

Village of Three Oaks Zoning Ordinance

Berrien County, Michigan

Ordinance Number _____

Adopted June 14th, 2017

Prepared by the:
Village of Three Oaks Planning Commission
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ARTICLE

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INTRODUCTORY PROVISIONS

Chapter 1.1 • GENERALLY

Section 1.101 PREAMBLE

An ordinance enacted under Act 110, of the State of Michigan Public Acts of 2006, as amended, to establish zoning districts and land use regulations governing the incorporated portions in the Village of Three Oaks, Berrien County, Michigan; to provide for regulations governing nonconforming uses and structures; to provide for a Board of Appeals and its duties and powers; to provide for the administration of this Ordinance including the official whose duty it shall be to enforce the provisions thereof; to provide penalties for the violation of this Ordinance; and, to provide for conflicts with other ordinances or regulations.

Section 1.102 SHORT TITLE

This Ordinance shall be known and cited as the “Village of Three Oaks Zoning Ordinance,” and shall be referred to herein as the “Ordinance”.

Section 1.103 PURPOSE

The fundamental purpose of this Ordinance is to promote the public health, safety, morals and general welfare; to develop and preserve the natural beauty and aesthetic quality of the community to the end that property values may be preserved; to encourage the use of lands in accordance with their character and adaptability; to limit the overcrowding of population; to promote adequate air and light; to lessen congestion on the public and private roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public improvements and service; to conform with the most advantageous uses of land, resources and properties within the Village of Three Oaks, Berrien County, Michigan.

Section 1.104 SEVERABILITY AND VALIDITY

This Ordinance and the various parts, sections, subsections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid, the remainder of the Ordinance shall not be affected thereby. Any clause, sentence, or provision of this Ordinance shall be considered severable from the balance of this Ordinance, and if any clause, sentence or provision shall for any reason be adjudged by any court of competent jurisdiction to be invalid, for any reason, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance.

Section 1.105 CONFLICTING PROVISIONS

Whenever any section of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the sections of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, the provisions of such law or ordinance shall govern.

In interpreting and applying the sections of this Ordinance, they shall be held to be the minimum or maximum requirements for the promotion of the public safety, health, morals and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any ordinance, rules, regulations or permits previously adopted or issued, and not in conflict with any of the sections of this Ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this Ordinance; nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings or requires larger open spaces or larger lot areas than are imposed or required by such ordinance or agreements, the provisions of this Ordinance shall control.

Section 1.106 ADOPTION AND EFFECTIVE DATE

- A. REPEAL OF PRIOR ORDINANCE.** Ordinance No. 152, as amended, entitled "Zoning Ordinance of the Village of Three Oaks" is expressly amended in its entirety and all other ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent they conflict with this Ordinance.
- B. ADOPTION AND EFFECTIVE DATE.** This Ordinance, which specifically includes the Zoning Map is hereby ordered to be given immediate effect and be in force from and after the earliest date allowed by law, and a synopsis of this Ordinance is hereby ordered to be published, in the manner provided by law, in the _____ on _____ 2017.

This Ordinance was adopted by the Village Council of the Village of Three Oaks, by authority of Act 110 of the Public Acts of Michigan, 2006, as amended, at a meeting thereof duly called and held on _____, 2017, and ordered to be published in the manner provided by law.

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ARTICLE

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ZONING DISTRICTS
& USES

Chapter 2.1 • GENERALLY

Section 2.101 ZONING DISTRICTS

The Village is comprised of the following zoning districts, as detailed in *Table 1: Zoning Districts*:

TABLE 1: ZONING DISTRICTS			
<u>Abbreviation</u>	<u>Zoning District</u>	<u>Abbreviation</u>	<u>Zoning District</u>
<u>R-1</u>	<u>Single Family Residential District</u>	<u>MU-1</u>	<u>Downtown-Core</u>
<u>R-2</u>	<u>Multiple Family Residential District</u>	<u>MU-2</u>	<u>General Mixed-Use</u>
<u>R-3</u>	<u>Manufactured Home Residential District</u>	<u>MU-3</u>	<u>Neighborhood Mixed-Use</u>
<u>C-1</u>	<u>General Commercial</u>	<u>I-1</u>	<u>Industrial District</u>
<u>CD</u>	<u>Conservation Development</u>	<u>CO</u>	<u>Corridor Overlay District</u>

Section 2.102 OFFICIAL ZONING MAP

The Zoning Map with all notations, references, and other information shown thereon shall be as much a part of this Ordinance as if fully described herein. The Zoning Map shall be certified as the official copy by the Village clerk and shall be kept on display in the Village office. This official Zoning Map, which may be a single sheet or composed of several map sheets, is the only official copy of the Zoning Map and information shown thereon supersedes and takes precedence over any reproductions appearing in any publication of the Zoning Ordinance distributed for the convenience of the public or appearing elsewhere. Maps and descriptions accompanying enacted amendments shall be displayed adjacent to the official copy until such time as the official copy is corrected. When so ordered by resolutions of the Village Council, the official copy shall be corrected to show all amendments and the accuracy and completeness of such corrections shall be certified thereon by the Village clerk.

Section 2.103 BOUNDARIES OF ZONING DISTRICTS

The boundaries of such districts are hereby established as shown on the Zoning Map. Unless otherwise provided in this Ordinance, the boundaries of Zoning Districts shall be interpreted as following along section lines, or lines of customary subdivision of such section; or the right-of-way line of highways, streets, alleys or property lines on record at the office of the Register of Deeds of Berrien County as of the date of enactment of this Ordinance. All zoning district lines shall commence at the edge of the highway or street right-of-way when measuring the depth of the district and as far as possible, all district lines shall run parallel to the street or highway right-of-way lines.

Section 2.104 INTERPRETATION OF THE ZONING MAP

If uncertainty as to the boundary of any district shown on the Zoning Map, the Board of Zoning Appeals shall determine the location of such boundaries according to the rules for interpretation of district boundaries established in this Ordinance.

Section 2.105 ANNEXED LANDS

Any land annexed to or consolidated into the Village will be classified as the R-1, Single Family district, or rezoned at the request of the property owner to a district consistent with the Future Land Use Map of the Master Plan.

Chapter 2.2 • PERMITTED USES BY DISTRICT

Section 2.201 PERMITTED USES / SPECIAL LAND USES

In order to avoid intrusion of undesirable uses and to foster all possible benefits for a continued high quality environment, all residential and nonresidential land and structure uses have been classified into permitted uses and special land uses.

Permitted uses include those which require a minimum of limitations; but those uses presenting potential injurious effect upon residential and other property, unless authorized under specific imposed conditions, are controlled through the issuance of a special land use permit. Special land uses are permitted or prohibited in accordance with the procedure and regulations set forth in *Chapter 6.3: Special Land Use Review*.

Section 2.202 PROHIBITED USES / USES NOT EXPRESSLY PERMITTED

- A. PROHIBITED USES.** Prohibited uses include uses for enterprises or purposes that are contrary to federal, state, or local laws / ordinances.
- B. USES NOT EXPRESSLY PERMITTED.** Uses not expressly permitted in a zoning district are prohibited unless a positive finding is made by the Planning Commission that both of the following criteria are met:
 - 1. The use which is not expressly permitted is not listed in any other zoning district.
 - 2. The use which is not expressly permitted has characteristics sufficiently similar to uses that are permitted principal uses or special land uses in the subject zoning district.

If both above conditions are met, the use may be permitted as a principal or special land use, as determined by the Planning Commission.

Section 2.203 PERMITTED USES BY DISTRICT

Table 2: Permitted Uses by District lists permitted uses (either as a principal or special land use) in each zoning district. Refer to *Chapter 7.103: Use Definitions* for specific definitions of all uses.

TABLE 2: PERMITTED USES BY DISTRICT

Use	District								Use Standard	
	R-1	R-2	R-3	C-1	MU-1	MU-2	MU-3	I-1		
Residential										
Accessory Dwelling Unit (ADU)	○									Section 2.400
Mixed-Use Dwelling Unit				●	●	●	●			Section 2.400
Multiple Family (Low Intensity: 3 - 4 units)		●				●	●			
Multiple Family (High Intensity: 5+ units)		●				●	○			
Single Family Dwelling Unit	●	●					●			
State Licensed Residential Facility ¹ / Senior / Assisted Housing				○		●	●			Section 2.400
Townhouse		●				●	●			
Two Family Dwelling Unit	○	●					●			Section 2.400
Vacation Rental	●									Section 2.400
Lodging										
Bed and Breakfast	○	○		●	●	●	●			Section 2.400
Inn / Motel				○		○	○			Section 2.400
Hotel				○		○				Section 2.400
Commercial & Retail Uses										
Adult Entertainment								○		Section 2.400
Automobile Service				○		○ ²		○		Section 2.400
Drive-through Establishment				○				○		Section 2.400
Bar, Tavern, or Alcohol Service Establishment					●	●	○			
Financial Institution				●	●	●	●	●		Section 2.400
Greenhouse / Nursery				●		●	○	●		Section 2.400
Office				●	●	●	●	○		
Pawn Shop or Pawnbrokers								○		Section 2.400
Personal Service Establishment				●	●	●	●	○		
Place of Assembly				○	○	●		●		
Restaurant				●	●	●	●	○		
Retail Sales (10,000 sq. ft. or less)				●	●	●	●			
Retail Sales (10,001 sq. ft. - 19,999 sq. ft.)				●	○	●		●		
Retail Sales (20,000 sq. ft. or greater)				○				○		Section 2.400

¹ Subject to 206 of PA 110, 2006, as amended.

² Excluding fuel stations which are not permitted in this district.

TABLE 2: PERMITTED USES BY DISTRICT (CONTINUED)

Use	District								Use Standard	
	R-1	R-2	R-3	C-1	MU-1	MU-2	MU-3	I-1		
Community, Education & Institution										
Cemetery	○									
Child Care Center (commercial)				●		●	●			
Education (primary, secondary)	●	●	○		●	●	●			Section 2.400
Education (higher, vocational, etc.)				●			●	●		Section 2.400
Medical Facility (including Veterinary Clinic)				●				○		Section 2.400
Place of Assembly (50 or fewer persons at maximum occupancy)				●	●	●	○	●		
Place of Assembly (more than 51 persons at maximum occupancy)					○	○		●		
Private Club, Fraternal Organization, or Lodge Hall	○	○		●	●	○		○		
Public Parking Lot / Structure				●	●	●	●	●		Section 2.400
Public Space / Park / Recreation Facility	●	●	●	●	●	●	●	●		
Publically Owned Building	○	○	○	●	●	●	●	●		
Religious Institution (minor)	●	●	●	●		●	●	●		Section 2.400
Religious Institution (major)				●				●		Section 2.400
Industrial										
Manufacturing, Fabrication, and Processing (light)								●		
Manufacturing, Fabrication, and Processing (heavy)								○		
Mini-Warehouse								●		Section 2.400
Research Facility								●		
Outdoor Storage or Outdoor Yard								●		Section 2.400
Service and Repair								○		
Wholesale Storage / Distribution								○		
Accessory, Temporary & Other Uses										
Accessory Building or Structure	●	●	●	●	●	●	●	●		Section 2.400
Home Occupation	●	●	●	●	●	●	●			Section 2.400
Keeping of Household Animals / Pets	●	●	○			○	○			Section 2.400
Outdoor Cafés and Seating				●	●	●	○			Section 2.400
Outdoor Sales (accessory and temporary)				○	○	○	○	○		Section 2.400
Temporary and Special Events	●	●	●	●	●	●	●	●		Section 2.400
Utility (minor)	○	○	○	●	○	○	○	●		
Utility (major)					○	○	○	○		
Wireless Telecommunications Facility	○	○	○	○	○	○	○	○		Section 2.400

Chapter 2.3 • ZONING DISTRICT STANDARDS

Section 2.301 OVERVIEW

The following zoning district summaries describe the intent of each district, dimensional standards, and additional regulations of the district. Dimensional standards establish the required minimum lot area, minimum lot width, maximum lot coverage, minimum yard setbacks, maximum building heights and supplementary dimensional requirements for each zoning district.

Reference should be made to the official Zoning Map of the Village of Three Oaks to identify the location and boundaries of these districts within the Village.

Additional requirements outside of *Chapter 2.3: Zoning District Standards* must be met to construct or reconstruct a structure / development within the Village of Three Oaks. Requirements that are not specific to individual zoning districts but which may indirectly apply to uses and structures are found within:

- A. *Article 3: Development Standards*
- B. *Article 4: General Provisions*
- C. *Article 5: Signs*

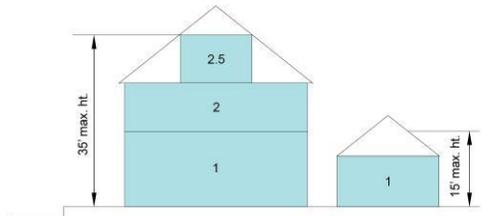
The above Articles should be referenced prior to any application.

Section 2.302 R-1, SINGLE FAMILY RESIDENTIAL DISTRICT

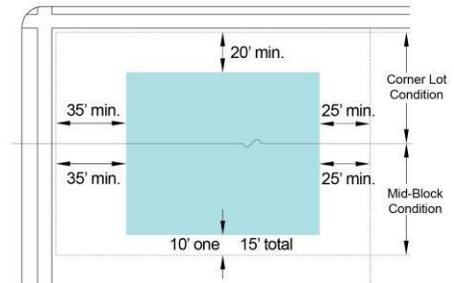
- A. **INTENT.** The R-1, Single Family Residential district is planned as the prime residential area devoted to single family dwellings within a medium density range while also accommodating certain compatible nonresidential uses which do not overcrowd residential areas, congest local streets, or otherwise adversely impact the character of established residential neighborhoods.
- B. **DIMENSIONAL STANDARDS.** The following table lists the applicable dimension standards (all dimensions are in feet and are minimum requirements, unless otherwise noted).

REGULATIONS SCHEDULE	
Building Height (maximum)	
Stories	2.5 stories
Feet	35 ft.
Lot Standards	
Minimum Lot Width	75 ft. ³
Minimum Lot Area (sq. ft.)	9,500 sq. ft.
Maximum Lot Coverage	40%
Setbacks	
Front	35 ft.
Side (interior)	10 ft. on one, total of 15 ft. ⁴
Side (public street)	20 ft.
Rear	25 ft.
Accessory Building	
Front Setback	Behind Front Yard
Side (interior) Setback	5 ft.
Side (public street) Setback	20 ft.
Rear Setback	8 ft.
Maximum Height	15 ft.

R-1 BUILDING HEIGHT



R-1 SETBACKS - PRINCIPAL BUILDING



- C. **ADDITIONAL REQUIREMENTS.**
 1. **Minimum Floor Area per Dwelling Unit.** 1,250 sq. ft. must be provided per dwelling unit.
 2. **Maximum Building Width.** No residential structure shall exceed 60 feet in width.

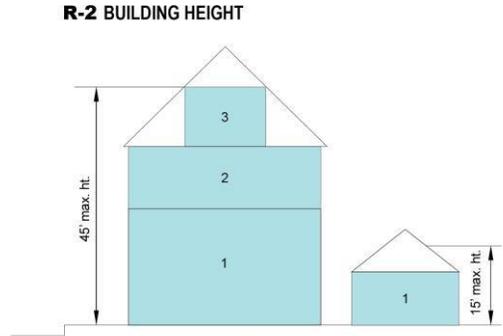
³ All lots created after the date of the adoption of this Ordinance shall have a minimum lot frontage width of seventy-five (75) feet or more.

⁴ The Zoning Official may approve a setback equal to the average depth of previously constructed buildings located within 200 feet on either side of the subject building.

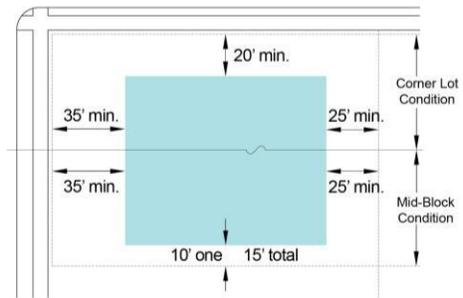
Section 2.303 R-2, MULTIPLE FAMILY RESIDENTIAL DISTRICT

- A. **INTENT.** The R-2, Multiple Family Residential district is intended to accommodate a more intensive residential use of land with various types of multiple dwellings, including multi-family dwellings, townhouses, and two family dwellings units, and other compatible accessory use buildings, structures, and land uses.
- B. **DIMENSION STANDARDS.** The following table lists the applicable dimension standards (all dimensions are in feet and are minimum requirements, unless otherwise noted).

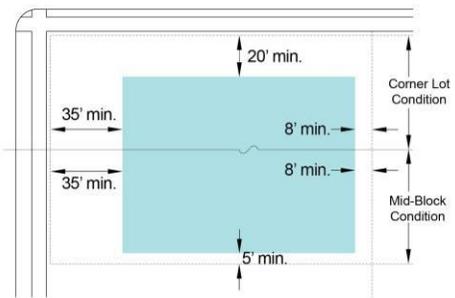
REGULATIONS SCHEDULE	
Building Height	
Stories	3.0 stories
Feet	45 ft.
Lot Standards	
Minimum Lot Width	66 ft.
Minimum Lot Area (sq. ft.)	10,000 sq. ft. for first 2 D.U.'s, plus: 5,000 sq. ft. for each unit up to 10 units; plus 2,000 sq. ft. for unit over 10 units.
Maximum Lot Coverage	50%
Setbacks	
Front	35 ft.
Side (interior)	10 ft. on one, total of 15 ft.
Side (public street)	20 ft.
Rear	25 ft.
Accessory Building	
Front Setback	Behind Front Yard
Side (interior) Setback	5 ft.
Side (public street) Setback	20 ft.
Rear Setback	8 ft.



R-2 SETBACKS - PRINCIPAL BUILDING



R-2 SETBACKS - DETACHED ACCESSORY BUILDING



- C. **ADDITIONAL REQUIREMENTS.**
 1. **Visual Screening.** An adequate visual blockage screen between any outdoor storage area and the side or rear yard lot line shall be required and shall be consistent with *Chapter 4.3: Landscaping & Screening*.
 2. **Minimum Floor Area per Dwelling Unit.** Shall meet the Minimum of Michigan Construction Code.
 3. **Minimum Ground Floor Area.** Each dwelling unit shall have at least 2/3 of the required minimum floor area on the ground floor.

⁵ The Zoning Official may approve a setback equal to the average depth of previously constructed buildings located within 200 feet on either side of the subject building.

Section 2.304 R-3, MANUFACTURED HOUSING DISTRICT

- A. INTENT.** The R-3, Manufactured Housing district is intended to encourage a suitable environment for persons and families that by preference choose to live in a manufactured home rather than a conventional single family structure. Development is limited to manufactured homes when located in a subdivision designed for that purpose or a manufactured housing park.
- B. RELATIONSHIP TO MANUFACTURED HOUSING COMMISSION RULES.** The regulations established by state law (Michigan Public Act 96 of 1987, as amended) and the Manufactured Housing Commission Rules govern all manufactured home parks. When regulations in this section exceed the state law or the Manufactured Housing Commission Rules they are intended to ensure that manufactured home parks meet the development and preliminary plan standards established by this Ordinance for other comparable residential development and to promote the health, safety and welfare of the Village's residents. Should any conflict in legally approved regulatory provisions occur, whichever provisions impose the more restrictive or higher standard shall prevail.
- C. DEVELOPMENT STANDARDS.** Manufactured home parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by way of example, Act 96 of 1987, as amended, and the Manufactured Housing Commission Rules and, in addition, shall satisfy the following minimum requirements:
- 1. Flood Areas.** A manufactured home shall not be placed in a designated floodway, as determined by the Michigan Department of Environmental Quality (MDEQ).
 - 2. Minimum Site Area.** A manufactured housing community shall be developed with sites averaging 5,500 square feet per manufactured housing unit. The 5,500 square foot average may be reduced by twenty percent (20%) provided that each individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of the average site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under *Chapter 4.7: Open Space*.
 - 3. Maximum Height.** In the R-3, Manufactured Housing district, all structures shall comply with the maximum height requirements applicable in the R-1 district (maximum of 2.5 stories, 35 feet).
 - 4. Setbacks from Perimeter Property Lines.**
 - i. Homes, permanent buildings and facilities, and other structures shall not be located closer than 20 feet from the property boundary line of the community.
 - ii. Homes, permanent buildings and facilities, or any other structures that abut a public right-of-way shall be set back at least 50 feet from the property line. If the property line runs through the center of the public road, then the 50 feet shall be measured from the road right-of-way line. This setback does not apply to internal roads dedicated for public use.
 - 5. Required Distances Between Homes and Other Structures.** A home shall be in compliance with all of the following minimum distances, as measured from the wall / support line or foundation line, whichever provides the greater distance:
 - i. Ten feet from an attached or detached structure or accessory of an adjacent home that may not be used for living purposes for the entire year.
 - ii. For a home sited parallel to an internal road, 15 feet from an adjacent home, including an attached structure that may be used for living purposes for the entire year if the adjacent home is sited next to the home on and parallel to the same internal road or an intersecting internal road.

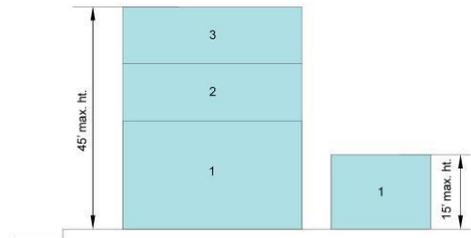
- iii. Ten feet from an attached or detached structure or accessory of an adjacent home that may not be used for living purposes for the entire year.
 - iv. 50 feet from permanent community-owned structures, such as clubhouses or maintenance and storage facilities.
 - v. 25 feet from the fence of a swimming pool.
- D. ACCESSORY BUILDINGS AND STRUCTURES.** Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district except in conformity with the requirements for accessory structures established by the Michigan Manufactured Housing Commission.
- E. SIGNS PERMITTED.** Signs permitted in the R-3 Manufactured Home Residential district shall conform to requirements established by the Michigan Manufactured Housing Commission.
- F. PREFERENCE FOR EXPANSION OF EXISTING DISTRICT(S).** The Planning Commission shall give preferential consideration to the expansion of existing R-3 districts prior to the granting approval for any additional R-3 districts in the Village. The burden to prove a demonstrable need for additional mobile home housing units and the inability for expansion of an existing R-3 district shall rest with an applicant seeking establishment of a new noncontiguous R-3 district.

