction authorized by such variance or permit has commenced within six (6) months of the granting of the variance.
    - b) The occupancy of land, premises, or buildings has taken place within one (1) year after the granting of the variance.
  11. No application for a variance which has been denied, wholly or in part, by the Board of Zoning Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

**D. Special Exceptions.** The Board of Zoning Appeals shall have the authority to review and approve special exceptions where authorized by this Ordinance.

### **SEC 13.05 — APPEALS PROCEDURES**

- A. Notice of Appeal.** Appeals to the Board of Zoning Appeals may be made by any person aggrieved, or by an officer, or department of the Village, by filing a written Notice of Appeal with the Village Clerk. Upon receipt of a Notice of Appeal, the Village Clerk shall promptly transmit the records concerning the appealed action to the Chairperson of the Appeals Board. Any appeal by an appellant, from the ruling of the Zoning Administrator concerning the enforcement of the provisions of this Ordinance, shall be filed within ten (10) days after the date of the Zoning Administrator's decision.

**Standing:** The chairman shall review the material submitted and make a determination that the appellant is aggrieved, and has standing to appeal. Legal counsel may be consulted if necessary to make such a determination, with the legal costs to be paid by the appellant in addition to the appeals fee established by the Village Council.

- B. Public Hearing.** Upon receipt of a Notice of Appeal, the chairperson of the Board of Appeals shall fix a reasonable time and date for a Public Hearing not to exceed thirty (30) days from the date of filing of the Notice of Appeal. Upon determination of the date and time of the public hearing, the Village Clerk shall notify by first class mail, or in person, and in accordance with the act, not less than fifteen (15) days before the Public Hearing to the following:
1. The appellant, owner(s) of the property, and the zoning administrator
  2. All persons to whom real property is assessed and occupants of any structures within 300 feet of the boundary of the property in question regardless of whether the property or occupant is located in the zoning jurisdiction.
  3. The general public by publication in a newspaper, which circulates in the Village of Buckley.
  4. Board of Zoning Appeals Chairperson
- C. Appearance.** Upon the hearing, any party may appear in person or by agent or attorney. The Board may recess such hearing from time to time, and, if the time and place of the continued hearing are announced at the time of adjournment, no further notice shall be required.
- D. Stay.** An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals after notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in the Administrator's opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be the Board of Appeals, or, on application, by court of record.
- E. Fee.** A nonrefundable fee, as established by the Village Council, shall be paid to the Village Clerk at the time the petitioner files an application with the Board. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, hearing records and other expenses incurred by the Board in connection with the appeal. No fee shall be charged if the Village or any official body of the Village is the applicant.
- F. Decision.** The Board of Appeals shall render its decision within sixty (60) days of filing of Notice of Appeal unless an extension of time is necessary to review new information pertinent to making the decision, and is agreed upon by the appellant and a majority of the members of the Appeals Board present. The vote of a majority of members serving shall be necessary to take action on an appeal. A decision of the Board shall be final. Any appeal of a Board decision shall be directly to the circuit court.

## **SEC 13.06 - REVIEW BY CIRCUIT COURT**

Any party aggrieved by an order of the Board of Appeals of the Village of Buckley, which has acted pursuant to the provisions of Act 110 of the Michigan Public Acts of 2006, as amended, may obtain a review thereof both on the facts and the law, in the Circuit Court of Wexford County; provided that application is made to the Court within thirty (30) days after the delivery of certiorari or by any other method permissible under the rules and practices of the circuit courts of this state.

**ARTICLE XIV  
ADMINISTRATION AND ENFORCEMENT**

**SEC 14.00 ADMINISTRATION.**

The provisions of this Ordinance shall be administered by the Buckley Village Council in accordance with the State of Michigan Act 110 of the Public Acts of 2006, as amended.

**A. Authority.** The Buckley Village Council shall appoint a Zoning Administrator to act as its officer and except as otherwise provided in this Ordinance, the Zoning Administrator shall have the authority to administer the provisions of this Ordinance. The Village Council may also designate a person to act in the absence of the Zoning Administrator. The Zoning Administrator or his/her designee shall have the authority to receive and process applications for zoning permits, special land use permits, ordinance amendments, appeals and variances or other matters the Board of Zoning Appeals or Village Council are required to decide. The Zoning Administrator shall also have the authority to inspect premises, issue decisions and orders and institute proceedings to enforce the provisions of this ordinance.

**B. Zoning Permits Required.** It shall be unlawful for any person to commence the erection or addition to any structure or to change the use of any existing building or land area without first securing a Zoning Permit from the Zoning Administrator. Except upon written order from the Board of Zoning Appeals, no such Zoning Permit shall be issued for any building or land where the use or dimensional requirements of this Ordinance would be violated.