Section 2.305 C-1, GENERAL COMMERCIAL DISTRICT

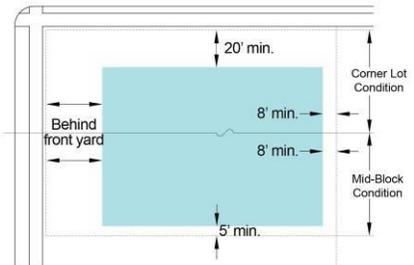
- A. INTENT.** The C-1, General Commercial district is planned for larger-scale mercantile establishments of all types, personal service establishments, eating and drinking establishments, professional and other business offices, offices of governmental institutions (including schools and municipal buildings), churches, etc., and all other similar uses that rely upon street/road frontage and larger, off-street parking facilities.
- B. DIMENSION STANDARDS.** The following table lists the applicable dimension standards (all dimensions are in feet and are minimum requirements, unless otherwise noted).
- C. EXCLUDED USES.** No junk yard, recycling operation or business involving livestock, or business likely to create detrimental noise, odors, fumes, radiation or vibration, as determined by the Planning Commission may be located or operated in this district.

REGULATIONS SCHEDULE	
Building Height	
Stories	3 stories
Feet	45 ft.
Lot Standards	
Minimum Lot Width	66 ft.
Minimum Lot Area (sq. ft.)	8,500 sq. ft.
Maximum Lot Coverage	80%
Setbacks	
Front	3 ft.
Side (interior)	5 ft.
Side (public street)	20 ft.
Rear	8 ft.
Accessory Building	
Front Setback	Behind Front Yard
Side (interior) Setback	5 ft.
Side (public street) Setback	20 ft.
Rear Setback	8 ft.
Maximum Height	15 ft.

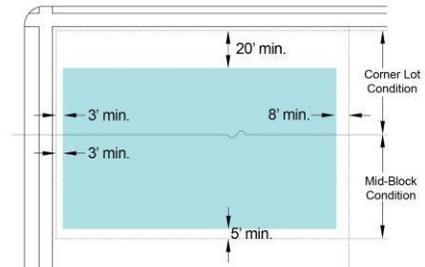
C-1 BUILDING HEIGHT



C-1 SETBACKS - DETACHED ACCESSORY BUILDING



C-1 SETBACKS - PRINCIPAL BUILDING



⁶ The Zoning Official may approve a setback equal to the average depth of previously constructed buildings located within 200 feet on either side of the subject building.

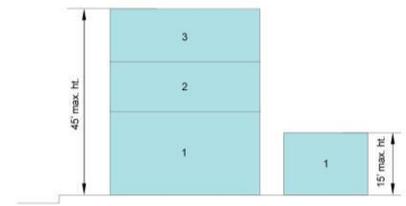
Section 2.306 MU-1, DOWNTOWN CORE DISTRICT

- A. INTENT.** The MU-1, The Downtown Core district is established as a district in which the principal use of land is for mercantile establishments of all types, personal service establishments, eating and drinking establishments, professional and other business offices, offices of governmental institutions (including schools and municipal buildings), churches, and residential living units not located on the ground floor (except as a special use). Such businesses are not required to provide front or side yards nor are they required to provide on-site parking, the latter being provided by public parking either on-street or within Village owned off-street parking facilities.
- B. DIMENSION STANDARDS.** The following table lists the applicable dimension standards (all dimensions are in feet and are minimum requirements, unless otherwise noted).

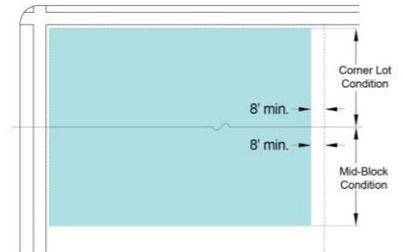
REGULATIONS SCHEDULE	
Building Height	
Stories	3 stories
Feet	45 ft.
Lot Standards	
Minimum Lot Width	66 ft.
Minimum Lot Area (sq. ft.)	n/a
Maximum Lot Coverage	n/a
Setbacks	
Front	0 ft.
Side (interior)	0 ft. ⁷
Side (public street)	0 ft. ⁸
Rear	8 ft. ⁹
Accessory Building	
Front Setback	Behind Front Yard
Side (interior) Setback	See Section 2.400
Side (public street) Setback	
Rear Setback	
Maximum Height	15 ft.

- C. USES EXCLUDED.** No junk yard, recycling operation, adult regulated use, or business involving livestock, or business likely to create detrimental noise, odors, fumes, radiation or vibration, as determined by the Planning Commission shall be located or operated in this district. Nor shall any drive-thru or drive-in businesses or businesses primarily dedicated to the sales, service, or maintenance of automobiles, including fueling stations, be permitted.

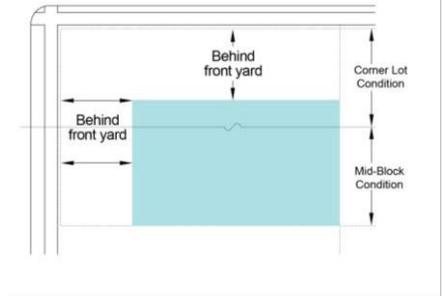
MU-1 BUILDING HEIGHT



MU-1 SETBACKS - PRINCIPAL BUILDING



MU-1 SETBACKS - DETACHED ACCESSORY BUILDING



⁷ Except where there are buildings or structures having a side yard setback greater than 0 feet on a lot abutting the lot in which a building is proposed to be constructed or remodeled, the Zoning Official shall require a setback equal to the setback of the building located on the abutting lot. The setback shall be measured from the side lot line to nearest point on any part of the structure erected thereon, including overhang of roof eaves.

⁸ On lots that abut two or more public streets, the setback from the street rights-of-way that are not considered the front lot line shall meet the same standards as for front yards. Elm Street shall be considered the front lot line for all lots that abut Elm Street.

⁹ Unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the Board of Zoning Appeals.

Section 2.307 MU-2, GENERAL MIXED-USE DISTRICT

- A. **INTENT.** The MU-2, General Mixed-Use district is intended to provide a mix of land uses, including residential dwelling units, mercantile establishments, personal service establishments, eating and drinking establishments, professional and other business offices, offices of governmental institutions (including schools and municipal buildings), and churches that are compatible with residential land uses.
- B. **DIMENSION STANDARDS.** The following table lists the applicable dimension standards (all dimensions are in feet and are minimum requirements, unless otherwise noted).

REGULATIONS SCHEDULE	
Building Height	
Stories	2.5 stories
Feet	35 ft.
Lot Standards	
Minimum Lot Width	66 ft.
Minimum Lot Area (sq. ft.)	n/a
Maximum Lot Coverage	80%
Setbacks	
Front	0 ft. ¹⁰
Side (interior)	0 ft. ¹¹
Side (public street)	0 ft. ¹²
Rear	8 ft. ¹³
Accessory Building	
Front Setback	Behind Front Yard
Side (interior) Setback	See Section 2.400
Side (public street) Setback	
Rear Setback	
Maximum Height	15 ft.

- C. **USES EXCLUDED.** No junk yard, recycling operation or business involving livestock, or business likely to create detrimental noise, odors, fumes, radiation, vibration, or any other nuisance to nearby residential uses, as determined by the Planning Commission, shall be located or operated in this district. Drive-thru or drive-in businesses and automobile fueling stations are prohibited.

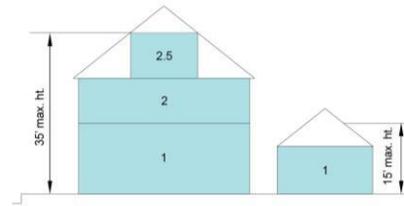
¹⁰ Except where there are multiple existing buildings or structures having a front yard setback greater than 0 feet within two hundred (200) feet along the street frontage on either side of the building proposed to be erected, the Planning Commission may require a setback equal to the average depth of previously constructed buildings located within two hundred (200) feet on either side of the building proposed to be erected.

¹¹ Except where there are buildings or structures having a side yard setback greater than 0 feet on a lot abutting the lot in which a building is proposed to be constructed or remodeled, the Zoning Official shall require a setback equal to the setback of the building located on the abutting lot. The setback shall be measured from the side lot line to nearest point on any part of the structure erected thereon, including overhang of roof eaves.

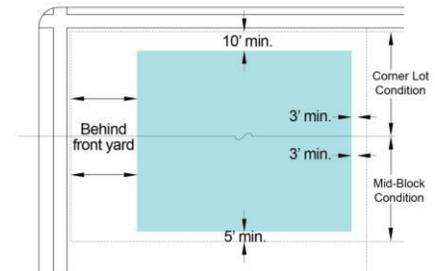
¹² On lots that abut two or more public streets, the setback from the street rights-of-way that are not considered the front lot line shall meet the same standards as for front yards.

¹³ Unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the Board of Zoning Appeals.

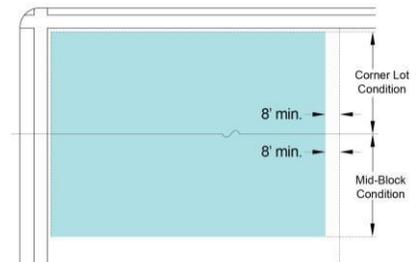
MU-2 BUILDING HEIGHT



MU-2 SETBACKS - DETACHED ACCESSORY BUILDING



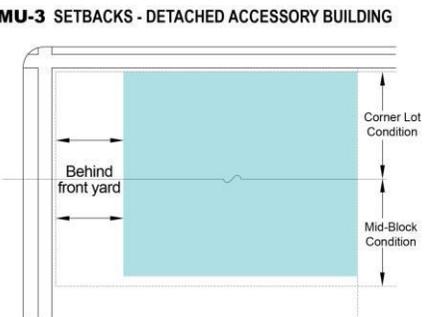
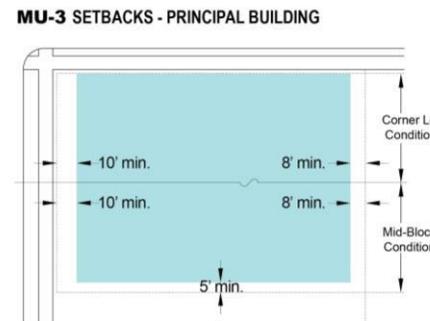
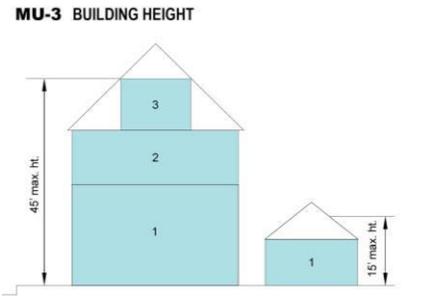
MU-2 SETBACKS - PRINCIPAL BUILDING



Section 2.308 MU-3, NEIGHBORHOOD MIXED-USE DISTRICT

- A. **INTENT.** The MU-3, Neighborhood Mixed-Use district is intended to provide a mix of land uses, including residential dwelling units, mercantile establishments, personal service establishments, professional and other business offices, offices of governmental institutions (including schools and municipal buildings), and churches that are compatible with residential land uses.
- B. **DIMENSION STANDARDS.** The following table lists the applicable dimension standards (all dimensions are in feet and are minimum requirements, unless otherwise noted).

REGULATIONS SCHEDULE	
Building Height	
Stories	3 stories
Feet	45 ft.
Lot Standards	
Minimum Lot Width	66 ft.
Minimum Lot Area (sq. ft.)	n/a
Maximum Lot Coverage	80%
Setbacks	
Front	10 ft. ¹⁴
Side (interior)	5 ft. ¹⁵
Side (public street)	0 ft. ¹⁶
Rear	8 ft. ¹⁷
Accessory Building	
Front Setback	Behind Front Yard
Side (interior) Setback	See Section 2.400
Side (public street) Setback	
Rear Setback	
Maximum Height	15 ft.



- C. **USES EXCLUDED.** No junk yard, recycling operation or business involving livestock, or business likely to create detrimental noise, odors, fumes, radiation, vibration, or any other nuisance to nearby residential uses, as determined by the Planning Commission, shall be located or operated in this district.

¹⁴ Except when there are multiple existing buildings or structures having a front yard setback greater than 0 feet within two hundred (200) feet along the street frontage on either side of the building proposed to be erected, the Planning Commission may require a setback equal to the average depth of previously constructed buildings located within two hundred (200) feet on either side of the building proposed to be erected.

¹⁵ Except where there are buildings or structures having a side yard setback greater than 0 feet on a lot abutting the lot in which a building is proposed to be constructed or remodeled, the Zoning Official shall require a setback equal to the setback of the building located on the abutting lot. The setback shall be measured from the side lot line to nearest point on any part of the structure erected thereon, including overhang of roof eaves.

¹⁶ On lots that abut two or more public streets, the setback from the street rights-of-way that are not considered the front lot line shall meet the same standards as for front yards.

¹⁷ Unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the

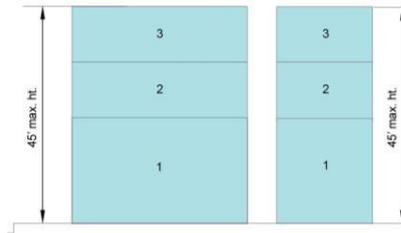
Section 2.309 I-1, INDUSTRIAL DISTRICT

- A. **INTENT.** The I-1, Industrial district is planned for industries in which the principal uses do not emit noise, vibration, smoke, dust, odors, heat, glare, and other influences sufficient to constitute an adverse influence and detract from adjacent residential or commercial zoning districts.
- B. **DIMENSION STANDARDS.** The following table lists the applicable dimension standards (all dimensions are in feet and are minimum requirements, unless otherwise noted).

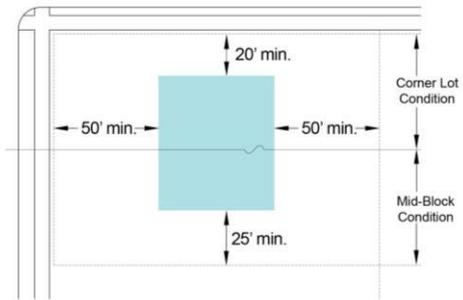
REGULATIONS SCHEDULE	
Building Height	
Stories	3 stories
Feet	45 ft.
Lot Standards	
Minimum Lot Width	n/a
Minimum Lot Area (sq. ft.)	n/a
Maximum Lot Coverage	80%
Setbacks	
Front	50 ft.
Side (interior) ¹⁹	25 ft.
Side (public street)	20 ft.
Rear	50 ft.
Accessory Building	
Front Setback	Behind Front Yard
Side (interior) Setback	5 ft.
Side (public street) Setback	20 ft.
Rear Setback	8 ft.
Maximum Height	45 ft.

- C. **EXCLUDED USES.** No junk yard, recycling operation or business involving livestock, or business likely to create detrimental noise, odors, fumes, radiation or vibration, as determined by the Planning Commission be located or operated in this district.

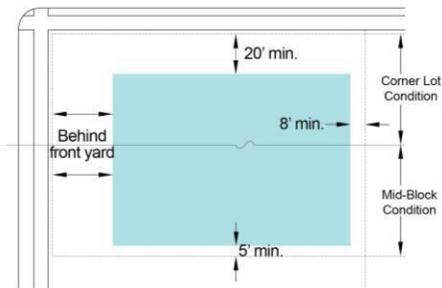
I-1 BUILDING HEIGHT



I-1 SETBACKS - PRINCIPAL BUILDING



I-1 SETBACKS - DETACHED ACCESSORY BUILDING



¹⁸ The Zoning Official may approve a setback equal to the average depth of previously constructed buildings located within 200 feet on either side of the subject building.

¹⁹ If abutting a residential zoned lot, the side yard setback is 50 feet.

Board of Zoning Appeals.

Chapter 2.4 • USE STANDARDS

Section 2.400 INTENT

Each use, whether permitted by right or subject to approval as a special land use, shall be subject to the use development standards specified below, in addition to applicable standards for the district in which the use is located. These standards are intended to alleviate the impact from a use which is of a size or type, or which possesses characteristics which are unique or atypical in the district in which the use is located.

These standards are further intended to assure that such uses will be compatible with surrounding uses and the orderly development of the district. Conformance with these standards shall be subject to site plan review.

Section 2.401 ACCESSORY BUILDING, STRUCTURE, AND DECK IN THE R-1 DISTRICT

- A. GENERALLY.** Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all yard regulations of this Ordinance applicable to main buildings. However, an attached accessory building may project no more than 5 feet in front of the principal structure.

In no instance shall an accessory structure be located within a dedicated easement. No accessory structure shall exceed 15 feet in height, except as otherwise expressly permitted herein.

A building accessory to a residential building may occupy not more than 25 percent of a required rear yard, plus 30 percent of any non-required rear yard, provided that the total floor area of all accessory buildings shall not exceed 1,250 square feet and not have any dimension greater than 40 feet. Accessory buildings shall be limited to one private garage and one additional accessory building per lot.

The use of any accessory building for the overnight housing of persons is prohibited, unless expressly permitted by this Ordinance.

- B. DECK.** A deck as defined in this Ordinance shall not be governed by the foregoing provisions regulating accessory structures. A deck may intrude into the required rear yard and may be constructed in any other non-required side or rear yard area. However, in no event shall a deck be constructed with less than 5 feet of separation from a side or rear yard lotline.

A deck shall be considered as part of the principal building for computation of maximum lot coverage. Maximum lot coverage may be increased by an additional 10 percent in order to permit construction of a deck. For example, if the maximum lot coverage permitted is 30 percent, an additional 10 percent of the lot may be covered by a deck providing a maximum lot coverage of 40 percent where a deck is constructed.

Section 2.402 ACCESSORY BUILDING IN OTHER THAN THE R-1 DISTRICT

- A.** Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all yard regulations of this Ordinance, applicable to principal buildings.
- B.** No accessory structure shall be erected in the front yard. In the case of lots with two front yards, no accessory structure shall be located in the required minimum setback of either front yard.
- C.** Accessory buildings in all residential zones shall be limited to one private garage and one additional accessory building per lot.

- D. Accessory buildings shall be limited to two buildings per lot.
- E. No detached accessory buildings, structures, or uses shall be erected in the front or required side yard or within permanent easements. Accessory buildings or structures shall be at least 10 feet from any principal building.
- F. In the case where a rear lot line abuts an alley right-of-way, the accessory building shall maintain a one foot setback from the right-of-way.
- G. No detached accessory buildings shall exceed one story or 15 feet in height, except for the I-1 district where accessory buildings may be constructed equal to the permitted maximum height of structures, subject to Planning Commission review and approval.
- H. An accessory building in a nonresidential district may not occupy more than 30 percent of the area of a lot exclusive of required yard setbacks.
- I. The use of any accessory building for the overnight housing of persons is prohibited unless expressly permitted by this Ordinance.

Section 2.403 ACCESSORY DWELLING UNIT (ADU)

- A. An ADU may only be constructed on a lot in the R-1 Residential Zoning district;
- B. Only one ADU may be located on a parcel, in addition to the principal residence;
- C. An ADU must comply with all setback and maximum land coverage ratio requirements of the R-1 Residential Zoning district;
- D. An ADU may be no more than 800 square feet of gross floor area, or the size of the principle residence, whichever is less;
- E. An ADU is attached to the principal residential dwelling structure and contains a separate entryway or is separate detached structure;
- F. A minimum of one additional parking space must be provided on-site; and
- G. Exterior finish materials (including windows) must visually match in type, size, and placement, the exterior finish materials of the primary dwelling and appear harmonious to the surrounding neighborhood.

Section 2.404 AUTOMOBILE SERVICE

The following automobile service uses are subject to the conditions below:

- A. **VEHICLE DEALER.** These requirements shall apply to operations involved in the sale, lease or rental of new or used vehicles, house trailers, recreational vehicles, trucks and tractors, boats, and other vehicles.
 1. Devices for the transmission or broadcasting of voice or music shall be prohibited outside of any building.
 2. All outside storage of used tires, auto parts, and other material shall be enclosed with a decorative masonry wall, per the standards in *Chapter 4.3: Landscaping & Screening*. The enclosure shall be equipped with an opaque lockable gate that is the same height as the enclosure itself. Inoperable, wrecked or partially dismantled vehicles shall not be stored or

parked outside for a period exceeding two days. Such storage shall not be visible from a public or private street.

3. Any servicing of vehicles, including major motor repair and refinishing, shall be subject to the following requirements:
 - i. Service activities shall be clearly incidental to the vehicle sales operation.
 - ii. Vehicle service activities shall occur within a completely enclosed building.
 - iii. Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.
 - iv. The building containing service operations shall be located a minimum of 50 feet from any residential property line.
 - v. There shall be no external evidence of the service operations, in the form of dust, odors, or noise, beyond the service building.

B. AUTOMOBILE FILLING STATION, VEHICLE SERVICE STATION, AUTOMOBILE REPAIR GARAGE.

1. The minimum lot area shall be 10,000 square feet.
2. Gasoline service stations with repair facilities shall provide access to such repair facilities from the rear yard only.
3. Quick oil change facilities shall provide off-street waiting spaces equal to two times the number of oil change stalls for automobiles awaiting entrance.
4. All lubrication equipment, automobile wash equipment, hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than 15 feet from any lot line.

C. AUTOMOBILE WASH ESTABLISHMENT.

1. All washing activities shall be carried out within a building. Vacuuming activities shall be permitted in the rear yard only, provided such activities are located at least 50 feet from adjacent residentially zoned or used property.
2. Sufficient space shall be provided on the lot so that vehicles do not enter or exit the wash building directly from an adjacent street or alley. All maneuvering areas, stacking lanes, and exit aprons shall be located on the automobile wash parcel itself. Streets and alleys shall not be used for maneuvering or parking by vehicles to be serviced by the automobile wash.
3. Sufficient space shall be provided for drying of the vehicle undercarriage during sub-freezing weather prior to existing onto the public thoroughfare.
4. Buildings should be oriented so that open bays, particularly for self-serve automobile washes, do not face onto adjacent thoroughfares unless screened by an adjoining lot or building.

Section 2.405 BED AND BREAKFAST ESTABLISHMENT

- A. The bed and breakfast operation shall be clearly incidental to the principal residence on the site. A residential structure shall not have or be converted to more rental rooms than the number of bedrooms which exist at the time of enactment of this Ordinance and adequate living space, in the form of common living space and restroom facilities, much be preserved for a manager or

owner's quarters. A common room for guest relaxation is required in these facilities. Unless owner-occupied, the manager must reside on and have more than a nominal equity interest in the premises.

- B.** Bathrooms must be furnished for guestrooms: one bathroom not to serve over four guestrooms.
- C.** Rooms used for sleeping shall have a minimum of size of 100 square feet for two occupants, plus an additional 30 square feet for each additional occupant.
- D.** No separate cooking facilities are required for bed and breakfast operation if continental breakfast is served.
- E.** Buildings shall be suitable in, and shall not be cause for a change in the existing or established character of the neighborhood.
- F.** One sign, in residential areas shall be permitted. Size, location and design to be authorized by Planning Commission pursuant to *Article 5: Signs*.
- G.** Inspection and approval by the Zoning Official is required prior to occupancy of bed and breakfast facilities. Berrien County Health Department approval is required if other than continental breakfast is planned.
- H.** The letting of bed and breakfast rooms shall be limited to short term occupancy not to exceed 30 continuous days.
- I.** A residence must contain a minimum of 2,400 square feet of liveable floor space to be converted into a bed and breakfast facility.

Section 2.406 CHILD CARE CENTER AND NURSERY SCHOOL

- A.** For each child cared for, there shall be provided and maintained a minimum of 150 square feet of outdoor play area and fenced and screened per *Chapter 4.3: Landscaping & Screening*.

Section 2.407 DRIVE-THROUGH FACILITY

- A.** Sites shall have a minimum of 100 feet of frontage on a public street classified as a major street. Drive-through windows or other facilities and waiting lanes shall not be located within 30 feet of a residential use or district.
- B.** Vehicle access to local streets shall be prohibited.
- C.** Devices for the transmission of voices shall be so directed or muffled as to prevent sound from being audible beyond the boundaries of the site.
- D.** Sales of alcoholic beverages shall be prohibited through any drive-in or drive-through service window or facility.
- E.** Drive-through facilities shall be built as an integral architectural element of the primary structure and use. Building materials shall be the same, or better quality, as those used in the primary structure.
- F.** Such uses shall be screened from all street rights-of-way and abutting residential districts, per *Chapter 4.3: Landscaping & Screening*.

- G. Menu boards may be erected as an accessory use to a drive-through lane, subject to the following:
 - 1. Such signs shall be located on the interior of the lot and shall be shielded so that they are not visible from street rights-of-way and abutting residential districts or uses.
 - 2. The location, size, content, coloring or manner of illumination of a menu board shall not constitute a traffic or pedestrian hazard, or impair vehicular or pedestrian traffic flow in any manner, and must be proportionate in scale and harmonious in design to the principal building and surrounding environment.

Section 2.408 GREENHOUSE / NURSERY

- A. Plant storage and display areas shall comply with the minimum setback requirements for the district in which the nursery is located.
- B. The storage of soil, fertilizer, and similar loosely packaged materials shall be contained and covered to prevent it from blowing onto adjacent properties.

Section 2.409 KEEPING OF HOUSEHOLD ANIMALS OR CHICKENS

- A. **SMALL ANIMALS.** Small animals, commonly described as household pets, are permitted in a dwelling or an accessory building. The number of small animals shall not exceed four on lots less than one acre, and the maximum density on lots one acre and greater shall not exceed one small animal per quarter acre. Young small animals shall not be counted in this calculation until they are 6 months in age.
- B. **LARGE ANIMALS.** With the exceptions for female chickens (hens), large animals are not permitted in any zoning district.
- C. **KEEPING OF FEMALE CHICKENS (HENS).** The keeping of hens is permitted as indicated in *Table 2: Table of Permitted Uses by District*, and subject to the following requirements:
 - 1. **Zoning Permit.** Any person intending to keep hens must obtain a Zoning Permit from the Village prior to acquiring hens.
 - 2. **Use.** The keeping of hens shall be permitted only as an accessory use to a single-family residential use. The keeping of hens under this section is prohibited on properties with a two-family residential use.
 - 3. **Private Deed Restrictions.** Notwithstanding the issuance of a Zoning Permit by the Village, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association bylaws, and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of hens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.
 - 4. **Prohibition of Male Chickens (Roosters).** Male chickens (roosters) are prohibited.
 - 5. **Prohibition of Slaughtering.** Slaughtering of chickens is prohibited.
 - 6. **Maximum Number of Hens Permitted.** No more than four chickens may be kept on a property.

7. **Enclosure.** The hens shall be provided with a secure, well-ventilated, roofed, and lockable enclosure (hereafter referred to as a "coop") and must be kept in the coop or an adjoining fenced enclosure at all times. Coops and fenced enclosures are subject to all provisions of this Ordinance.
8. **Location in Rear Yard Only.** Hens shall not be kept in any location on the property other than in the rear yard.
9. **Setbacks.** No covered enclosure or fenced enclosure shall be located closer than 10 feet to any lot line, nor shall they be closer than 25 feet from a residential structure on an adjacent lot.
10. **Vermin Prevention.** All coops and fenced enclosures for the keeping of hens shall be so constructed or repaired as to prevent rats, mice, insects, and other vermin from being harbored underneath, inside, or within the walls of the coop or fenced enclosure. All feed and other items associated with the keeping of hens that are likely to attract or to become infested with or infected by vermin shall be protected and/or sealed so as to prevent vermin from gaining access to or coming into contact with them. Vermin can be prevented or abated by such practices as cutting grass and weeds, removing outdoor storage piles, filling outdoor burrows, cleaning out nesting areas, minimizing points of exterior access by sealing cracks and other openings, sealing feed and storing it off the ground, elevating the food bowls, and cleaning chicken bedding and broken eggs regularly.
11. **Violations.** If any of the requirements in this section are not fully complied with, the Village may revoke any Zoning Permit granted under this section and/or initiate prosecution for a civil infraction violation. A Zoning Permit may also be revoked if the standards of *Chapter 4.5: Performance Standards* are not complied with, particularly those standards related to odor and noise.

Section 2.410 KENNEL, COMMERCIAL

- A. The lot on which any such kennel is located shall be a minimum of one acre in size. If more than four animals are housed in the kennel, an additional 0.25 acres shall be required for every additional 10 animals (or fraction thereof).
- B. Buildings in which animals are kept, animal runs, and exercise areas shall not be located in any required front, side, or rear yard setback area, and shall be located at least 100 feet from any residential dwelling.

Section 2.411 HOME OCCUPATION

- A. Home occupations may be permitted accessory to the principal use of a residential dwelling. No more than 1/3 of the floor area of the principal dwelling unit may be used in connection with the home occupation or for storage purposes.
- B. No home occupation shall be conducted in any accessory building.
- C. Only the residents of the dwelling unit may be engaged in the home occupation.
- D. The appearance of the principal structure shall not be altered, nor shall the home occupation be conducted in a manner which would cause the premises to differ from its residential character either by the use of sounds, noises, or vibration.

- E.** Only one nameplate sign shall be allow. It may display the name of the home occupation, and must be attached to the principal building.
- F.** No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises.
- G.** No home occupation shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure.
- H.** No home occupation shall cause an increase in the use of any utility (water, sewer, electricity, trash removal, etc.) that would exceed the average usage by residences in the neighborhood.
- I.** The home occupation may increase vehicular traffic flow and parking by no more than two additional vehicles at a time.
- J.** No more than five customers or clients shall come to the dwelling unit for services or products during any one day. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front yard.
- K.** There shall be no deliveries to or from a home occupation with a vehicle larger than a 15,000 pound truck with not more than two axles.
- L.** In no case shall a home occupation be open to the public earlier than 8:00 AM, nor later than 7:00 PM.
- M.** A home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be generated in a similarly zoned district.

Section 2.412 INN / MOTEL

- A.** No guest shall establish permanent residence at a motel for more than 30 days within any calendar year.
- B.** Each unit shall contain at least a bedroom and bath and a minimum gross floor area of 250 square feet.
- C.** Motels shall provide customary motel services, such as maid service, linen service, telephone and/or desk service, and the use of furniture.
- D.** A masonry screen wall or obscuring greenbelt shall be provided along any property line where the adjacent property is zoned for residential use, in accordance with *Chapter 4.3: Landscaping & Screening*.

Section 2.413 MINI-WAREHOUSE

- A.** Mini-warehouse establishments shall provide for storage only, which must be contained within an enclosed building.
- B.** The entire site, exclusive of access drives, shall be enclosed with a six foot high masonry wall, constructed in accordance with *Chapter 4.3: Landscaping & Screening*.
- C.** The exterior of any mini-warehouse shall be of finished quality and design, compatible with the design of structures on surrounding property, subject to Planning Commission approval. Such

buildings shall have pitched roofs and gables and overhead doors shall not face toward any street right-of-way unless completely screened from view.

Section 2.414 MIXED-USE DWELLING UNIT

- A. Residential units shall be located within the principal building, and shall not be located on the ground floor or street level of the building. Private entrances, mailbox clusters, garages, and similar service areas for the accessory dwellings may be located on the ground floor or street level of the building.
- B. Each residential unit shall have separate kitchen, bath, and toilet facilities and a private entrance. Where there is more than one residential unit in a building, such entrances may be provided from a common hallway.

Section 2.415 OUTDOOR SALES

- A. Not more than one outdoor display area shall be permitted for each business in operation on a ground level floor.
- B. The display shall not impede the movement or impair the vision of pedestrians or vehicles.
- C. The display shall be closed / removed during hours when the business is closed.
- D. The outdoor display area shall not exceed one square foot of ground surface area for each two feet of frontage of the building.
- E. The display area shall be located no closer than 20 feet from any vehicular accessible street surface, parking or maneuvering areas.
- F. The display area shall be kept clean and void of litter at all times.
- G. Vending machines shall be located within a completely enclosed building and shall not be part of the outdoor display.
- H. The owner of the display shall maintain responsibility for all goods and other display elements in order to protect the public from safety hazards associated with the display. In the event the Village Manager or his designee becomes aware of hazardous conditions associated with a previously approved outdoor display, the Manager shall advise the business owner to cease and desist operation of the display until the Planning Commission has opportunity to review the perceived hazardous conditions. The Planning Commission shall review the circumstances related to the hazardous condition in order to determine what, if any, changes are required in order to eliminate the hazards to public health, safety and welfare.
- I. **CHRISTMAS TREE SALES.** Seasonal sales of Christmas trees shall comply with the following:
 - 1. Unless Christmas tree sales are accessory to the principal use of the site, a zoning permit shall be obtained from the Zoning Official to allow temporary use of the site for such sales.
 - 2. Christmas tree sales shall not be permitted in residentially zoned districts.
 - 3. All Christmas trees, as well as poles, lights, wires, or other items incidental to the sale of trees may be permitted no earlier than November 1st and must be removed from the premises by December 31st of the subject Christmas season.

4. Christmas trees on display for sale shall comply with the minimum setback requirements for the district in which the sales lot is located.
 5. Christmas tree sales lot shall have adequate parking and a safe means of ingress and egress.
- J. ROADSIDE STANDS.** Temporary roadside stands for the sale of agricultural products shall comply with the following:
1. Any building or structure containing a roadside stand shall not exceed 250 square feet in size.
 2. Suitable trash containers shall be provided and maintained on the premises for public use.
 3. Any building or structure containing a roadside stand shall be located no closer than 25 feet to the nearest edge of the paved surface or gravel surface of any road.
 4. Off-street parking shall be provided in accordance with the regulations in *Chapter 4.2: Off-Street Parking & Loading* except that hard surfacing shall not be required.

Section 2.416 OUTDOOR CAFE AND SEATING AREA

- A.** The sales and service of food outdoors shall be incidental to a similar principal use indoors.
- B.** The outdoor seating area shall be immediately adjacent to the associated restaurant or food establishment. For any outdoor seating area located on public sidewalks, public plazas, or other similar public areas, the following shall apply:
 1. The applicant will provide evidence of primary comprehensive general liability insurance by a Michigan authorized insurance carrier in an amount not less than \$500,000.00 naming the Village of Three Oaks as co-insured if any Village property is involved covering any and all claims arising by virtue of the use and/or activity as well as provide evidence of prepaid annual premium to the Village of Three Oaks timely every year. Failure to do so will automatically terminate special use approval of such use or activity if it involves the use of Village property.
- C.** Outdoor seating areas shall be required to be enclosed in instances where there is wait staff or alcohol service. For the purpose of this Section, an enclosure is a decorative wood or metal railing or other decorative removable physical delineation.
- D.** Tables, chairs, planters, trash receptacles, and other elements of street furniture shall be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they should complement building colors. During nonbusiness hours, all tables, chairs, umbrellas and other furniture and fixtures must be stored inside the building or properly secured within the enclosure.
- E.** Outdoor seating shall be permitted between April 15th and November 1st. A site plan shall specify the plans for storage of tables, chairs, and equipment during the months when the outdoor seating is not in use.
- F.** The outdoor seating area shall be kept clean, litter-free, free of debris, and with a well-kept appearance within and immediately adjacent to the area of tables and chairs. Additional outdoor waste receptacles may be required.
- G.** Outdoor seating areas shall be allowed only during normal operation hours of the establishment. In no case shall an outdoor seating area operate between the hours of 11:00 PM and 7:00 AM.
- H.** The capacity of the outdoor seating area shall be provided by the applicant and verified by the Village. An outdoor seating area containing 30 or more seats shall be required to comply with the

restaurant parking standard in Chapter 4.2: Off-street Parking & Loading. However, no parking shall be required if the outdoor seating area is located within the Village's Parking District.

- I. A sign must be posted stating "No food or beverages allowed beyond this point." Located at the egress of the seating area. Additional signs associated with the outdoor seating area are prohibited.
- J. Any outdoor seating areas shall be completely screened from view of all single family residential properties by an obscuring wall or landscape buffer, unless the outdoor seating area is separated by a public road, public alley, or public parking area.
- K. Vending machines and other similar products shall be prohibited in all outdoor seating areas.
- L. Details regarding the hours and type of entertainment, music, speakers, lighting, or similar devices used in outdoor seating areas must be identified at the time of application. There shall be no loudspeaker located in conjunction with an outdoor seating area and all other noise including music, speakers, or similar devices shall be controlled so as to not be audible more than 10 feet from the outdoor seating area. All lighting must be shielded to prevent glare on adjacent roadways and protect abutting parcels.
- M. A minimum of five feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables and other encumbrances, in accordance with the provisions of the national Americans with Disabilities Act (ADA) and Michigan barrier-free requirements.

Section 2.417 OUTDOOR STORAGE

- A. Any outdoor storage shall be screened from view from a public street and from adjoining properties by an enclosure consisting of a wall or fence not less than the height of the equipment, vehicles and all materials to be stored or eight feet, whichever is less. Whenever such open storage is adjacent to a residential district whether immediately abutting or across a right-of-way from such district, there shall be provided an obscuring masonry wall or wood fence of at least six feet in height.
- B. Such masonry wall or wood fence shall be repaired, maintained and kept in good condition by the owners.
- C. When screening is required for outdoor storage of refuse or waste, an enclosure constructed of masonry material and sturdy obscuring wood gates shall be provided. The enclosure shall be at least six feet in height or equal to the height of the receptacle or waste material being stored, whichever is greater. If the enclosure is in a conspicuous location or visible from a public road or residential zoning district, the Planning Commission or official approving the site plan may specify the type and/or appearance of masonry material to be used to construct the enclosure.

Section 2.418 PLACE OF WORSHIP

- A. The minimum lot width shall be 100 feet.
- B. Buildings of greater than the maximum height allowed in the subject zoning district may be allowed provided that the front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.
- C. All ingress and egress from said site shall be directly onto a major or collector street.
- D. In order to mitigate any negative off-site impacts (such as glare, noise, trespassing, odors or sound), screening in the form of an staggered, double row of evergreen trees, masonry wall with

canopy trees, or another method found acceptable to the Planning Commission, must be provided along all residential property lines.

- E. Off-street parking shall be prohibited in the front setback area and within 10 feet of the rear or side property lines. In the case any off-street parking area abuts a lot in any residential district, a wall or obscuring greenbelt shall be provided, in accordance with *Chapter 4.3: Landscaping & Screening*.

Section 2.419 EDUCATIONAL INSTITUTION

- A. All ingress and egress from said site shall be directly onto a major or collector street.
- B. Buildings of greater than the maximum height allowed in the subject zoning district may be allowed provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.
- C. Off-street parking shall be prohibited in the front setback area and 10 feet of the rear or side property lines. In the case any off-street parking area abuts a lot in any residential district, a masonry wall or obscuring greenbelt shall be provided, in accordance with *Chapter 4.3: Landscaping & Screening*.

Section 2.420 SENIOR HOUSING

- A. All dwelling units shall have at least 300 square feet of floor area (not including kitchen and sanitary facilities).
- B. Buildings of greater than the maximum height allowed in the subject zoning district may be allowed provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.
- C. All ingress and egress from said site shall be directly onto a major or collector street.
- D. Off-street parking shall be prohibited in the front setback area and within 10 feet of the rear or side property lines. In the case where an off-street parking area abuts a lot in any residential district, a wall or greenbelt shall be provided, in accordance with *Chapter 4.3: Landscaping & Screening*.

Section 2.421 STATE LICENSED RESIDENTIAL FACILITY

- A. In accordance with applicable state laws, all state licensed residential facilities shall be registered with or licensed by the State of Michigan, and shall comply with applicable standards for such facilities.
- B. New state licensed residential facilities shall be located a minimum of 1,500 feet from any other state licensed residential facility, as measured between the nearest points on the property lines of the lots in question. The Planning Commission may permit a smaller separation between such facilities upon determining that such action will not result in an excessive concentration of such facilities in a single neighborhood or in the Village overall.
- C. Any state licensed residential facility and the property included therewith shall be maintained in a manner consistent with the visible characteristics of the neighborhood in which it is located.
- D. **GROUP DAY CARE HOMES.** In addition to the preceding subsection, the following regulations shall apply to all group day care homes:

1. A minimum of 150 square feet of outdoor play area shall be provided and maintained per child at the licensed capacity of the day care home. The play area shall be located in the rear yard area of the group day care home premises and shall be screened, in accordance with *Chapter 4.3: Landscaping & Screening*.
2. Adequate areas shall be provided for employee and resident parking, and pick-up and drop-off of children or adults, in a manner that minimizes pedestrian-vehicle conflicts and allows maneuvers without affecting traffic flow on the public street.
3. Group day care homes shall not operate more than 16 hours per day.

Section 2.422 WIRELESS TELECOMMUNICATIONS FACILITY

A. The purpose of this Section is to provide a process and to set standards for the construction, expansion and modification of wireless communications facilities (WCF), to protect the historic, scenic and visual character of the Village, and to comply with federal laws and regulations regarding wireless communications facilities and to provide reasonable access.

B. The following terms, as used in this Section shall have the following meaning:

Active Operation. The continuous transmitting or receiving of radio frequency signals.

Co-location. The use of a support structure or an alternative support structure by more than one wireless service provider.

Disguised WCF. A WCF made and designed to appear to be an object recognized as other than a WCF.

Ground Mounted WCF. A WCF which is mounted to the ground, and which has a mast or similar structure and not a lattice tower or guy tower and is less than 50 feet in height.

Hidden WCF. A WCF that is fully hidden from view when contained within an existing structure unrelated to a WCF, such as a building, wall, or roof.

Monopole WCF. A WCF with a monopole support structure.

Support Structure. Any built structure, including guy wires and anchors if used, to which antennas and associated hardware are mounted.

Wireless Communication Facility (WCF). Any structure, antenna, tower, or other device that provides voice, data, radio, or television transmission, personal wireless service, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio and enhanced special mobile radio communications, common carrier wireless exchange access services, common carrier wireless exchange phone services and personal communications services or pager services. The definition of WCF includes personal wireless services facilities as that term may be defined in Title 47, United States Code, Section 332(c)(7)(c), as it may be amended now or in the future.

C. This Ordinance applies to all construction, expansion, modification, maintenance, and operation of wireless communications facilities except:

1. Temporary wireless communications facilities for emergency communications by public officials.
2. Maintenance or repair of a WCF and related equipment provided that there is no change in the height or any other dimension of the facility.

3. Temporary WCF, in operation for a maximum period of seven days.
4. An antenna, other than parabolic dish antenna greater than five feet in diameter, that receives only and is accessory to a permitted use, that is, related to such use but clearly incidental and subordinate.

D. No person or agency shall construct or expand a WCF without approval as follows:

Administrative approval is required for:

1. A WCF not exceeding 65 feet in height used for licensed amateur (“ham”) radio, which is not additionally licensed or used for any commercial purpose other than by the licensed amateur radio operator, and when there is no other WCF on the parcel on which the new WCF is to be located.
2. Co-location on an existing WCF that does not increase the height of the support structure.
3. A disguised WCF not exceeding 35 feet in height.
4. A hidden WCF.

Site plan approval is required for construction of a new WCF monopole structure on public property owned by the Village, or a public school district.