**C. Zoning Permit Application Requirements.** A Zoning Permit application, signed by the owner or a duly authorized agent of the owner, shall be filed in writing with the Zoning Administrator. A scale drawing and written documentation shall be included with the Zoning Permit application, which includes the following information:

1. The existing and intended use of the building or land.
2. Property dimensions and proposed setbacks.
3. The location of proposed structures and uses both existing and proposed.
4. Evidence of ownership.

**D. Waiver of Requirements.** In cases of minor alterations the Zoning Administrator shall have the authority to waive the requirements of Subsection 14.00 C.

Administrative Waiver – The Zoning Administrator is hereby authorized to grant administrative waivers to the provisions of this Ordinance in an amount not too exceed up to twenty percent (20%) variation from the site development standards, parking and loading requirements, sign requirements, lot width to depth ratios and the specific dimensional and similar provisions and requirements of this Ordinance. This authority does not extend to or waive consideration of different land uses that those expressly permitted within a zoning district.

**E. Display.** The Zoning Permit shall be displayed face out, in a conspicuous location, within 24 hours of issuance and shall be so displayed until all work is completed.

**F. Fee Schedule and Escrow Account for Zoning Fees.**

1. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in costs to the Village, the Village Council may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following:
  - a. Zoning permits.
  - b. Special Use permits.
  - c. Appeals to or requests for interpretations by the Board of Zoning Appeals. Appeals and requests for interpretations initiated by the Village Council or the Zoning Administrator shall not be subject to a zoning fee.
  - d. Classification of unlisted property uses.
  - e. Requests for variances from the Board of Zoning Appeals.
  - f. Requests for rezoning of property by individual property owners. Rezoning of property initiated by the Village Council shall not be subject to a zoning fee.
  - g. Site plan reviews.
  - h. Special exceptions by the Board of Zoning Appeals.
  - i. Any other discretionary decisions by the Village Council or Board of Zoning Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Village Council and/or Board of Zoning Appeals. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

2. If the Village Council or Board of Zoning Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Village Council or Board of Zoning Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Village Clerk such additional zoning fees in an amount determined by the Village Council or Board of Zoning Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Village Council or Board of Zoning Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Village Council or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds

held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Village in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

**G. Public Notice.** All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006 as amended, and the other provisions of this section with regard to public notification.

1. Responsibility: When the provisions of this ordinance or the Michigan Zoning Enabling Act require that notice be published, the Village Clerk shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the Village and mailed or delivered as provided in this section.

2. Content: All mail, personal and newspaper notices for public hearings shall:  
a. describe the nature of the request: identify whether the request so for a rezoning, text amendment, special use, planned unit development, variance, appeal, ordinance interpretation or other purpose.

b. Location: Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no street addresses currently exist on the property. If there are no addresses tax parcel identification numbers may be used. No street addresses are needed when eleven (11) or more adjacent properties are proposed for rezoning, or when a special request is for an ordinance interpretation not involving a specific property.

c. When and where the request will be considered: indicate the date, time and place of the public hearing.

d. Written comments: Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

e. Handicap access: Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

3. Personal and mailed notice: When the provisions of this ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:

a. The owners of property for which approval is being considered, and the applicant if different than the owner of the property.

b. Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to

all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundary of the Village of Buckley. If the name of the occupant is unknown, the term “occupant” may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations.

c. Notice by mail/affidavit: Notice shall be deemed to be mailed by its deposit in the United States mail, first class, property address, postage paid. The clerk shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

d. Timing of notice: Notice of a public hearing for a rezoning, text amendment, special land use, variance, appeal or ordinance interpretation shall be not less than fifteen (15) days before the date the application will be considered for approval.

**H. Use and Development of Land as a Condition to Rezoning:** As permitted in section 405 of the Michigan Zoning Enabling Act 110 of 2006 as amended, an owner of land may voluntarily offer in writing, and the Village may approve, certain use and development of the land as a condition to a rezoning of land or an amendment to the zoning districts map.

1. In approving the conditions under this provision, the Village may establish a time period during which the conditions apply to the land. Except for an extension under part 3 below, if the conditions are not satisfied within the time specified under this section, the land shall revert to its former zoning classification.

2. The Village shall not add to or alter the conditions approved under this section during the time period specified.

3. The time period specified under part 1 may be extended upon application of the land owner and approved by the Village Council.

4. The Village shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under this section shall not otherwise affect a landowner’s rights under the Zoning Act (110 of 2006 as amended) the Village Zoning Ordinance or any other laws of the state.