Special land use approval is required for construction of any new WCF monopole structure in any zoning district not located on public property owned by the Village or a public school district.

E. Applicants seeking approval for an WCF shall submit all applicable materials from the following list, as identified by the Village:

1. A copy of the FCC license for the facility, or the license to operate within an assigned geographic area including the Village of Three Oaks.
2. A signed statement from the owner or operator of the facility attesting that the facility complies with and will comply with FCC regulations.
3. A map showing the location of all existing and approved WCFs within a four mile radius of the proposed WCF. A written statement of the need for a WCF at the particular location. The statement should also describe reasonably anticipated expansion plans for the WCF, and reasonably anticipated changes of technology and their effect on expansions of the proposed facility.
4. Evidence demonstrating that no existing building, site, or structure or more preferred support structure as identified below.

F. **WIRELESS TELECOMMUNICATION FACILITY SUPPORT STRUCTURE STANDARDS.**

1. **Limitation on New Support Structures.** It is the Village’s policy to minimize the proliferation of new wireless telecommunication facility support structures in favor of collocation of such facilities on existing structures. No new wireless telecommunication facility support structures shall be constructed unless the applicant for the new structure demonstrates, and the Planning Commission finds, that collocation on an existing structure is not adequate or is not reasonably feasible. New WCF facilities must be located according to this list of preference, from most preferred to least preferred. A new WCF facility will not be approved unless the applicant can demonstrate to the satisfaction of the review authority that all of the more preferred WCFs are not practical.

- i. Hidden WCFs (most preferred).
 - ii. Co-location on an existing support structure.
 - iii. Disguised WCFs.
 - iv. Location on existing structures.
 - v. Ground mounted WCFs.
 - vi. New monopole WCF (least preferred).
2. **Monopole Design Required.** All WCF support structures, unless otherwise provided, shall have a monopole, unipole or similar non-lattice, single vertical structure design and shall be further designed to accommodate at least four wireless telecommunication arrays of antennas or panels. The applicant shall submit an affidavit by a design engineer registered in the state attesting that the support structure can support at least four wireless telecommunication arrays of antennas or panels. The site plan for any new support structure shall expressly state that the support structure shall be erected and available for collocation, and shall also show the proposed location of the applicant's and co-locators' equipment shelters and related facilities.
 3. **Maximum Height.** WCFs shall not exceed 150 feet in height, as measured from the average grade at the base of the support structure to the top of the antenna or panel. In no case shall the height exceed any applicable height limitation established by county, state or federal regulations.
 4. **One Support Structure per Lot.** Except in the I-1 zoning district, not more than one WCF support structure may be located on a single lot.
 5. **Location on Lot.** If located on the same lot as another permitted use, a ground mounted or monopole WCF shall not be located in a front yard or side yard abutting a street.
 6. **Setbacks.** Ground mounted and monopole WCFs shall be set back from the lot line a distance not less than one-half of its height or 65 feet, whichever is greater. However, when wireless telecommunication facilities are located on premises abutting residentially zoned or used land, the minimum setback from the lot line abutting the residentially zoned lot shall be equal to the height of the facility. All setbacks shall be measured from the edge of the WCF support structure.
 7. **Signs.** No sign shall be attached to or displayed on a WCF other than signs required by federal, state, or local law. No signals or lights or other means of illumination shall be permitted on a facility unless required by state or federal law or regulation. The facility shall have a neutral color intended to blend with the surroundings.
 8. **Equipment Shelters.** If the wireless telecommunication facility is located on a site which is already improved with another building or structure, and an equipment shelter is proposed, the equipment shelter shall be constructed with exterior facade materials similar to the principal building or structure on the site. Equipment shelters and accessory structures are limited to uses associated with the WCF and may not be located closer than 30 feet to any property line.
 9. **Fence.** A minimum six foot tall decorative fence shall be provided surrounding the WCF equipment shelters, in accordance with *Chapter 4.3: Landscaping & Screening*.
 10. **Screening.** Monopole and ground mounted WCFs, including the related equipment and required fence, shall be substantially screened from view from abutting properties, in accordance with *Chapter 4.3: Landscaping & Screening*.

11. Disguised WCFs. A disguised WCF made to appear as an unrelated object such as a tree, steeple, or flagpole shall be sufficiently realistic in size and proportion to adjacent features as to be reasonably perceived as the intended object. The disguise must encompass the entirety of the WCF including its base facilities or, alternately, the base facilities may be isolated from the WCF in a separate building not closely associated with the disguised WCF. For the purposes of determining compliance with this Ordinance, the disguised WCF shall be treated identically as the object which it is intended to be recognized would be.

12. Additional Requirements:

- i. All towers shall be equipped with a secured anti-climbing device to prevent unauthorized access.
- ii. Metal towers shall be constructed of or treated with corrosive-resistant materials.
- iii. Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable statutes, regulations and standards.
- iv. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points unless buried underground.
- v. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned or leased by the applicant.
- vi. The base of the tower shall occupy no more than 500 square feet.
- vii. Towers shall not be artificially lighted unless required by the Federal Aviation Administration.
- viii. On-site vegetation shall be preserved to the maximum extent practicable.

G. CO-LOCATION.

- 1. Existing Structures.** Wireless telecommunication antennas or panels may be installed on existing buildings or structures provided such antennas or panels, and their supporting structure, do not exceed the height limitation set forth in this section.
- 2. Exemption from Setbacks.** Any wireless telecommunication antenna or panel mounted on an existing building or structure which does not increase the height of the building or structure shall be exempt from the setback requirements of this section.

H. Applications requiring special land use approval shall be reviewed in accordance with the following standards:

- 1. Demonstration of Need.** The applicant shall demonstrate the need for the proposed facility to be located as proposed. Such demonstration of need shall include evidence supporting why a site requiring only site plan approval is not reasonably feasible, and also shall be based upon the presence of one or more of the following factors:
 - i. Proximity to an interstate or major thoroughfare.
 - ii. Concentration of commercial, industrial, and/or other business centers.
 - iii. Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstruction.

- iv. Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
- v. Other specifically identified reason(s) creating facility need.

2. WCFs in Residential Zoning Districts. WCFs located in the R-1 district shall meet one of the following requirements:

1. Existing non-residential building. The WCF shall be mounted directly onto an existing, non-residential building in a manner that does not increase the height of the building. The facility shall consist of material or color which is compatible with the exterior treatment of the building;
2. Existing non-residential structure. The WCF shall be located on an existing, non-residential support structure, pole or tower such as a public or private utility tower, pole or structure, but not on a building. Such facility shall consist of a material or color which is compatible with the tower, pole or structure. Antennas or panels may extend above the top of the tower, pole or structure not more than 30 feet; however, the height to the top of the antenna or panel may not exceed 150 feet; or
3. New support structure on public property. The WCF shall be located on a new support structure situated on public property. Any facility located on public property which is used for passive recreation shall be designed to minimize the conspicuousness of the facility (e.g., utilizing camouflaged or stealth designed poles or existing environmental features as screening). All such facilities located on public property shall meet the setback requirements of this section. The use of guy wires is prohibited in residential districts.

- I. **ABANDONMENT.** A WCF that is inactive for 12 consecutive months shall be considered abandoned. The Village shall notify the owner of the abandoned facility in writing and order removal of the facility within 90 days of receipt of the written notice. The owner of the facility shall have 30 days from receipt of the written notice to demonstrate to the Village that the facility has not been abandoned. If the owner fails to demonstrate that the WCF is in active operation, the owner shall have 60 days to remove the facility, including all above ground structures, equipment, foundations (to a depth of 12 feet below grade), and utilities constructed specifically to serve the WCF. The land shall be returned to a condition as near to the original pre-construction condition as possible. If the facility is not removed during this time period, the Village is permitted to remove the facility at the owner's expense. If a surety has been given to the Village for removal of the WCF, the owner of the WCF is permitted to apply for release of the surety when the WCF and related equipment are removed to the satisfaction of the Village.

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ARTICLE

3

DEVELOPMENT
STANDARDS

Chapter 3.1 • STREET NETWORK DESIGN

Section 3.101 INTENT

Streets in the Village shall be designed to form an integrated network connecting adjacent developments and underdeveloped parcels. An interconnected street system is necessary to protect the public health, safety and welfare by ensuring that streets will function in an interdependent manner, to provide adequate access for emergency and service vehicles, to connect neighborhoods, to promote walking and biking, to reduce miles of vehicle travel that result in lower air emissions and wear on the roadway, and to provide continuous and comprehensible traffic routes.

Section 3.102 STREETS - GENERALLY

- A. EXISTING CONNECTIONS.** New or proposed streets shall be coordinated with and connect to existing or planned streets on adjacent parcels.
- B. PROHIBITION OF PRIVATE ROADS.** No division or partition of an unplatted parcel of real estate shall be approved which results in the creation of a private road, right-of-way or other means of access. The Planning Commission may waive this requirement upon the finding that access to the property cannot be provided via a public street or road or where ingress/egress to the proposed development is provided by a public street or road and all interior streets remain under ownership of the property owner, condominium association or other owners' association who shall have filed with the Village legally binding documents describing the ownership and financial means for maintenance and repair.

If private streets are found to be appropriate, blanket cross-access easements shall be provided for all private streets in a development to ensure that the internal street system may connect to the internal street system on adjacent parcels. The blanket cross-access agreement shall provide for reciprocal cross-access for connection to streets on adjacent parcels without limitation.

- C. FUTURE CONNECTIONS.** To ensure future street connections where a proposed development abuts land that reasonably may be expected to be developed or redeveloped in the future, stub-outs shall be provided to the property line to extend the street system into the surrounding area.
- D. SIDEWALKS.** For all developments requiring site plan approval, either a new public sidewalk or the reconstruction of existing sidewalks, shall be required to be constructed to Village standards along the perimeter of the lot which abuts any public or private street. New or reconstructed sidewalks or bikeways shall be aligned with existing or proposed sidewalks or bikeways.

Additionally, when a site is proposed for development or redevelopment and the site is located adjacent to an existing or planned pedestrian circulation network, the Village may require a pedestrian access path or sidewalk to be constructed to provide access to the adjoining site and shall be built consistent with the Village's standards for sidewalk or pedestrian path construction.

- E. CROSSWALKS.** Pedestrian crosswalks shall be distinguished in the parking and vehicle zones through the use of pavement striping or a contrasting type of pavement (such as brick pavers or integrally colored scored concrete).
- F. TRAFFIC CALMING MEASURES.** The use of raised intersections, lateral shifts, and traffic circles are encouraged as alternatives to more conventional traffic calming measures such as speed bumps. If a raised intersection is proposed, bollards or other protective measures shall be used to separate vehicular and pedestrian areas in the intersection, unless waived by the Planning Commission after a determination has been made that unique circumstances of the site / development do not require additional traffic calming measures.

Section 3.103 BLOCK STRUCTURE

Together, the street and block network should form an orthogonal grid and sufficient intersections shall be provided to create walkable and pedestrian scale development that is consistent with the existing traditional, neighborhood block structure of the Village.

- A. **BLOCK LENGTH.** The portion of any block between intersecting streets shall not exceed 500 feet without a dedicated pedestrian pass-through providing access through the block to another street.
- B. **PEDESTRIAN PASS-THROUGH.** A pedestrian pass-through shall have a minimum width of five feet, shall be designed so they cannot be enclosed or locked, and shall be designed to be safe and interesting for pedestrians. A minimum of security lighting is required; decorative, pedestrian scale lighting is encouraged.
- C. **ALLEY.** The use of Alley's are encouraged to provide rear access to sites.

Section 3.104 STREET ZONES

Streets consist of three zones – the travel zone, the parking zone, and the pedestrian zone. The elements included in each street zone are as follows:

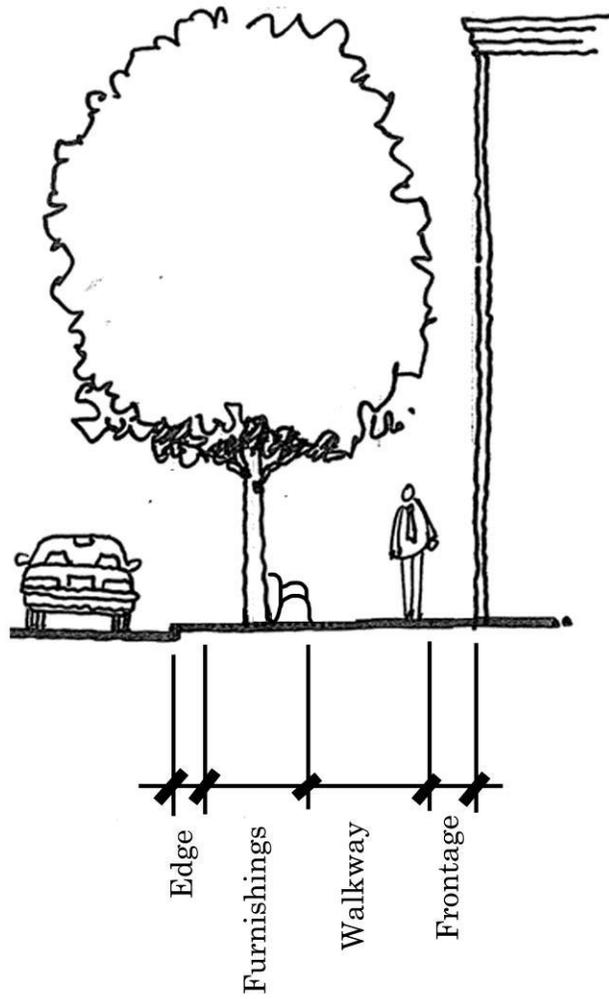
- A. **TRAVEL ZONE.** The travel zone accommodates vehicles in transit, and consists of vehicle travel lanes, left turn lanes, public transit infrastructure (such as dedicated bus lanes) and boulevard medians.
- B. **PARKING ZONE.** The parking zone accommodates vehicles at rest and includes on-street parking lanes. The parking zone can also accommodate public transit elements by replacing some parking spaces with transit stops.
- C. **PEDESTRIAN ZONE.** The pedestrian zone is located between the curb and the edge of the right-of-way or road easement. The pedestrian zone is further separated into three sub-zones:
 - 1. **Furnishing Area.** The furnishing area is the space adjacent to the parking zone, including the curb, and the pedestrian zone. This area is necessary to allow the doors of cars parked along the street to open and close freely, and must have a width of 2.5 feet. Streetscape elements such as light posts, traffic control signs, and tree grates may be located in this area, closet to the curb.

Also located in this zone are amenities such as street trees, planters, and sidewalk furniture. The furnishings area can be paved (with street trees located in tree grates), or it may be landscaped with a street lawn. Outdoor cafés and seating or other similar uses associated with a use in an adjacent principal building may be located in a furnishings area.

- 2. **Walkway Area.** The walkway area is the basic sidewalk area where pedestrians walk. The walkway area must maintain a 5 foot clear path free of obstructions at all times to allow free pedestrian travel. No permanent structures or uses are permitted in the walkway area.

Wider walkways are ideal for the MU-1, MU-2, and MU-3 zoning districts.

- 3. **Frontage Area.** The frontage area is the portion of the pedestrian zone adjacent to the edge of the right-of-way or road easement when a building is located at the lot line. When the building is set back from the lot line, the pedestrian zone will not have a frontage area, and any frontage area will serve as walkway area or spill-out zone for the establishment. The frontage area is intended to accommodate door openings, window shoppers, and the tendency of people to shy away from walls higher than waist height. The frontage area may also be used for outdoor eating areas or other similar accessory uses associated with a use in the adjacent principal building.



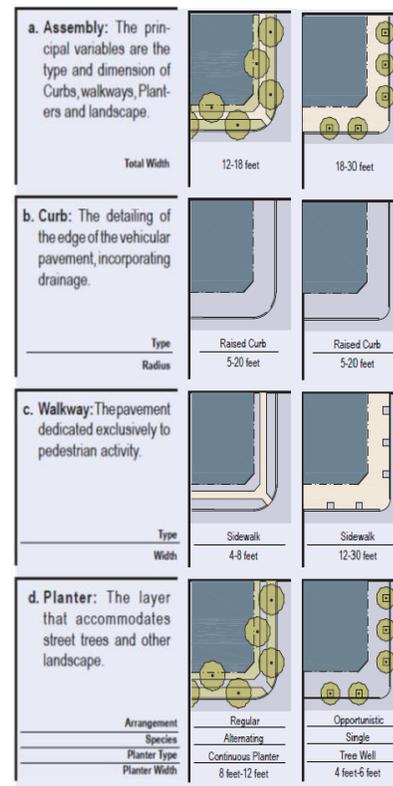
Chapter 3.2 • FRONTAGE DESIGN STANDARDS

Section 3.201 INTENT

This Chapter outlines the standards for private frontages, which is privately owned and maintained, but the design and treatment of the private frontage area is of importance because it helps shape the public realm of the street, which in turn, aids in defining the character of the Village. Although the right-of-way widths vary throughout the Village, the aim of this Chapter is to maximize the amount of continuous green space and to create safe and walkable traditional neighborhoods.

Section 3.202 APPLICABILITY

- A. COMPLIANCE WITH FRONTAGE TYPES REQUIRED.** Every building and site in the Village shall be designed according to one of the following frontage types. Frontage types that are permitted or may be permitted following special exception review by the Planning Commission are identified in *Section 3.203*.
- B. EXCLUDED USES.** Community, educational, and institutional uses have unique characteristics, and therefore are not required to comply with private frontage requirements.
- C. EXISTING BUILDINGS.** Improvements to existing buildings must comply with the following standards to the greatest extent feasible. However, in order to encourage and facilitate the reuse and improvement of existing buildings, the reviewing authority may waive any standards which would place an undue burden on the property owner.



Section 3.203 FRONTAGE TYPOLOGIES

There are two frontage typologies in the Village, residential and commercial.

Private Frontage	Residential	Commercial
Total width (curb face to edge of right-of-way)	10-13 feet	20-30 feet
Curb		
Type	Raised	Raised
Radius	5-20 feet	5-20 feet
Sidewalk		
Width	5-8 feet	8-15 feet
Planter		
Spacing	40 feet oc	40-50 feet oc
Species	alternating	alternating
Planter Type	continuous	Tree well
Width	5-8 feet	4-6 feet

Chapter 3.3 • Corridor Overlay Standards

Section 3.301 INTENT

Recognizing the importance of Elm and Ash Street as attractive and vibrant thoroughfares, the Corridor Overlay regulates building setbacks, parking, access management, and landscaping standards. The intent is not to supersede other regulations of this Ordinance, but instead to supplement them in order to ensure the orderly and attractive development of the Elm and Ash Street corridors, as defined on the Zoning Map.

Section 3.302 Types of Overlay Frontage

There are three types of overlay frontage that exist along the Elm and Ash Street corridors, as follows:

- A. PARKING FRONTAGE.** A condition where pavement or an unpaved parking lot immediately abuts the public right-of-way or is separated only from the right-of-way by a landscaped area.
- B. COMMERCIAL FRONTAGE.** A condition where a building designed and used for a commercial purpose either directly abuts the public right-of-way (i.e. zero foot setback) or is set back behind landscaping. A commercial building set back behind a parking lot shall be considered to have "Parking Frontage."
- C. RESIDENTIAL FRONTAGE.** A condition where a single-family home or other residential structure is set back from the right-of-way behind landscaping. A residential building set back behind an off-street parking lot shall be considered to have "Parking Frontage."

Section 3.303 Parking Frontage Overlay Requirements

- A. PARKING FRONTAGE.** Lots with Parking Frontage shall be subject to the following:
 - 1. Landscaping.** A landscaped area at least 10 feet wide must be constructed between the sidewalk and the parking area. The landscaped area shall be planted with decorative shrubs forming a continuous 30-inch high screen. One deciduous street tree shall be planted for every 30 feet of frontage. A decorative fence not more than 30 inches high may be substituted for the shrub planting requirement.
 - 2. Pedestrian and Barrier Free Access.** A clear, direct, barrier free pathway between the sidewalk and the front entrance of the business shall be delineated across the landscaped area and parking lot, by pavers or another method.
- B. COMMERCIAL FRONTAGE.** Lots with Commercial Frontage shall be subject to the following:
 - 1. Landscaping.** In instances where a commercial building does not directly abut the right-of-way (i.e. have a zero foot setback), landscaping shall be maintained between the right of way and the building in order to draw attention to, but not distract from, the business itself. One deciduous tree shall be required in the front yard for every 50 feet of frontage, although it does not necessarily have to be planted along the right-of-way.
 - 2. Pedestrian and Barrier Free Access.** A clear, direct, paved, barrier free pathway between the sidewalk and the front entrance of the business shall be constructed across the landscaped area and setback.
 - 3. Outdoor Sales / Display.** All outdoor sales or display areas shall be surfaced with asphalt or concrete or other similar dust-proof surface.

4. **Parking.** The construction of a parking area in the front yard of a lot having Commercial Frontage at the time of this Ordinance shall be prohibited. However, the Planning Commission shall have the discretion to allow parking in the front yard if they deem that compliance with the requirements of *Chapter 4.2: Off-street Parking & Loading* would be impossible or impractical otherwise. Parking lots permitted in this way must meet the standards of *Section 3.303.A.1*.

C. RESIDENTIAL FRONTAGE. Lots with Residential Frontage shall be subject to the following.

1. **Landscaping.** For lots with residential frontage, landscaping in the front yard shall be maintained in a manner consistent with the status of the corridors as gateways to the Village. One deciduous tree shall be required in the front yard for every 50 feet of frontage.
2. **Parking.** Parking for more than one vehicle in the front yard of a lot with residential frontage shall be prohibited.

Chapter 3.4 • DESIGN STANDARDS

Section 3.401 INTENT

This Chapter seeks to promote the reasonable compatibility of the character of building units, thereby protecting the economic welfare and property value of surrounding uses and the Village at large. New development shall enhance the existing community character in order to ensure a harmonious built environment.

Section 3.402 RESIDENTIAL DESIGN STANDARDS

The following standards apply to any residential units, except manufactured houses located in an approved and licensed Manufactured Housing Park:

A. SINGLE FAMILY AND TWO-FAMILY DWELLINGS.

1. **Exterior Finish Materials.** Dwelling units shall be provided with an exterior building wall, foundation and roof configuration and exterior finish materials similar to and aesthetically compatible with the dwelling units on adjacent properties or in the surrounding residential neighborhood. Complimentary materials on the exterior of the building must be incorporated on not only the wall materials and roof, but also as it pertains to windows, porches, breezeways, architectural features, etc.
2. **Front Porch.** Dwellings shall be constructed with a primary entrance on the front façade and connected to the public sidewalk or right-of-way by a paved path, with a front porch / stoop.
3. **Determinations.** The compatibility of design and appearance shall be determined by the Zoning Official, subject to review by Planning Commission should the Zoning Official deem the application necessary for secondary review. The applicant may be required to furnish such plans, elevations and similar documentation as is deemed necessary to permit a complete review and evaluation of the proposal.

B. MULTIPLE-FAMILY DWELLINGS

1. **Uniform Building Design.** The building shall be designed in a uniform appearance and all side and rear yards shall include windows and architectural features similar to the front facade of the building, including, but not limited to awnings, cornice work, edge detailing or other decorative finish materials.
2. **Roof.** All buildings shall have pitched roofs, which may include functional dormer windows and varying lines customary with gable or hip style roofing.
3. **Maximum Building Length.** No building shall exceed 200 feet in length.
4. **Creativity in Design.** Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and use of site shall be used to provide visual interest. In multiple building projects, variable use of site or individual buildings may be used to prevent a monotonous appearance.
5. **Open Space.** Open space must be provided, in accordance with *Section 4.703: Required Open Space* and *Section 4.704: Open Space Design*.
6. **Pedestrian Network.** Additional pathways and sidewalks are encouraged and may be required when determined by the Planning Commission to safely move pedestrian traffic

through the site and/or expand the Village's non-motorized network and connect to other sites.

Section 3.403 MU-1 DESIGN STANDARDS

The following design guidelines apply to any new construction or remodel of any building located in the MU-1 district.

A. FACADE FRAME. The facade frame, or wall, shall be constructed primarily of brick or stone, constructed principally in a single plane. E.I.F.S. (exterior insulation and finishing systems) shall not be permitted. The top of the parapet wall shall be flat or step slightly to accentuate end piers. The facade frame shall be capped by a stone, or simulated stone, coping or narrow cap flashing. Brick shall be laid primarily in running bond with minimal decorative detail.

B. STOREFRONT OPENING. Storefronts shall be directly accessible from public sidewalks. Each storefront must have transparent areas, equal to 70 percent of its portion of the facade, between one and eight feet from the ground. The wood or metal glass framing system shall be painted, bronze, or powder coated. The building entry is often centered in the storefront opening and is commonly recessed.

Blank walls shall not face a public street or parking area. Walls facing a public street or parking area shall include windows and architectural features customarily found on the front facade of a building, such as awnings, cornice work, edge detailing, or decorative finish materials.

C. CANOPIES/AWNINGS. A canopy or awning is typically located at the top of the storefront opening.

Awning shall be traditional in design; they shall be triangular in section, sloping outward and down from the top of the opening. Narrow front and side flaps are common. Round-top, half-round, box, or other unusual awning shapes are discouraged. Internally lighted awnings are prohibited. Signage on awnings shall be limited.

Canopies shall be narrow in elevation, 6" to 12", and flat. Typically such canopies would have internal drainage. Canopies shall be self-supporting or supported by tension rods. Canopy projections to be limited to 48". Sloping, or unusually shaped, canopies are prohibited.

D. REAR FACADES. Facades not facing a public right-of-way are as important as street facades because they are frequently visible and/or adjacent to parking. Often times they must also accommodate service and delivery functions. Rear facades shall exhibit the same components as street facades, however, need not follow as rigorous a design model:

1. **Facade Frame.** The facade frame, like that at the street facade, shall be constructed principally in a single plane. If a parapet is used at the rear facade, the parapet wall shall be flat or step slightly to accentuate end piers, as illustrated. If no parapet is used, downspouts shall be located at the outer sides of the facades, not in the middle of the facade. Acceptable materials include brick or stone consistent with the design of the front facade.

2. **Storefront Opening.** Like the street facade, the storefront opening shall be a rectangular or square opening, 10' to 12' high, yet it may be a smaller portion of the width of the facade, or bay than the street facade; approximately 40 percent of the width. The opening shall be almost entirely glass (window, showcases, or door) with few subdivisions. The wood or metal glass framing system shall be painted, bronze, or powder coated. The building entry is often centered in the storefront opening and is commonly recessed.

3. **Canopies/Awnings.** A canopy or awning typically located at the top of the storefront opening, is recommended. Awnings shall be traditional in design; they shall be triangular in section, sloping outward and down from the top of the opening. Narrow front and side flaps are common. Round-top, half-round, may be approved by the Planning Commission if it is determined that a round-top or half-round awning is consistent with the architectural character of the building. Box, or other unusual awning shapes are prohibited. Internally lighted awnings are also prohibited. Awnings are not intended to be a principal means of signage.

Canopies shall be narrow in elevation and flat. Typically such canopies would have internal drainage. Canopies shall be self-supporting or supported by tension rods, as illustrated. Canopy projections to be limited to 48".

- E. MATERIALS.** Maintaining consistent palette of materials is important to establish continuity within the streetscape and to maintain and enhance the overall appearance of the Downtown. The following are identified as acceptable building materials.
1. **FACADE FRAME.** Acceptable materials:
 - i. **Brick.** Shall be standard modular brick with common tooled mortar joints. Untooled joints, distressed brick, or irregular shaped brick are prohibited. Brick color and texture shall be compatible with original brick facades in the Downtown Core district. Textures varied from smooth or glazed to rough. Textures tended to be uniform.
 - ii. **Stone.** Smooth finish stone such as limestone or sandstone.
 - iii. **Aluminum Parapet Cap.** Typical material is aluminum or painted sheet steel. Color and finish shall match that of window framing system.
 - iv. **Artificial Stone and Pre-Case Parapet Cap.** To simulate traditional limestone and sandstone caps.
 2. **STOREFRONT OPENING.** Acceptable materials:
 - i. **Storefront Framing System.** Aluminum or pre-painted steel storefront glazing system. Natural finish aluminum is the most common material and finish.
 - ii. **Glass.** Clear or with slight green tint.
 - iii. **Entry Door.** One or two-lite door matching storefront glazing system.
 3. **CANOPIES.** Acceptable materials:
 - i. **Canopy Facia Trim.** Metal. Typically, natural finish aluminum or painted.
 - ii. **Soffit.** Metal or cement plaster.
 - iii. **Support Rods.** Metal.
 4. **AWNINGS.** Acceptable materials:
 - i. **Frame:** No requirements.
 - ii. **Fabric:** Standard fabrics for non-internally lighted awnings. Patterns and colors to be compatible with other facade materials.
- F. COLORS.** Colors shall be limited to those traditional colors that were predominant in early American architectural styles. A color board showing the proposed colors and materials of the various exterior building elements shall be submitted during the site plan review process.
- G. DESIGN STANDARD MODIFICATIONS.** When a particular building design and the materials and colors or combination of materials and colors proposed to be used in the exterior walls are found by the Planning Commission to be in keeping with the intent and purpose of this Section, but may differ from the strict application of this section, the Planning Commission may modify the requirements of this Section.

The Planning Commission shall notify the applicant concerning any features and colors inconsistent with the approved standards. Any proposed new construction or remodeling of any existing buildings found to be inconsistent with the standards or guidelines for the district by the Planning Commission shall be disqualified for any incentive offered by the Village or Downtown Development Authority.

Section 3.404 MU-2 / MU-3 DESIGN STANDARDS

The following design guidelines apply to any new construction or remodel of any building located in the MU-2 / MU-3 districts:

- A. ARCHITECTURAL STYLE.** While architectural style is not restricted it should reflect the historic character of existing development in the MU-1 district. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
- B. SCALE.** Buildings shall have good scale and be in harmonious conformance with permanent neighborhood development.
- C. BUILDING MATERIALS.**
 - 1. Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.
 - 2. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways. In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.
 - 3. Materials shall be of durable quality.
 - 4. Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationships to one another.
 - 5. Colors shall be harmonious and shall use only compatible accents.
 - 6. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.
 - 7. Exterior lighting may be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
 - 8. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and use of site shall be used to provide visual interest. In multiple building projects, variable use of site or individual buildings may be used to prevent a monotonous appearance.

Section 3.405 HEIGHT EXCEPTIONS

The height requirements of all districts, except the I-1 district may be exceeded by parapet walls not over four feet in height, chimneys, roof mounted television and radio antennas (excluding cell towers and other communications towers), cupolas, spires or other ornamental projections, or water towers. In the I-1 district, chimneys, cooling and communication towers, and other necessary appurtenances are permitted above the height limitations provided they are located the same distance as their height from any adjoining property line.

GENERAL
PROVISIONS

ARTICLE

4

Chapter 4.1 • GENERALLY

Section 4.101 SCOPE OF REGULATIONS

No building or land shall be used and no building shall be hereafter erected, structurally altered, or relocated except for one or more of the uses herein permitted within the district in which such building, structure, or land is located or for a use similar to and harmonious with such permitted uses, except as provided in *Article 6: Administration & Enforcement*.

Section 4.102 OPEN STORAGE OR DUMPING IN LAND PROHIBITED

The use of land for the open storage or collection or accumulation of lumber (excluding non-commercial firewood less than two feet long) or human made materials, or for the dumping or disposal of scrap metal, junk, inoperable vehicles, part of automobiles, trucks, and boats, tires, garbage, rubbish, or other refuse or of ashes, slag or other wastes or byproducts, shall not be permitted in any zoning district, unless such place has been expressly designated as a public dumping ground to receive such materials by the Village Council.

Commercial composting bins for use by homeowners is not considered dumping or storage under the terms of this Section of the Ordinance and is expressly permitted.

Section 4.103 JUNK OR INOPERABLE VEHICLES

No properly owner in any district may maintain, or allow to be maintained, any junk or inoperable cars, trucks, trailers, motorcycles, machinery or other similar equipment or vehicles on the premises. Any vehicle not bearing a valid vehicle registration license plate shall be considered inoperable.

Section 4.104 OPEN BURNING PROHIBITED

Open burning, not otherwise regulated or allowed by Ordinance, is prohibited in any district.

Section 4.105 HUNTING, TRAPPING, AND USE OF SIMILAR TYPE EQUIPMENT PROHIBITED

Hunting, trapping and other forms of sport hunting activity are expressly prohibited from all zoning districts, including the discharge of firearms, discharge of arrows, setting of any animal traps and siting or weapon siting activity for hunting equipment or any other practices related to the sport.

Section 4.106 CLEAR VISION AREA

No structure, wall, fence, or vegetation shall be erected, planted or maintained on any lot which will obstruct the view of the driver of a vehicle approaching an intersection; excepting that shrubbery and low retaining walls not exceeding 30 inches in height above the curb level and trees where all branches are not less than 8 feet above the street level will be permitted. In the case of corner lots, there shall be provided an unobstructed triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the pavement edge lines, or in the case of a rounded corner, from the intersection of the street property lines extended.

Section 4.107 STANDARDS FOR DUMPSTER ENCLOSURES

Dumpster enclosures are required for all uses, excluding single family residential, unless sufficient evidence is provided to the satisfaction of the Planning Commission or Zoning Official that an alternative trash collection and disposal method is appropriate for the use.

When required, dumpster enclosures are subject to the following:

- A. LOCATION.** Dumpsters shall be permitted in the side or rear yard, provided that no dumpster shall extend closer to the front of the lot than any portion of the principal structure, and provided further that the dumpster shall not encroach on a required parking area, is clearly accessible to servicing vehicles, and is located at least 10 feet from any building. Dumpsters shall be located as far as practicable from any adjoining residential district.
- B. CONCRETE PAD.** Dumpsters shall be placed on a concrete pad. The concrete pad shall extend a minimum of three feet in front of the dumpster enclosure.
- C. SCREENING.** Dumpsters shall be screened from view from adjoining property and public streets and thoroughfares. Dumpsters shall be screened on three sides with a permanent building, decorative masonry wall, similar in material and/or color to the main structure, not less than six feet in height or at least six inches above the height of the enclosed dumpster, whichever is taller. The fourth side of the dumpster screening shall be equipped with an opaque, lockable metal gate that is the same height as the enclosure around the other three sides.
- D. BOLLARDS.** Bollards (concrete-filled metal posts) or similar protective devices shall be installed at the opening to prevent damage to the dumpster enclosure.
- E. SITE PLAN REQUIREMENTS.** The location and method of screening of dumpsters shall be shown on all applications and sketch plans submitted for administrative approval or site plans submitted for approval by the Planning Commission. The sharing of dumpsters by businesses is encouraged.
- F. EXCEPTION.** The requirements of this Section may be modified or waived upon a determination that the location, screening, or removal of refuse will be handled in a manner acceptable to the Planning Commission or Zoning Official. The Planning Commission or Zoning Official may require additional landscaping, screening or other site improvements as an alternative to adhering to the requirements of this section. If a requirement for a dumpster is waived, the site plan or sketch plan shall show a future dumpster location to be built when or if the use of the building changes prior to occupancy.

Chapter 4.2 • OFF-STREET PARKING & LOADING

Section 4.201 INTENT

In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees, and patrons of the buildings erected, altered or extended after the effective date of this Chapter shall be provided as prescribed below.

The purpose of this Chapter is also to limit the number of off-street parking spaces and amount of impervious surfaces that may be permitted on a parcel of land or accessory to a use or building; to establish standards for the number and location off-street parking and loading facilities; and to promote the use and development of shared parking facilities and cross-access between sites.

Section 4.202 SCOPE

Adequate off-street parking and loading spaces shall be provided in all districts in accordance with the provisions in this Chapter whenever a structure or use is established, constructed, altered, or expanded, an existing use is replaced by a new use (change of use), or the intensity of a use is increased through additional dwelling units, an increase in floor area or seating capacity or similar means. Such spaces shall be provided in accordance with the provisions of this Chapter.

Section 4.203 GENERAL STANDARDS

- A. EXISTING OFF-STREET PARKING.** Off-street parking existing at the effective date of this Ordinance in connection with the operation of an existing building or use shall not be reduced.
- B. LOCATION OF PARKING SPACES: RESIDENTIAL.** The parking of a vehicle in the front yard of a residential district is prohibited except for designated and paved driveways.

Off-street parking required for uses permitted in residential districts may be located on driveways or an approved area within the side/ rear yard, upon issuance of a permit by the Zoning Official. Driveways may be located no closer than 4 feet to the side yard line unless the driveway abuts the driveway located on the adjoining property.

- C. LOCATION OF PARKING SPACES: C-1, MU-1, MU-2, MU-3, AND I-2 DISTRICTS**
Off-street parking of permitted uses in the C-1, MU-2, MU-3, and I-2 districts may be located in a required side /rear yard, except the 10 feet adjacent to the side / rear lot line adjacent to a residential use. Off-street parking of permitted uses in the MU-1 district is limited to the required rear yard.
- D. PROXIMITY.** All off-street parking shall be either on the same premises as the building or within 300 feet of the building it is intended to serve, measured along lines of public access to the property between the nearest point of the parking facility and the building to be served.
- E. ONE AND TWO FAMILY RESIDENTIAL DWELLINGS.** An off-street parking facility for a one- or two-family dwelling shall be located on the same lot or plot of ground as the building it is intended to serve, and shall consist of an enclosed garage not less than of 20 by 20 feet for a one-family. The garage shall be served by a paved driveway from the garage to the street or alley. Any paved driveway may cover a maximum of 30% of the total surface area of the front yard.
- F. RESTRICTION OF PARKING ON PRIVATE PROPERTY.** It shall be unlawful for any person to park any motor vehicle on any private property or use the private property for vehicle storage, or use any portion of any private property as parking space, without the express or implied consent,

authorization or ratification of the owner, holder, occupant, lessee, agent or trustee of the property.

- G. PARKING OF COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS.** A licensed commercial vehicle owned by, or assigned to, a licensed vehicle operator who is a permanent resident shall be permitted. For the terms of this section, a permitted vehicle shall be limited to passenger cars, vans, pickup trucks and other similar vehicles. Trucks having a gross cargo capacity of over four tons and tractors or tractor-trailer combinations shall not be considered vehicles under this section and are specifically excluded from parking in residential zoning districts. No more commercial vehicles than licensed vehicle drivers residing on the premises shall be allowed to park in residential districts.
- H. VILLAGE PARKING DISTRICT.** The parking area shown on the Village's Zoning Map may be referred to as the *Village Parking District*. The parking requirement for all uses within the parking district shall be reduced by one-half.

Section 4.204 PARKING REQUIREMENTS

- A. CALCULATION OF REQUIRED PARKING SPACES.** When units or measurements determining the number of required parking spaces result in a fractional space, fractions over one-half shall require one parking space.
- B. USABLE FLOOR AREA.** For the purpose of this Section, usable floor area shall mean 80 percent of the gross floor area used or intended to be used by customers, patrons, clients, patients, owners, tenants, and participants.
- C. SIMILAR USES AND REQUIREMENTS.** In the case of a use not specifically mentioned, the requirements for off-street parking facilities for a similar use, as determined by the reviewing authority, shall be applied.
- D. MINIMUM PARKING REQUIRED.** No non-residential parking area may contain less than three parking spaces.
- E. MINIMUM AND MAXIMUM NUMBER OF SPACES.** Off-street parking, stacking spaces, and loading spaces permitted for any use shall not exceed 120% or be less than 80% of the minimum parking requirements of this Section. This provision shall not apply to single family or two family dwelling units.
- F. LIGHTING / LANDSCAPING.** Off-street parking lots shall be subject to the requirements of *Chapter 4.3: Landscaping & Screening* and *Chapter 4.4: Exterior Lighting*.
- G. BICYCLE PARKING.** Bicycle parking areas, including racks, are required in conjunction with off-street parking lots that are larger than 25 spaces. One bicycle space shall be provided for every 20 required vehicle parking spaces or fraction thereof. Shelters, bicycle lockers, or other methods of protecting the parked bicycles are encouraged. Bicycle parking spaces may be located anywhere on the site, including inside the building, and need not be located within the boundaries of the vehicle parking lot, but shall be located proximate to building entrances.

Section 4.205 SCHEDULE OF PARKING REQUIREMENTS

The minimum number of off-street parking spaces shall be determined in accordance with the following *Schedule of Parking Requirements Table*. Parking requirements are correlated to functional intensity of use.

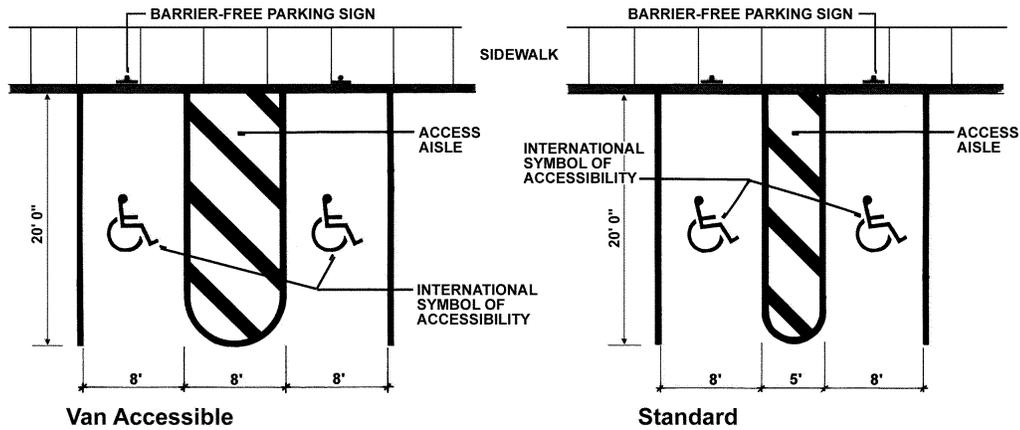
Schedule of Parking Requirements	
Use	Required Off-Street Parking Spaces
Residential	
Mixed Use Dwelling Unit	1.0 parking space per dwelling unit.
Multiple Dwelling Unit	1.5 parking spaces per dwelling unit. Additional 10% of total parking required for guests.
Single Family Dwelling Unit	2.0 parking spaces per dwelling unit.
State Residential Living Facility / Senior / Assisted Living	0.5 parking spaces per dwelling unit; plus 0.5 parking spaces per employee at the maximum shift.
Townhouse (3+ units)	1.0 parking space per dwelling unit.
Two Family Dwelling Unit	1.5 parking spaces per dwelling unit.
Vacation Rental	Two or less sleeping rooms = 1.0 parking space; Three – four sleeping rooms = 2.0 parking spaces; Five or more sleeping rooms = minimum of 3.0 parking spaces with additional parking to Zoning Official / Planning Commission satisfaction.
Lodging	
Bed and Breakfast	2.0 parking spaces; plus 1.0 parking space for each rental room; plus 0.5 parking spaces per employee at the maximum shift.
Inn / Motel	1.0 parking space per rentable room.
Hotel	1.3 parking spaces per rentable room.
Community, Education, and Institution	
Child Care Center (commercial)	0.25 parking spaces per student.
Education (primary, secondary)	0.40 parking spaces per student.
Education (higher, vocational, etc.)	0.25 parking spaces per student.
Medical Facility	4.0 parking spaces per 1,000 gross sq. ft.
Private Club, Fraternal Organization, or Lodge Hall	1.0 parking space per 400 gross sq. ft.
Recreation Center	3.0 parking spaces per 1,000 sq. ft. gross floor area.
Religious Institution	1.0 parking space per 3 seats.
Commercial and Retail Uses	
Automobile Service	1.0 parking spaces per 600 gross sq. ft.
Drive-in / through Establishment	10 stacking spaces per order window.
Bar, Tavern, or Alcohol Service Establishment	1.0 parking space per 400 gross sq. ft.
Financial Institution	3.5 parking spaces per 1,000 gross sq. ft. Drive-through windows shall provide an additional 3 stacking spaces per window.
Greenhouse / Nursery	1.0 parking space per 400 gross sq. ft. of indoor office or sales room.
Office	4.0 parking spaces per 1,000 gross sq. ft.
Personal Service Establishment	1.0 parking spaces per 400 gross sq. ft.
Place of Assembly	1.0 parking spaces per 3 seats.
Restaurant	0.5 parking spaces per 1 seat.
Retail Sales (10,000 sq. ft. or less)	1.0 parking spaces per 500 gross sq. ft.
Retail Sales (greater than 10,000 sq. ft.)	3.5 parking spaces per 1,000 gross sq. ft.
Industrial Uses	1.0 parking space per employee on the maximum shift, plus 1.0 parking space for each vehicle used in the conduct of the enterprise.