#### **SEC 14.01 ENFORCEMENT.**

**A. Authority.** The Zoning Administrator shall have the authority to enforce the provisions of this Ordinance. Any land, dwellings, buildings, or structures, used, erected, altered, razed or converted in violation of this Ordinance or in violation of

any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

- B. Investigation; correction period.** The Zoning Administrator shall investigate each alleged violation and shall send to the alleged violator by registered mail a written notice specifying all violations and ordering him or her to correct the violation within sixty (60) days of the date of the notice.
- C. Violations.** Any person who fails to correct a violation of any provision of this Ordinance within (60) days of the date of the notice ordering the correction shall be guilty of a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.
- D. Enforcement.** The Zoning Administrator is hereby designated as the authorized village official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
- E. Abatement.** In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

#### **SEC 14.02 CONFLICTING REGULATIONS.**

In the interpretation, application and enforcement of this Ordinance, whenever any of the provisions or limitations imposed or required by the provisions of this Ordinance are more stringent than any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than is imposed or required by this Ordinance, then the provisions of such other law or ordinance shall govern.

#### **SEC 14.03 PERFORMANCE GUARANTEES**

In connection with the construction of improvements through site plan approval, special land use approval, and subdivision or condominium subdivision approval, the Village Council may require the applicant to furnish the Village with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter or credit, or surety bond acceptable to the Village in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example, but are not limited to, roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission or Village Council that are located within the development. For the purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2)



architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Village Clerk at or before the time the Village issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Village Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Village Council. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

- A.** One-third of the cash deposit after completion of one-third of the public and site improvements;
- B.** Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and
- C.** The balance at the completion of the public and site improvements. Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Village Council may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the Village as a third-party beneficiary of the bond, then the Village Council may accept that bond as meeting all or a portion of the performance guarantee required by this section.

**ARTICLE XV  
AMENDMENT PROCEDURE**

**SEC 15.00 VILLAGE COUNCIL MAY AMEND.**

The regulations and provisions of this Ordinance and the boundaries of zoning districts as shown on the Zoning Districts Map of the Village of Buckley, may be amended, supplemented, or changed by the Village Council in accordance with the State of Michigan Act 110 of the Public Acts of 2006, as amended.

**SEC 15.01 INITIATION OF AMENDMENTS.**

Proposals for amendments, supplements or changes may be initiated by the Planning Commission on its own motion, or by petition of one or more owners of property to be affected by the proposed amendment.

**SEC 15.02 AMENDMENT PROCEDURES.**

- A. Petition.** Each petition by one or more owners for an amendment shall be submitted by application to the Zoning Administrator on a form provided by the Village. A nonrefundable fee as established by the Village Council shall be paid at the time the application is submitted to cover the cost of administration and publication.
- B. Public Hearing** Prior to taking action on an application for an amendment, the Planning Commission may conduct one or more public hearings. the Planning Commission shall submit its recommendations to the Village Council for action. In the event the Village Council chooses to conduct one or more public hearings, the notice of the hearing (s) shall comply with the requirements
- C. Village Council Action.** At any regular or special meeting following the public hearing held by the Planning Commission, including the meeting at which the public hearing is held, the Village Council may ordain and enact into law the proposed amendment to the Buckley Zoning Ordinance. A majority vote of the total Council shall be required to approve a proposed ordinance amendment.
- D. Protest Petition.** Upon presentation of a protest petition by the owners of at least 20% of the land area included in the protested 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 amendment, but excluding public land, the amendment shall be passed by no less than a 2/3 vote of the Village Council.
- E. Resubmission.** No application for essentially the same rezoning, which has been denied by the Village Council shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed circumstances as determined by the Planning Commission.

**F. Effective Date.** The ordinance amendment shall not be final until one notice of adoption shall be published in a newspaper of general circulation within the Village within 15 days following adoption of the amendment.

**ARTICLE XVI**  
**SAVINGS, VALIDITY, REPEALER, AND EFFECTIVE DATE**

**SEC 16.00 SAVINGS CLAUSE**

The repeal of the prior zoning ordinances, pursuant to Section 16.02 shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred there under or actions involving any of the provisions of said ordinances. Said ordinances repealed are hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

**SEC 16.01 VALIDITY**

Should any article, section, clause or provision of this Ordinance be declared by the courts to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**SEC 16.02 REPEALER**

The Village of Buckley Zoning Ordinance dated July 23, 2004, as subsequently amended, is hereby repealed as of the effective date of this Ordinance.

**ARTICLE 16.03 EFFECTIVE DATE**

This Ordinance shall become effective the November 11, 2020.

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