Section 4.206 BARRIER FREE PARKING

Off-street parking facilities, other than parking for one or two family dwellings, shall be designed, constructed, and maintained in accordance with the following:

- A. Barrier free parking spaces shall be provided per the State Construction Code and the following:

BARRIER FREE PARKING REQUIREMENTS			
Number of Parking Spaces Provided	Minimum Number of Barrier-Free Spaces Required	Van Accessible Parking Spaces Required	Accessible Parking Spaces Required
Up to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1,000	2% of total parking provided in each lot	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces
1,001 and over	20 plus 1 per 100 spaces over 1,000	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces



Barrier-Free Parking Space Layout

- B. Barrier free spaces shall be accessible from and conveniently located near the building’s primary entrance.
- C. Barrier free spaces shall be identified by above grade signs and pavement striping.

Section 4.207 SHARED PARKING

Common, shared parking facilities and interconnected private off-street parking / loading areas are encouraged in the Village. The development and use of a parking or loading area shared between two or more uses shall be permitted where peak activity for each use will occur at different periods of the day or week.

- A. **CROSS ACCESS.** Wherever feasible, cross-access connections between adjacent parking lots (or a reserved connection when no adjacent parking lot exists but can reasonably be expected to be constructed at a future date) are required. Blanket cross-access easements across the entire parking lot area shall be provided for connected lots under separate ownership or management.
- B. **SIGNED AGREEMENT.** Shared facilities shall submit a signed shared parking agreement, subject to acceptance by the Village Attorney.
- C. **LOCATION.** The collective off-street parking area shall not be located farther than 300 feet from any building or use being served. For the purposes of this regulation, a collective parking area shall be considered conforming if at least 20 percent of a contiguous parking area is located within 300 feet of the building(s) being served.
- D. **MINIMUM NUMBER OF SPACES.** After a parking study and documentation from the applicant (if necessary), the Planning Commission may reduce the required number of parking spaces based on the peak hour demand.

Section 4.208 LOADING FACILITIES

- A. **LOCATION OF LOADING SPACE.** All required loading berths shall be located on the same zoning lot as the use served. No loading berth for vehicles over two tons capacity shall be closer than 50 feet to any property in a residential district unless completely enclosed by building walls, or a uniformly painted solid fence or wall, or any combination thereof, no less than six feet in height. No permitted or required loading berth shall be located within 25 feet of the nearest point of intersection of any two streets.
- B. **SIZE OF LOADING SPACE.** Required loading spaces shall be at least 10 feet by 25 feet, exclusive of aisles and maneuvering space, and shall have a vertical clearance of the least 14 feet. The length of the berth shall be increased to a minimum of 50 feet, if intended to serve semi-tractors and trailers.
- C. **ACCESS TO PUBLIC STREET OR ROAD.** Each required loading space shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements.
- D. **PAVEMENT AND SURFACING.** All open off-street loading berths shall be concrete or asphalt according to standards established by the Village Engineer.
- E. **USE OF LOADING SPACE FOR VEHICLE REPAIR AND SERVICING.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residence or business district.
- F. **LOADING SPACE CANNOT SERVE AS OFF-STREET PARKING.** Space allocated to any loading area shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

- G. **LOADING SPACE REQUIREMENT FOR SPECIAL USES NOT HEREIN DEFINED.** For special uses other than prescribed hereinafter, loading berths adequate in number and size to serve such uses, as determined by the Zoning Official and approved by the Planning Commission shall be provided.

Section 4.209 PARKING LOT LAYOUT

- A. **PARKING SPACE AND MANEUVERING LANE DIMENSIONS.** The design and construction of off-street parking areas shall conform to the following requirements:

Parking Design Standards			
Parking Pattern (degrees)	Maneuvering Lane Width	Parking Space Width	Parking Space Length
0° (parallel)	11 feet (one way) 22 feet (two way)	8 feet	22 feet
1°– 70 ° (angled)	15 feet (one way)	9 feet	18 feet
71 ° - 90°	11 feet (one way) 22 feet (two way)	9 feet ²⁰	18 feet

- B. **PARKING SETBACK.** Except for access drives and shared parking facilities, no off-street parking area shall be located closer than five feet to any lot line, provided that the minimum landscaping and screening requirements of *Chapter 4.3: Landscaping & Screening* are met on the site.
- C. **MANEUVERING AISLES.** Off-street parking lots shall be so arranged and marked with adequate drives and aisles for safe and convenient maneuvering giving access to parking spaces, and in no case shall a parking space be permitted which would necessitate the backing of a motor vehicle into a street or over a public walk.
- D. **PERIMETER BARRIER REQUIRED.** There shall be a curb or wheel stop provided along the perimeter of a parking lot. The curb or wheel stop shall be designed to prevent any portion of a vehicle from encroaching upon a sidewalk, right-of-way, landscaped area, or adjoining property. Curbs shall be continuous except as part of an overall stormwater management design incorporating bioswales and/or raingardens.
- E. **MAXIMUM CONTIGUOUS SPACES.** Not more than 20 contiguous spaces may be provided in an uninterrupted row. Longer rows shall provide landscaped breaks (e.g., islands or bioswales) with shade trees. Such breaks shall have a minimum area of 144 square feet and shall contain at least one shade tree.
- F. **CONSOLIDATED LANDSCAPE AREAS.** Parking spaces and rows shall be organized to provide consolidated landscape areas and opportunities for on-site stormwater management. The use of bioswales and/or rain gardens is encouraged.
- G. **PEDESTRIAN CIRCULATION.** The parking lot layout shall accommodate direct and continuous pedestrian circulation, clearly divided from vehicular areas. Pedestrian crosswalks shall be provided.

Section 4.210 PARKING LOT CONSTRUCTION

- A. **SURFACING.** The entire parking area, including parking spaces and maneuvering lanes, shall have asphaltic or concrete surfacing; or porous pavers in accordance with specification approved by the Village Engineer. Such facilities shall provide on-site drainage to dispose of all surface water accumulated in the parking area, unless otherwise approved by the Village Engineer.

²⁰ Any parking space abutting a landscaped area on the driver's or passenger's side of the vehicle shall provide an additional 18 inches of width to allow for access without damage to the landscaped area.

Permeable or porous paving methods are encouraged, including open joined pavers, porous concrete/asphalt, and other methods of increasing stormwater infiltration. These methods may only be used when the permeable paving will have sufficient strength to bear expected vehicle loads for the parking area.

All off-street parking areas are encouraged to use light-colored materials such as concrete, white asphalt, or light-colored pavers to reduce surface temperatures and to reduce the heat island effect.

The parking area shall be surfaced within two months of occupancy of the use it is to serve if it is for a new use, and within two months of the effective date of rezoning if parking area is to serve an existing use or uses, except when weather conditions prohibiting the pouring of concrete extend such time period.

- B. **STRIPING.** Off-street parking shall be striped with either white or yellow paint and the striping of handicapped parking stalls shall be identified with blue paint. All parking spaces shall be clearly striped with four inch wide lines spaced two feet apart to facilitate movement and to help maintain an orderly parking arrangement.

Chapter 4.3 • LANDSCAPING & SCREENING

Section 4.301 INTENT

Landscaping enhances the visual image of the Village, improves property values, and alleviates the impact of noise, traffic, and visual distraction associated with certain uses. Screening protects less intensive uses from the noise, light, traffic, litter and other impacts of more intensive, non-residential uses. These provisions are intended to set minimum standards for the design and use of landscaping and screening, and for the protection and enhancement of the Village's environmental and aesthetic quality.

More specifically, the intent of this Chapter is to:

- A. Establish aesthetically pleasing, functionally appropriate, and sustainable landscape design for the long-term enhancement of the appearance of development in the community.
- B. Safeguard the public health, safety and welfare, and preserve and enhance aesthetic qualities that contribute to community character.
- C. Protect and preserve the appearance, character, and value of the Village's residential neighborhoods that abut nonresidential areas, parking areas, and other more intensive use areas.
- D. Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way.
- E. Increase soil water retention and natural storm water filtering, thereby helping to prevent flooding and improve water quality.

Section 4.302 SCOPE

The standards of this Chapter shall apply to all uses, lots, and sites altered, developed or expanded after the effective date of this Ordinance that are subject site plan or sketch plan approval, excluding single family detached homes, unless otherwise specifically noted.

The requirements in this Chapter are minimum standards, and under no circumstances shall they preclude the Planning Commission or Zoning Official from requiring additional landscaping. Any landscape plan submitted for review and approval shall be in accordance with the requirements of *Chapter 6.2: Site Plan Review*.

Section 4.303 GENERAL LANDSCAPING STANDARDS

- A. **CORRIDOR OVERLAY.** All sites must also meet the landscaping standards outlined in the Corridor Overlay District, Section 3.3.
- B. **OPEN SPACE.** Any unpaved portion of a site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material and maintained in a neat condition. Pedestrian walks, amenities, planters, and other decorative elements are encouraged in such landscaped areas.
- C. **REQUIRED TREES.** On non-residential sites, a minimum of 1 tree per 3,000 square feet (or fraction thereof) of unpaved open area shall be provided, in addition to any other landscaping requirements of this Article. Required trees may be planted at uniform intervals, at random, or in groupings.

- D. **DESIGN CREATIVITY.** Creativity in landscape design is encouraged. Required trees and shrubs may be planted at uniform intervals, at random, or in groupings, depending on the designer's desired visual effect and, equally important, the intent of the Village to create a compatible landscape appearance on adjoining properties.
- E. **VISIBILITY.** Landscaping and screening materials shall be laid out in conformance with the requirements for clear vision areas, and shall not obstruct the visibility of motorists or pedestrians.
- F. **PROTECTION.** Wherever landscaping is proposed adjacent to a paved area, a six-inch concrete curb shall be provided. Except for storm water management features such as bioswales, landscape areas shall be elevated above the pavement to a height that is adequate to protect the plants from snow removal, salt, and other hazards.

Section 4.304 STREET FRONTAGE LANDSCAPING STANDARDS

- A. **STREET TREES.** One deciduous tree shall be planted for each 35 feet (or fraction thereof) of total road frontage and may be planted in a tree lawn (the area in between the sidewalk and the curb or edge of pavement).
- B. **TREE LAWN LANDSCAPING.** The tree lawns shall be planted with grass or other suitable live ground cover, and shall be maintained by the owner or occupant of the adjacent property as if the right-of-way were part of the required site landscaping.

Section 4.305 RESIDENTIAL LANDSCAPING STANDARDS

- A. **MULTIPLE FAMILY.** For multiple family residential uses, a minimum of two deciduous or evergreen trees plus four shrubs shall be planted per dwelling unit, in addition to any other landscaping requirements of this Article. Required trees may be planted at uniform intervals, at random, or in groupings.
- B. **RESIDENTIAL ENTRANCEWAY.** In any residential district, entranceway structures, including but not limited to walls, columns and gates marking entrances to single-family subdivisions or multiple housing projects may be permitted and may be located in a required yard and meeting clear vision areas.

Section 4.306 LANDSCAPING OF DIVIDER MEDIANS

Where traffic on driveways, maneuvering lanes, entrance roads, or similar vehicle access ways is separated by a divider median, the median shall be curbed and have a minimum width of 10 feet. A minimum of one deciduous or evergreen tree shall be planted for each 25 linear feet (or fraction thereof) of median. Trees may be planted at uniform intervals, at random, or in groupings, but in no instance shall the center-to-center distance between trees exceed 50 feet. Trees shall be set back a minimum of four feet from the curbed edge of any landscaped median.

Section 4.307 PARKING LOT LANDSCAPING

Landscaping shall be located within parking lots to improve the appearance and screen lot edges, reinforce circulation routes, define pleasing pedestrian routes through the parking lot, and maximize shade and stormwater benefits. All off-street parking areas shall include internal landscaping as follows:

- A. Landscaping Ratio.** Off-street parking areas containing greater than 10 spaces shall incorporate at least 30 square feet of interior landscaping per parking space. Interior parking lot landscaping shall include the following:
 - 1. Internal islands and medians.
 - 2. Landscaped areas surrounded on three sides by a parking area (i.e., peninsulas or fingers).
 - 3. Landscaped areas at the corners of a parking area and bordered by parking on at least two sides.

- B. Internal Landscape Area Requirements.**
 - 1. Landscaped areas in parking lots shall be no less than nine feet in any single dimension and no less than 144 square feet in area.
 - 2. Landscaped areas in or adjacent to parking lots shall be protected with curbing to prevent encroachment of vehicles. Curbs shall be a minimum of six inches in height and shall be continuous around the parking area, except for curb cuts required for integrated on-site stormwater management or pedestrian accessibility.

- C. Required Plantings.**
 - 1. At least fifty percent of each interior landscaped area shall be covered by living plant material, such as sod, shrubs, ground cover, or trees. Plant materials other than turf grass or ground cover shall not be placed closer than two feet to the curbed edge of any interior parking lot landscape area. Trees shall be set back a minimum of four feet from the curbed edge of any interior parking lot landscape area.
 - 2. A minimum of one deciduous shade tree shall be planted within the parking lot for every 10 vehicle parking spaces in the lot.

Section 4.308 PLANT MATERIALS STANDARDS

- A. GENERALLY.**
 - 1. All plant material shall conform to size and description set forth in the current edition of “American Standard for Nursery Stock” sponsored by the American Association of Nurserymen, Inc.
 - 2. All plant material shall be nursery grown; hardy to the climate of Michigan; appropriate for the soil, climatic and environmental conditions; and resistant to disease and insect attack.
 - 3. Artificial plant material shall be prohibited within required screening areas.

- B. GROUNDCOVERS.**
 - 1. Lawn areas shall be planted in species of grass normally grown as permanent lawns in Michigan. Grass may be sodded or hydro-seeded, provided that adequate measures are taken to minimize soil erosion. Sod or seed shall be clean and free of weeds and noxious pests or disease.

2. The creative use of groundcover alternatives is encouraged. Groundcover used in lieu of grass shall be planted to present a finished appearance after one complete growing season.
 3. Synthetic materials shall not be used as a permitted groundcover. Use of stone and gravel as a groundcover shall be limited to decorative accents within a planting bed, subject to Planning Commission approval.
- C. MULCH.** Planting beds shall present a finished appearance; with shredded hardwood bark mulch or similar natural material at a minimum depth of three inches. Mulch used around trees and shrubs shall be a minimum of four inches deep, and shall be pulled one inch away from tree trunks. An effective edge treatment shall be provided to contain and prevent migration of the mulch.
- D. TOPSOIL.** A minimum four inches of topsoil shall be provided for all lawn areas, ground covers, and planting beds.
- E. STANDARDS FOR SIZE AND VARIETY OF PLANT MATERIALS.** To ensure adequate variety, and to avoid monotony and uniformity within a site, required plant materials shall not include more than 30 percent of any single plant species, and shall comply with the following schedule for minimum sizes at planting:

Table 4.1: Plant Material Standards	
Screening Materials	Minimum Size at Installation
Street Trees	2.5 caliper-inches diameter
Deciduous Shade Trees	2.5 caliper-inches diameter
Evergreen Trees	6.0 feet overall height
Deciduous Ornamental Trees	2.0 caliper-inches diameter or 6 feet overall height
Shrubs	36 inches in height or 30 inches in spread

- F. RECOMMENDED TREES.** Table 4.2, 4.3, and 4.4 recommended trees based on the size and character of the planting area. Trees not listed in Table 4.2, 4.3, and 4.4 are not recommended for use.

Table 4.2: Limited Width Tree Lawn 4' – 6' Wide (based on urban tolerance/canopy size)	
Common Name	Botanical Name
Red Maple	Acer rubrum
Serviceberry	Amelanchier species
River Birch	Betula nigra (tree form)
Columnar European Hornbeam	Carpinus betulus 'Fastigiata'
American Hornbeam	Carpinus caroliniana
Hackberry	Celtis occidentalis
Maidenhair Tree	Ginkgo biloba (Fastigate)
Thornless Honeylocust	Gleditsia triacanthos inermis
Callery Pear	Pyrus calleryana
American Linden	Tilia americana
Littleleaf Linden	Tilia cordata
Silver Linden	Tilia tomentosa

Table 4.3: Standard Width Tree Lawn 6' or Greater (based on canopy size)

Common Name	Botanical Name
Red Maple	<i>Acer rubrum</i>
Sugar Maple	<i>Acer saccharum</i>
Red Horsechestnut	<i>Aesculus x carnea</i>
Bottlebrush Buckeye	<i>Aesculus parviflora</i>
Serviceberry	<i>Amelanchier species</i>
Columnar European Hornbeam	<i>Carpinus betulus 'Fastigiata'</i>
Hackberry	<i>Celtis occidentalis</i>
Katsuratree	<i>Cercidiphyllum japonicum</i>
Hardy Rubber Tree	<i>Eucommia ulmoides</i>
European Beech	<i>Fagus sylvatica</i>
Yellowwood	<i>Cladrastis lutea</i>
Maidenhair Tree	<i>Ginkgo biloba</i>
Thornless Honeylocust	<i>Gleditsia triacanthos inermis</i>
Goldenraintree	<i>Koelrueteria paniculata</i>
Goldenchain Tree	<i>Laburnum x watereri 'Vossi'</i>
American Sweetgum	<i>Liquidambar styraciflua</i>
Tuliptree	<i>Liriodendron tulipifera</i>
Saucer Magnolia	<i>Magnolia soulangiana</i>
Dawn Redwood	<i>Metasequoia glyptostroboides</i>
Black Gum	<i>Nyssa sylvatica</i>
London Planetree	<i>Platanus x acerifolia 'Bloodgood'</i>
Sycamore, American Planetree	<i>Platanus occidentalis</i>
White Oak	<i>Quercus alba</i>
Swamp White Oak	<i>Quercus bicolor</i>
Northern Red Oak	<i>Quercus borealis (Q. rubra)</i>
Scarlet Oak	<i>Quercus coccinea</i>
Shingle Oak	<i>Quercus imbricaria</i>
Bur Oak	<i>Quercus macrocarpa</i>
Pin Oak	<i>Quercus palustris</i>
English Oak	<i>Quercus robur</i>
Baldcypress	<i>Taxodium distichum</i>
American Linden	<i>Tilia americana</i>
Littleleaf Linden	<i>Tilia cordata</i>
Silver Linden	<i>Tilia tomentosa</i>
Hybrid Elm	<i>Ulmus species</i>
Japanese Zelkova	<i>Zelkova serrata</i>

Table 4.4: Sidewalk Tree Grates (based on urban tolerance/canopy size)

Common Name	Botanical Name
Red Maple	<i>Acer rubrum</i>
Columnar European Hornbeam	<i>Carpinus betulus 'Fastigiata'</i>
Hackberry	<i>Celtis occidentalis</i>
Katsuratree	<i>Cercidiphyllum japonicum</i>
Hackberry	<i>Celtis occidentalis</i>
Maidenhair Tree	<i>Ginkgo biloba (Fastigate)</i>
Thornless Honeylocust	<i>Gleditsia triacanthos inermis</i>
Callery Pear	<i>Pyrus calleryana</i>
American Linden	<i>Tilia americana</i>
Littleleaf Linden	<i>Tilia cordata</i>
Silver Linden	<i>Tilia tomentosa</i>

- G. EXISTING PLANT MATERIALS.** Healthy existing trees and other plant materials on a site may be used to satisfy specific screening standards of this Chapter, subject to Planning Commission approval and the location, size, and species of individual trees and other plant materials to be preserved shall be identified on the site plan.

The Planning Commission may require Village inspection of existing plant materials prior to or as a condition of site plan approval to determine the health and desirability of such materials. Such inspections shall be performed by qualified Village staff or by a certified arborist or similar qualified consultant.

Where plant materials are to be saved, prior approval shall be obtained by the property owner from the Village prior to any delimiting, root pruning, or similar work. Protective fencing shall be placed at the drip-line of existing trees, and around the perimeter of other preserved plant materials, with details of protective measures noted on the site plan. No vehicle or other construction equipment shall be parked or stored within protected areas.

In the event that trees or other plant materials identified to be preserved on an approved site plan are destroyed or damaged, as determined by the Village, the owner, developer or contractor shall replace the plant material with a comparable size, amount, and species.

Section 4.309 INSTALLATION AND MAINTENANCE

- A. INSTALLATION.** All screening shall be installed in a manner consistent with the approved site plan. Landscaping along the perimeter of a site shall be installed prior to construction, except where such landscaping would be destroyed during construction. Installation of all required landscaping shall be completed prior to or at the time of completion of building construction, except when building construction is completed during the off-season when plants cannot be installed, in which case the owner shall provide a performance guaranty to ensure installation of required landscaping in the next planting season.
- B. MAINTENANCE.** All screening elements and plant materials shall be maintained in accordance with the approved site plan, and the following:
1. Maintenance procedures and frequencies to be followed shall be specified on the site plan, along with the manner in which the effectiveness, health, and intended functions of the screening elements and plant materials on the site will be ensured.
 2. Plant materials shall be kept in a neat, orderly and healthy growing condition, free from weeds, debris, and refuse. Tree stakes, guy wires, and tree wrap shall be removed after 1 year. Pruning of plant materials shall be limited to the minimum necessary to ensure proper maturation of plants to achieve their intended purpose.
 3. All required screening elements and plant materials shall be planted and maintained in accordance with an approved site plan. Failure to maintain required screening, including the removal and replacement of dead or diseased plant materials, shall be a violation of this Ordinance.
 4. The replacement or removal of plant materials in a manner not consistent with an approved site plan shall be a violation of this Ordinance.
- C. IRRIGATION.** To assist in maintaining plant materials in a healthy condition, all landscaped areas shall be provided with an automatic, underground, or drip irrigation system. All automatic irrigation systems shall be designed to minimize water usage, and shall be manually shut off during water emergencies or water rationing periods.

The Planning Commission may approve an alternative form of irrigation for a particular site, or may waive this requirement upon determining that underground irrigation is not necessary for the type of proposed plant materials.

Section 4.310 WALLS AND FENCES

Walls and fences are subject to the following:

A. RESIDENTIAL DISTRICTS.

1. **Front Yard.** Fences / walls shall not exceed three feet in height (measured from established sidewalk grade, or where no sidewalks exist, from the curb grade) and may be located one foot from the front property line. Decorative, non-opaque fences such as wood picket fences or wrought iron-appearing fences are required.
2. **Rear / Side Yards.** Walls or fences in residential districts shall not exceed six feet in height and may be constructed within a required rear or side yard, (i.e. the property line). Fencing material may be concealing or opaque type, provided it is decorative and creates a harmonious appearance with the front yard screening materials.

B. INDUSTRIAL DISTRICT.

1. **Front Yard.** Fences / walls shall not exceed three feet in height.
2. **Rear / Side Yards.** Walls or fences not exceeding eight feet in height are permitted in side and rear yards.

C. COMMERCIAL AND MIXED-USE DISTRICTS.

1. **Front Yard.** Fences / walls shall not exceed three feet in height.
2. **Rear / Side Yards.** Walls or fences up to six feet in height are permitted in side and rear yards. All fences in commercial and mixed-use districts shall be decorative in nature.

C. GENERAL REQUIREMENTS. All fences shall comply with the following general requirements:

1. Materials and Construction.

- i. **Fences.** Fences in or within 100 feet of a residential district shall consist of wood, metal, or other durable materials that are found by the Zoning Official to be decorative and weather-resistant.

Masonry piers may be used as part of a fence installation with the approval of the Zoning Official. Barbed wire and other similar hazardous materials shall be prohibited in all districts.

- ii. **Walls.** Walls shall be constructed of masonry material (i.e., brick, decorative stone) that is architecturally compatible with the materials used on the facade of the principal structure on the site. A finished cap shall be installed on the top of all walls.

Concrete block may only be used for screening walls in the rear yard of the I-1 district.

2. **Maintenance.** Walls and fences shall be maintained in good condition. Rotten, crumbled, or broken components shall be replaced, repaired, or removed. As required by the Zoning Official, surfaces shall be painted, stained, or similarly treated so as to prolong the life of the structure.

3. **Orientation of Finished Side.** Where a fence has a single finished or decorative side, it shall be oriented to face outward towards adjacent parcels or street rights-of-way (away from the interior of the lot to which the fence is associated).
4. **Site Drainage and Utilities.** Fences / walls shall not be erected in a manner that obstructs the free flow of surface water or causes damage to underground utilities.
5. **Location.** Fences / walls shall be located completely within the boundaries of the lot to which they are associated.
6. **Removal of Illegal or Damaged Fences.** Damaged or illegal fences / walls shall be immediately repaired or removed by the property owner. Upon identification of a damaged or illegal fence, the Zoning Official shall order the property owner to remove such fence / wall or make necessary repairs within 20 days. If the property owner fails to take such actions within 20 days, the Village may act to remove such fence / wall at the expense of the property owner. The Village may then place a lien on the property, adding necessary removal expenses to the tax bill for the property.

Section 4.311 MODIFICATION OF LANDSCAPING REQUIREMENTS

Recognizing that a wide variety of land uses and the relationships between them can exist, and that varying circumstances can mitigate the need for landscaping, the reviewing authority may reduce or waive the minimum landscape requirements or the screening and buffer requirements of this Chapter and approve an alternate landscaping plan, provided the following standards have been met:

- A. The landscaping plan will protect the character of new and existing residential neighborhoods against negative impacts such as noise, glare, air pollution, trash and debris, or nuisances.
- B. The alternate width and landscaping of the buffer or screen will ensure compatibility with surrounding and nearby land uses because:
 - i. The development is compatible with and sensitive to the immediate environment of the site and neighborhood with respect to architectural design, scale, bulk, building height, identified historical character, disposition and orientation of buildings on the lot, or visual integrity.
 - ii. The site has existing natural vegetation and/or topography, bodies of water, wetland areas, or other existing conditions which offer screening consistent with the standards set forth in this Chapter. The preservation of these natural features in perpetuity must be ensured or else the modification may not be granted.
 - iii. The arrangement, design and orientation of buildings on the site maximize privacy and isolate nearby land uses from any negative impacts of the development.

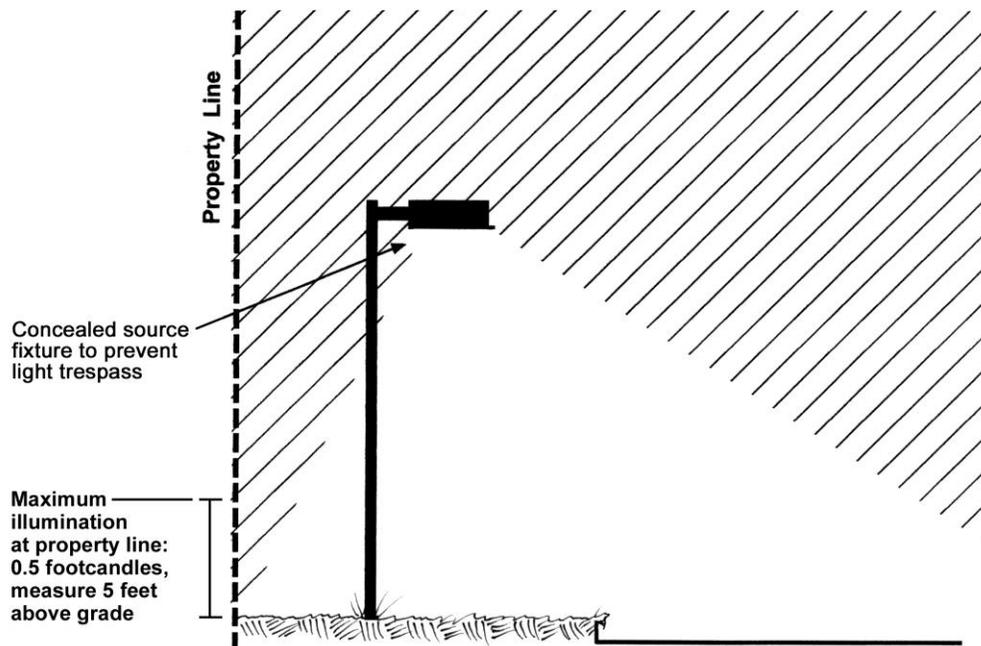
Chapter 4.4 • EXTERIOR LIGHTING

Section 4.401 PURPOSE

The purpose of this chapter is to preserve, protect, and enhance the lawful nighttime use and enjoyment of all properties in the Village and reduce light pollution through the use of appropriate lighting practices and systems. Exterior lighting shall be designed, installed and maintained to control glare and light trespass, minimize obtrusive light, conserve energy and resources, maintain safety, and prevent the degradation of the nighttime visual environment. It is the further intent of this Chapter to encourage the use of innovative lighting designs and decorative light fixtures that enhance the character of the community.

Section 4.402 GENERAL PROVISIONS

The following design and illumination standards shall apply to all exterior lighting sources and other light sources visible from the public right-of-way, road easement, or adjacent parcels, except where specifically exempted.



Lighting Fixture Orientation and Shielding

- A. **SHIELDING.** Exterior lighting shall be fully shielded and directed downward at a 90 degree angle and so noted on all site plans. All fixtures shall incorporate full cutoff housings, louvers, glare shields, optics, reflectors or other measures to prevent off-site glare and minimize light pollution. Only flat lenses are permitted on light fixtures; sag or protruding lenses are prohibited. Oblique lenses (commonly featured on wall-packs) are prohibited.
- B. **INTENSITY.** Light intensity shall be measured in foot-candles on the horizontal plane at grade level within the site, and on the vertical plane at the property or street-right-of-way boundaries of the site at a height of five feet above grade level.

The following light intensity requirements shall apply to all sites:

1. **Minimum Intensity.** The light intensity shall average a minimum of 0.5 foot-candles for parking lots and between 1.0-2.0 foot-candles for pedestrian sidewalks.
 2. **Maximum Intensity – Within the Site.** The intensity of light within a site shall not exceed 10 foot-candles. In areas of intensive vehicular use (i.e. the area underneath gas station pump canopies or outdoor sales areas), the maximum intensity permitted shall be increased to 20 foot-candles.
 3. **Maximum Intensity at Property Lines.** The maximum light intensity permitted at any property line shall be 0.5 foot-candles.
- C. **LAMPS.** Lamps with a maximum wattage of 250 watts per fixture are permitted for use in the Village to maintain a unified lighting standard and to minimize light pollution. The Planning Commission may permit the use of lamps with wattages up to 400 watts if the applicant can demonstrate that the higher wattage fixture is necessary to provide adequate site lighting and that the light fixture is in compliance with all other Chapter requirements. This exemption shall not be granted if the same lighting effect can be reasonably accomplished on the site by incorporating additional 250 watt fixtures into the site design.
- D. **ANIMATED LIGHTING.** Permanent exterior lighting shall not be of a flashing, moving, animated, or intermittent type.
- E. **HOURS OF OPERATION.** All exterior lighting in non-residential districts shall incorporate automatic timers and shall be turned off between the hours of midnight and sunrise, except for lighting necessary for security purposes or accessory to a use that continues after midnight.

Section 4.403 STANDARDS BY FIXTURE TYPE

FREESTANDING POLE AND BUILDING MOUNTED LIGHTING. The maximum height of pole or building mounted fixture is 20 feet. Where a pole or building mounted fixture is located within 50 feet of a residentially zoned or used property, the maximum pole height shall be 15 feet.

DECORATIVE LIGHT FIXTURES. The Planning Commission may approve decorative light fixtures as an alternative to shielded fixtures, provided that such fixtures will enhance the aesthetics of the site and will not cause undue offsite glare or light pollution (i.e. shall be in compliance with the maximum illumination standards set forth in Section 4.402). Such fixtures may utilize LED, incandescent, tungsten-halogen, metal halide or other lamps with full-spectrum color rendering properties with a maximum equivalent wattage of 100w per fixture.

Section 4.404 LIGHTING REQUIREMENTS FOR THE MU-1, MU-2, MU-3, AND CO DISTRICTS

Site lighting for parking lots and streetscapes within the MU-1, MU-2, MU-3, and CO Overlay districts shall utilize a similar traditional style fixture as those used in the Downtown streetscape. The model number for the light pole and luminaire, as well as a detail product specifications will be provided by the Village or the Downtown Development Authority. Fixtures shall be compatible with the traditional style of building architecture.

Section 4.405 EXEMPT LIGHTING

The following exterior lighting types are exempt from the requirements of this Chapter, except that the Zoning Official may take steps to minimize glare, light trespass or light pollution impacts when determined necessary:

- A.** Holiday decorations.
- B.** Building Up-Lighting, provided that the light emitting element of the fixture is shielded from direct view from any vehicle or pedestrian travel or use area, and that the fixture is directed at a vertical building surface.
- C.** Single family residential lighting with fixtures of 100 watts or less.
- D.** Instances where federal or state laws, rules or regulations take precedence over the provisions of this Chapter.
- E.** Temporary emergency lighting.
- F.** Special event lighting in conjunction with a permitted special event, provided that the lighting will not significantly impact residential areas. Special event lighting shall only be allowed for the duration of the special event.

Section 4.406 EXCEPTIONS

The Village recognizes that there are certain uses or circumstances not otherwise addressed in this Chapter that may have special exterior lighting requirements. The reviewing authority may waive or modify standards for a particular use or circumstance upon determining that all of the following conditions have been satisfied:

- A.** The waiver or modification is necessary because of safety or design factors unique to the use, circumstance, or site.
- B.** The proposed light intensity would be adequate for the intended purpose. Consideration shall be given to maximizing safety and energy conservation, and to minimizing light pollution, off-site glare and light trespass on to neighboring properties or street rights-of-way.
- C.** For lighting related to streets or other vehicle access areas, a determination is made that the purpose of the lighting cannot be achieved by installation of reflective markers, lines, informational signs or other passive means.
- D.** Additional conditions or limitations may be imposed by the reviewing authority to protect the public health, safety or welfare, or to fulfill the purpose of this Chapter.

Chapter 4.5 • PERFORMANCE STANDARDS

Section 4.501 PURPOSE

The following performance standards are established in order to preserve the environmental health, safety, and welfare of the Village. No activity, operation, or use of land, building or equipment shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition that adversely impacts the surrounding area.

Any violation of these standards in subsequent operations will be corrected. The costs of inspection by experts to determine compliance shall be borne by the applicant. The following standards are deemed the minimum requirements to be maintained.

Section 4.502 NOISE

- A. **NOISE LEVEL LIMITS.** No operation or activity shall be carried on which causes or creates measurable noise levels which have an annoying or disruptive effect on surrounding properties, or which exceed the maximum noise level limits prescribed in Table 4.5, as measured at the boundary line of the lot on which the operation or activity is located. The measuring equipment and measurement procedures shall conform to the latest American National Standards Institute (ANSI) specifications. The sound measuring equipment shall be properly calibrated before and after the measurement.

TABLE 4.5: MAXIMUM PERMITTED NOISE LEVELS

Zoning District	Time	Sound Level (A Weighted) Decibels dB(A)
Residential	7:00 AM to 7:00 PM	55
	7:00 PM to 7:00 AM	50
Commercial / Mixed-Use	Any Time	55
Industrial	Any Time	70

- B. **INTERMITTENT SOUNDS.** Intermittent sounds or sounds characterized by pure tones may be considered a violation of this Section, even though the measured sound level may not exceed the permitted level in Table 4.5.
- C. **PERMITTED EXEMPTIONS.** Noise resulting from the following activities shall be exempt from the maximum permitted sound levels provided such activity occurs in a legally accepted manner:
1. Temporary construction activity that occurs between 7:00 AM and 7:00 PM.
 2. Performance of emergency work.
 3. Warning devices necessary for public safety, such as police, fire, and ambulance sirens and train horns.
 4. Lawn care and house maintenance that occurs between 8:00 AM and 9:00 PM.

Section 4.503 VIBRATION

Vibration is the oscillatory motion of a solid body. Machines or operations which cause vibration may be permitted in the industrial district, provided that: no operation shall generate any ground or structure borne vibrational motion that is perceptible to the human sense of touch beyond the property line of the site on which the operation is located.

Section 4.504 AIRBORNE EMISSIONS / GAS

It shall be unlawful for any person, firm, or corporation to emit or create any smoke or air contaminant in violation of applicable air quality standards adopted by the Federal Clean Air Act and MDNR. The escape or emission of any gas which is injurious or destructive, harmful to person or property, or explosive is prohibited.

Section 4.505 ODORS

Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor. Such odors shall be prohibited when perceptible at any point along the property line.

Section 4.506 ELECTROMAGNETIC RADIATION AND RADIOTRANSMISSION

Electronic equipment required in an operation shall be designed and used in accordance with applicable rules and regulations established by the Federal Communications Commission (FCC). The operation of such equipment shall not interfere with the use of radio, television, or other electronic equipment on surrounding or nearby property.

Section 4.507 PROPERTY MAINTENANCE

All properties within the Village shall be maintained in accordance with the requirements of the most recent edition of the International Property Maintenance Code.

Section 4.508 LIQUID OR SOLID WASTE

No operations shall directly discharge waste of any kind into any river, stream, reservoir, pond, or lake. All methods of sewage and industrial waste treatment and disposal shall be approved by the Village and state health departments, MDEQ, or MDNR.

Section 4.509 HAZARDOUS SUBSTANCE CONTAINMENT AND STORAGE

The storage and handling of hazardous substances shall comply with all applicable state, county and local regulations. There shall be no general purpose floor drains in structures in which hazardous substances are kept. Above ground storage containers for hazardous materials shall require secondary containment facility capable of containing the total volume of all hazardous substances.

Chapter 4.6 • Sustainable Energy Generation

Section 4.601 INTENT

It is the purpose of this Chapter to promote the safe, effective, and efficient use of sustainable wind and solar energy systems to reduce or replace on-site consumption of utility supplied electricity. Wind and solar energy are abundant, renewable, and nonpolluting energy resources and their conversion to electricity will reduce dependence on non-renewable energy resources and decrease air and water pollution that results from the use of fossil fuel inputs. The use of distributed sustainable energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the Village's energy supply portfolio.

Section 4.602 DEFINITIONS

The terms used in this Section will have the following meanings:

HEIGHT. The vertical distance from grade level adjacent to the base of the structure to the edge of the blade at highest rotation for a horizontal axis wind turbine or the highest point of a vertical-axis wind turbine.

ROOF-MOUNTED ENERGY SYSTEM. A type of small wind energy conversion system that is mounted on a roof with a height not greater than 15 feet above the ridgeline of a pitched roof or parapet of a flat roof.

SMALL WIND ENERGY SYSTEM. A wind energy conversion system consisting of a wind turbine, tower or axis, blades or blade system, and associated control or conversion electronics primarily intended to reduce on-site consumption of utility power.

SOLAR ENERGY SYSTEM. A solar photovoltaic cell, panel, or array that converts solar energy to usable thermal, mechanical, chemical, or electrical energy.

SOLAR STORAGE BATTERY. A device that stores energy from the sun and makes it available in an electrical form.

TOWER MOUNTED WIND ENERGY SYSTEM. A wind energy conversion system that is mounted on a freestanding or guyed tower attached to the ground, and not attached to any other permanent or temporary structure.

UTILITY WIND ENERGY SYSTEM. A wind energy conversion system consisting of a wind turbine, tower or axis, blades or blade system, and associated control or conversion electronics primarily intended to provide wholesale or retail energy to the electric utility grid.

WIND ENERGY SYSTEM. Any wind energy conversion device including all associated control or conversion electronics.

Section 4.603 WIND ENERGY SYSTEMS

A. WHERE PERMITTED.

- 1. Small Wind Energy Systems.** Subject to the requirements of this Section, roof mounted systems are permitted by right in any zoning district, and tower mounted systems are permitted by right in any district except the MU-1 and MU-2 districts.
- 2. Utility Wind Energy Systems.** Utility systems may be permitted in the I-1 district, subject to special land use permit approval and the requirements of this Section. If the applicant

requests a height modification, the application shall be reviewed by the Planning Commission following a public hearing held in accordance with *Chapter 6.7: Public Hearing Process*.

- B. SMALL WIND ENERGY REVIEW PROCEDURES AND STANDARDS.** Applications for small wind energy systems shall be reviewed administratively.
- C. UTILITY WIND ENERGY REVIEW PROCEDURES AND STANDARDS.** Utility wind energy systems are subject to the special land use permit review process.
- D. GENERAL STANDARDS.** The following standards are applicable to all wind energy systems:
 - 1. Noise.** A wind energy system shall not generate a noise level of 55 dB(A), measured at the property line, for more than 3 minutes in any hour of the day. EXCEPTION: if the constant ambient sound pressure level exceeds 55 dB(A), measured at the base of the wind energy system, a decibel level of the ambient dB(A) plus 5 dB(A) shall not be exceeded for more than three minutes in any hour of the day.
 - 2. Shadow Flicker.** Shadow flicker is a term used to describe what happens when rotating wind turbine blades pass between the viewer and the sun, causing an intermittent shadow. The application for a wind energy system shall include a shadow flicker analysis demonstrating locations where shadow flicker will occur at sunrise and sunset, along with measures the applicant will take to eliminate or mitigate the effects of shadow flicker on adjacent or nearby affected properties.
 - 3. Lighting.** No wind energy system shall be artificially lighted except as required by the Federal Aviation Administration.
 - 4. Appearance, Color, and Finish.** The wind energy system shall be light gray, white, or sky blue in color. All wind energy systems shall be finished in a non-reflective matte finish.
 - 5. Signs.** All signs other than the manufacturer or installer's identification, appropriate warning signs, or owner identification signs are prohibited.
 - 6. Electrical Wires.** All electrical wires associated with a wind energy system other than wire necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and grounding wires shall be located underground.
 - 7. Compliance with Electrical Code.** Building permit applications for wind energy systems shall be accompanied by line drawings of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 - 8. System Access.** The tower shall be designed and installed such that step bolts, ladders, or other means of access readily accessible to the public are located at least eight feet above grade level and secured to prevent access by unauthorized persons.
 - 9. Wind Access.** The Village makes no assurance of wind access other than the provisions of this Section. The applicant may provide evidence of covenants, easement or similar documentation for abutting property owners providing access to wind for the operation of a wind energy system.

Section 4.604 Solar Energy Systems

- A. ROOFTOP AND BUILDING MOUNTED SOLAR ENERGY SYSTEMS.** Rooftop and building mounted solar energy systems are permitted in all zoning districts, subject to the following regulations:
1. A roof mounted system may not extend more than three feet above its affixed surface.
 2. No solar energy system may protrude beyond the edge of the roof.
 3. A building permit shall be required for installation of rooftop and building mounted systems.
- B. GROUND MOUNTED SOLAR ENERGY SYSTEMS.** Ground mounted and freestanding solar energy systems are permitted in all zoning districts, subject to the following regulations:
1. **Location.** The solar energy system shall meet the required front yard setback requirement for the district in which it is located, and be set back a minimum of five feet from any side or rear property line.
 2. **Height.** The height of the solar energy system and any mounts shall not exceed 10 feet when oriented at maximum tilt. If the solar energy system is located in a front yard between the required front setback line and front building wall of the principal building, the maximum height for the system shall be 42 inches (3.5 feet). Evergreen landscaping that is sufficient to buffer the equipment from view from nearby dwelling units or streets but that will not obstruct the energy collecting surface from solar energy shall be provided.
 3. **Building Permit.** A building permit shall be required for any ground mounted solar energy system.
 4. **Area.** No more than 20 percent of the total lot area may be covered by a ground mounted solar energy system.
 5. **Batteries.** When batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure when in use, and when no longer used shall be disposed of in accordance with applicable laws and regulations.
- C. REMOVAL.** If a solar energy system ceases to perform its intended function for more than 12 consecutive months, the property owner shall remove the collector, mount, and associated equipment and facilities no later than 90 days after the end of the 12 month period.

Chapter 4.7 • CONSERVATION DEVELOPMENT

Section 4.701 INTENT

It is the purpose of a Conservation Development to promote the provision of passive and active open space in the form of neighborhood and community parks and to encourage a less sprawling form of development. The following ratios of required open space are based on the National Recreation and Park Association guidelines for community open space.

Section 4.702 CONSERVATION DEVELOPMENT

- A. RELATIONSHIP TO UNDERLYING ZONING REGULATIONS.** A Conservation Development is permitted for use on any vacant and underdeveloped parcel of land located within an R-1 and R-2 Residential zoning district having a minimum of two acres of land area.
- 1. Uses Permitted.** Any use permitted by right or special land use in the underlying zoning district in which the property is located shall be permitted within a Conservation Development, provided all necessary approvals are met.
 - 2. Applicable Gross Density.** The gross density of development of the subject property shall be determined by dividing the minimum lot size required by the underlying zoning district into the gross square feet of the property to be development (excluding any protected areas such as wetlands), mathematically rounded up to the higher whole number.
- B. SITE PLAN AND REZONING APPROVAL REQUIREMENTS.** An application for Conservation Development approval shall be accompanied with a site plan which shall be processed in accordance with *Article 6: Administration & Enforcement*. Approval of a Conservation Development is a rezoning of the subject property, designating the property as a Conservation Development Overlay district.
- C. ZONING MAP DESIGNATION.** Upon approval of a Conservation Development, the Village Clerk shall indicate the subject property on the Zoning Map as a Conservation Development (overlay) district by designating the property "CD" and including the date of the rezoning approval in the record of map amendments.

Section 4.703 REQUIRED OPEN SPACE

- A. PERMANENT OPEN SPACE.** Permanent open space shall mean permanently undeveloped by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with land, in a form acceptable to the Planning Commission and Village Council. The form of management and maintenance of the open space shall be submitted for any approval to ensure such open space shall be properly managed and maintained in perpetuity and that the conversation easement, deed restrictions, or dedication shall be adequately monitored and enforced by the organization or entity holding title to the easement or property rights of the designated open space.
- B. MINIMUM OPEN SPACE REQUIRED.** Every residential development with 20 or more units shall provide a minimum of 6,000 square feet of common park area for every 20 units or fraction thereof.
- C. INCENTIVE BONUS DENSITY FOR INCREASED OPEN SPACE.** The Planning Commission may grant a variable density bonus, up to 15 percent for exemplary projects, based on a demonstration by the

applicant of design excellence in the open space community. Projects qualifying for a density bonus shall include at least one of the following elements:

1. A high level of clustered development where a minimum of 60 percent is common open space.
2. Inclusion of an integrated mixture of housing types.
3. Cleanup of site contamination.
4. Other similar elements as determined by the Planning Commission.

Section 4.704 OPEN SPACE DESIGN

Required open space in a residential development shall be provided in the form of a Significant Natural Asset, Park, Square, or Playground as described below. Connections to adjacent open space, public land, or existing or planned pedestrian / bike paths may be required by the Planning Commission.

Any structure(s) or building(s) accessory to a recreation, conservation, or public use may be erected within the dedicated open spaces, subject to the approved open space plan. However, the proposed location of accessory structures or uses that are of a significantly different scale or character than any abutting residential uses, shall not be located near the boundary of the development or so as to negatively impact the residential use of adjacent lands.

- A. PARK.** A natural preserve available for unstructured recreation. A park may be independent of surrounding building frontages. Its landscape shall consist of paths and trails, meadows, waterbodies, woodlands, and open shelters, all naturalistically dispersed. Parks may be linear, following the trajectories of natural corridors. The minimum size shall be eight acres.
- B. SQUARE.** An open space available for unstructured recreation and community gathering. A square is often spatially defined by building frontages. Its landscape shall consist of path, lawns and trees, and other pedestrian amenities such as seating, fountains, and public art.
- C. PLAYGROUND.** An open space designed and equipped for the recreation of youth. Such a recreation area may include, passive recreational facilities, soccer fields, ball fields, bike paths or similar facilities which provide a feature of community-wide significance and enhance the development.
- D. SIGNIFICANT NATURAL ASSET.** An open space which contains significant natural assets such as woodlands, individual trees over 12 inch diameter, rolling topography, significant views, regulated or non-regulated wetlands or natural corridors that connect quality wildlife habitats that are in the best interest of the Village to preserve.

SIGNS

ARTICLE

5

Chapter 1 • SCOPE & DEFINITIONS

Section 5.101 INTENT

It is the intent of this Ordinance to regulate the size, location, and manner of display of exterior signs to ensure they do not endanger the public health, safety or welfare or impair property values. Such regulations are designed to permit maximum legibility and effectiveness of signs and to prevent their over-concentration, improper placement, and excessive height, bulk, and area. In addition, it is the intent of this Ordinance to assure the attractiveness of the scenic, historical, aesthetic, and economic values of the Village through the adoption of signage regulations.

All signs shall conform to all codes and ordinances of the Village, shall be properly erected and maintained, and, except where noted, shall require a zoning compliance permit issued by the Village before erection.

Section 5.102 DEFINITIONS

AWNING. A roof-like cover intended to shade a window or door opening or provide protection from the weather and which is constructed of canvas or other opaque material stretched over a supporting frame attached directly to a building and which may or may not be constructed so as to be raised or retracted to a position against the building when not in use. For purposes of this Ordinance, “canopies” shall be defined in the same way as “awnings.”



BANNER SIGN. A sign made of flexible materials temporarily attached to a structure or sign.

BUILDING FRONTAGE. The length of the portion of a building facing a street abutting the lot on which a business is located or, if the building does not abut a street, the side facing the street from which the building gets its address.

ELECTRONIC DISPLAY SIGN. A sign that uses changing lights or video screen(s) to form a sign message or messages in text or graphic or video display form wherein the sequence of messages and the rate of change can be modified by electronic process.

FLAG. A piece of cloth, varying in size, shape, color, and design

PERMANENT FREESTANDING SIGN. A sign supported by a base placed in or upon the ground and not attached to any building or other structure.

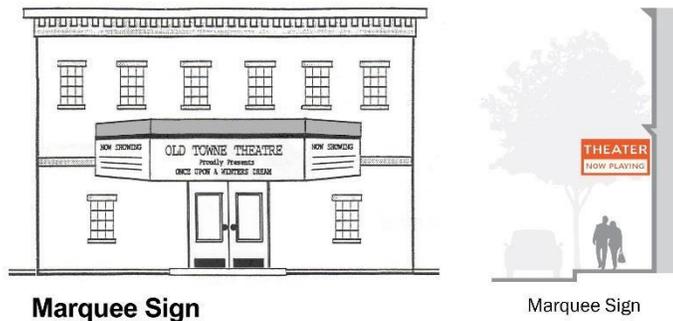


INSTITUTIONAL SIGN. A sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center, or similar institutions

INTERIOR SIGN. See “window sign.”

MARQUEE. A tall projection on the front of a building

MARQUEE SIGN. A sign attached to or hung from a marquee, canopy, or other covered structure projecting from and supported by the building.

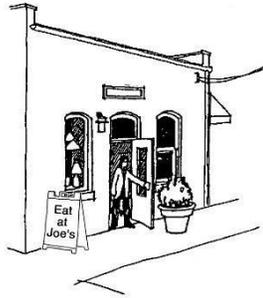


MESSAGE BOARD. A portable sign mounted on wheels or other conveyance mechanism, where the message is temporary with movable, replaceable letters or characters.

MOVING SIGN. A sign that has motion either constantly or at intervals or that gives the impression of movement through intermittent, flashing, twinkling, or varying intensities of illumination.

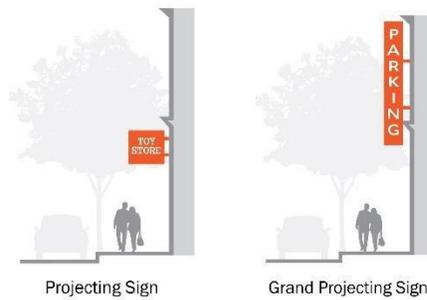
MURAL. A picture or photograph painted on or directly attached to a wall

PORTABLE SIDEWALK SIGN. A temporary sign which may include “A” Frame, “T” Frame, or other temporary styles, which are not permanently affixed to the ground.



Portable Signs

PROJECTING SIGN. A sign constructed as to be attached, at one end, to a building, and extending therefrom.



Projecting Sign

Grand Projecting Sign

ROOF SIGN. A sign which is constructed and maintained on or above the roof of a building or any portion thereof.

SIGN. Any structure or part thereof which includes any numeral, letter, word, emblem, insignia, color pattern, or other design element, that is used to attract attention and to communicate a message or idea represented thereon.

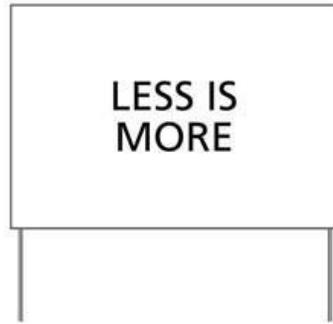
SIGN AREA. The entire area within a rectangle or square enclosing the extreme limits of the sign structure, regardless of the shape of the structure; excluding the necessary supports or uprights on which such sign is placed. **Computation of Sign Area:** Where a sign has two or more faces, the area of all faces shall be included in determining the sign area, except that where two such faces are placed back to back and are at no point more than two (2) feet from one another, the area of the sign shall be taken as either:

- The area of one face, if the two faces are of equal area; or
- The area of the larger face, if the two faces are of unequal area.

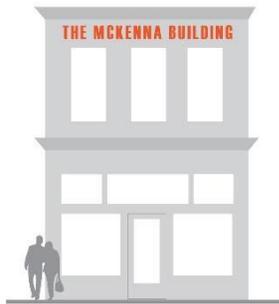
For ground signs, the area shall include the entire area of the sign upon which copy, lettering, drawings or photographs could be placed, excluding necessary uprights or supports.

SIGN HEIGHT. The distance from grade or sidewalk to the highest edge of the sign surface or its projecting structure.

TEMPORARY FREESTANDING SIGN. A sign intended to be displayed for a limited period of time



WALL SIGN. A sign attached to, painted on, inscribed, or otherwise set upon the exterior wall or surface of any building. A sign painted or inscribed on an awning shall also be considered a wall sign.



Building ID Wall Sign

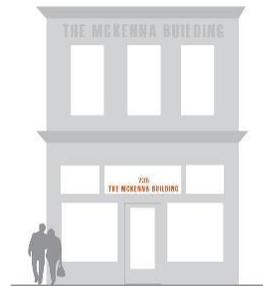


Wall Sign

WINDOW SIGN. A sign, located within a building or affixed upon a window, which is intended to be visible from any public street, sidewalk, alley, park or public property.



Window Sign



Building ID Window Sign

Section 5.103 GENERAL REQUIREMENTS

- A. PERMIT REQUIRED.** Prior to the erection or structural alteration of sign, a zoning compliance permit shall be secured from the Zoning Official. A scale drawing of the outside dimensions of the sign or the total area encompassed by a line around all lettering or symbols shall be presented to the Zoning Official for review. Evidence shall also be presented to the effect that the sign will be securely attached to the building or supporting structure and will not present a hazard. For freestanding signs, a site development plan of the intended location of the sign and a scale drawing of the total sign structure is required.

- B. DESIGN AND CONDITION.** All signs shall be designed to maintain the historic character and charm of the Village. All signs and sign structures shall be properly maintained and kept in a good state of repair.
- C. ILLUMINATION.** Signs may be illuminated provided the source of light (e.g. incandescent bulb, or other form of light source) is not visible from any street or adjoining property and that the source of light not emit more than 2,300 lumens and complies with all other applicable illumination standards of this Ordinance.
- D. RIGHT OF WAY AND CLEAR CORNER VISION.** No sign shall be erected projecting into public right-of-way or dedicated easement, except those by the Village, or other form of government.

No sign at an intersection above a height of thirty (30) inches shall block the view through a triangle formed by two points, one on each cross street, each twelve (12) feet from the intersection, and the straight line connecting them, unless visual under-clearance can be assured on the plans.
- E. WALL SIGN LOCATION.** No wall sign shall extend outside the limits of the building it is attached to, nor project above or beyond the highest point of the roof or parapet. Wall signs shall not cover or otherwise obscure windowsills, lintels, or other projecting architectural details.
- F. DESIGN AND CONDITION.** All signs shall be designed to maintain the historic character and charm of the Village. All signs and sign structures shall be properly maintained and kept in a good state of repair.
- G. TRAFFIC INTERFERENCE.** No sign shall be erected or maintained which simulates or imitates in size, color, lettering, or design any traffic sign or signal or other word, phrase, symbol, or character in such manner as to interfere with, mislead, confuse or create a visual impediment or safety hazard to pedestrian or vehicular traffic.

Section 5.104 EXEMPT SIGNAGE

The following signs are exempt from parts of the provisions of this Ordinance. These signs do not require permits, and can count above and beyond the total maximum allowed area of signage for a property. These signs are still subject to the provisions of this Ordinance with respect to time, placement, materials, illumination, and other requirements.

- A. ADDRESS SIGN.** Up to two (2) square feet of the area of a sign bearing only property numbers, post box numbers, name of occupants of lot, or other identification of the premises. Not more than one address sign is permitted at each public building entrance.
- B. GOVERNMENT SIGN.** Signs erected by on behalf of or pursuant to the authorization of a government body, including legal notices, informational signs, directional, or regulatory signs. These signs are subject to clear corner vision area requirements and shall not exceed a total of twenty (20) square feet on a given property.
- C. HISTORICAL REGISTRY SIGN.** Signs designating sites recognized by the State, subject to clear corner vision area requirements, and not to exceed a total of ten (10) square feet on a given property
- D. STREET SIGN.** Signs erected by the Village, county, state, or federal government for street names, traffic control, or direction and information, subject to clear corner vision area requirements.

Section 5.105 PROHIBITED SIGNS

The following signs are prohibited throughout the Village, notwithstanding anything to the contrary in this Article:

- A.** Signs which incorporate in any manner or are illuminated by any flashing or moving lights, or where any illumination can shine directly into the eyes of any occupant of any vehicle traveling upon any highway, driveway or parking area, or into any window of any residence within 200 feet, or where the illumination interferes with the visibility or readability of any traffic sign or device.
- B.** Any sign or object which has any visible motion, moving or animated parts or image, whether movement is caused by machinery, electronics, wind, or otherwise, except for minor elements of clocks or thermometers.
- C.** Any sign which is damaged, or which is structurally or electrically unsafe, or which obstructs any fire escape.
- D.** Any sign erected on a tree or utility pole.
- E.** Roof signs or any sign which projects above the roof line.
- F.** Any sign or sign part, cable or support, except those established for emergency services purposes and maintained by a public entity, located in, projecting into, or overhanging a public right-of-way or dedicated public easement. The Village Manager or his designee is authorized to cause the removal of any signs posted or placed in any public right-of-way, provided any such sign shall be kept for a period of sixty (60) days for pick up by any person who might claim it, and thereafter may be destroyed by the Village.
- G.** Any sign erected on any property, public or private, without the consent of the owner and occupant thereof.
- H.** Any sign which simulates or imitates in size, color, lettering, or design, any traffic sign or signal or other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse the drivers or motorized vehicles.
- I.** Any sign which incorporates any open spark or flame.
- J.** Backlit awnings or canopies, especially those made of translucent fabric.
- K.** Message board signs and other signs on wheels with manually changeable letters.
- L.** Pylon or pole-mounted signs.
- M.** Any additional signage for a business that has a non-conforming sign.
- N.** Electronic message signs.
- O.** Signs that completely block the view of other signs.
- P.** Signs that contain statements, words, or pictures of an obscene, indecent, or immoral character, such as will offend public morals or decency.

Section 5.106 SUBSTITUTION CLAUSE

In all districts, non-commercial messages are permitted on any sign including signs with commercial messages, subject to the relevant regulations applicable to that sign.

Section 5.107 SEVERABILITY CLAUSE

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this Article is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this Article.

Chapter 5.2 • DISTRICT REGULATIONS

Section 5.201 SIGNS PERMITTED BY ZONING DISTRICT

The following signs are permitted in specified zoning districts and subject to the requirements of this Article:

A. Table 5.1: Sign Types by Zoning District

Sign Type	Residential Districts (R-1, R-2, and R-3)	Commercial District (C-1)	Downtown Districts (MU-1, MU-2, and MU-3)	Industrial District (I-1)
Awning	No	Yes	Yes	Yes
Banner	No	Yes	Yes	Yes
Electronic Display	No	Yes	No	No
Flag	Yes	Yes	Yes	Yes
Marquee	No	Yes	Yes	Yes
Moving	No	No	No	No
Permanent Freestanding	No	Yes	No	Yes
Portable Sidewalk	No	Yes	Yes	No
Projecting	No	Yes	Yes	Yes
Roof	No	No	No	No
Temporary Freestanding	Yes	Yes	Yes	Yes
Wall	No	Yes	Yes	Yes
Window	No	Yes	Yes	Yes

B. Residential Districts (R-1, R-2, R-3)

In the R-1, R-2, and R-3 districts, only the following signs shall be permitted:

1. Up to forty-five (45) square feet in total area of flags, and no more than three (3) total flags at any given time.
2. Up to twelve (12) square feet in total area of temporary freestanding signs, and no more than four (4) total temporary freestanding signs at any given time.

C. Commercial District (C-1)

In the C-1 Commercial district, only the following signs shall be permitted:

1. Up to forty-five (45) square feet in total area of flags, and no more than three (3) total flags at any given time.
2. No more than two total signs with a combined area in square feet no greater than two and one half (2.5) times the building frontage in feet among the following sign types:
 - a. Awning – All awning signs in total may not cover more than 25% of the total awning area.

- b. Marquee – A marquee sign may not exceed ten (10) square feet per face of the marquee sign. For any projecting signs or marquee signs hanging over a sidewalk or other public right-of-way, there must be a minimum of eight (8) feet in clearance under the marquee in a pedestrian or walking area.
 - c. Permanent Freestanding – A permanent freestanding sign may not be more than sixty-four (64) square feet in area. A permanent freestanding sign must be located a minimum of twenty-five (25) feet from the road right-of-way, and must be located a minimum of two hundred (200) feet from adjacent property lines.
 - d. Projecting – A projecting sign may not extend more than four (4) feet from the wall and may not exceed eight (8) square feet in area. For any projecting signs or marquee signs hanging over a sidewalk or other public right-of-way, there must be a minimum of eight (8) feet in clearance under the projecting sign in a pedestrian or walking area.
 - e. Wall – A wall sign may not have an area in square feet of more than 100% of the building frontage in feet.
3. No more than two total signs with a combined area in square feet no greater than one and one half (1.5) times the building frontage in feet among the following sign types:
- a. Banner – A banner may not exceed fifteen (15) square feet in total area.
 - b. Portable Sidewalk – A portable sidewalk sign may not exceed five (5) square feet in area. Any portable sidewalk sign must be located a minimum of 2 feet and a maximum of 10 feet from a building entrance.
 - c. Temporary Freestanding – A temporary freestanding sign may not exceed four (4) square feet in area.
 - d. Window – All window signs in total may not cover more than 15% of the total window area.

D. Downtown Districts (MU-1, MU-2, MU-3)

In the MU-1, MU-2, and MU-3 districts, only the following signs shall be permitted:

- 1. One flag up to fifteen (15) square feet in area. For flags hanging over a sidewalk or other public right-of-way, there must be a minimum of eight (8) feet in clearance under the flag in a pedestrian or walking area.
- 2. No more than two total signs with a combined area in square feet no greater than two (2) times the building frontage in feet among the following sign types:
 - a. Awning – All awning signs in total may not cover more than 25% of the total awning area.
 - b. Marquee – A marquee sign may not exceed ten (10) square feet per face of the marquee sign. For any projecting signs or marquee signs hanging over a sidewalk or other public right-of-way, there must be a minimum of eight (8) feet in clearance under the marquee in a pedestrian or walking area.
 - c. Projecting – A projecting sign may not extend more than four (4) feet from the wall and may not exceed eight (8) square feet in area. For any projecting signs or marquee signs hanging over a sidewalk or other public right-of-way, there must be a minimum of eight (8) feet in clearance under the projecting sign in a pedestrian or walking area.
 - d. Wall – A wall sign may not have an area in square feet of more than 75% of the building frontage in feet.

3. No more than two total signs with a combined area in square feet no greater than one (1) times the building frontage in feet among the following sign types:
 - a. Banner – A banner may not exceed fifteen (15) square feet in total area.
 - b. Portable Sidewalk – A portable sidewalk sign may not exceed five (5) square feet in area. Any portable sidewalk sign must be located a minimum of 2 feet and a maximum of 10 feet from a building entrance.
 - c. Temporary Freestanding – A temporary freestanding sign may not exceed four (4) square feet in area.
 - d. Window – All window signs in total may not cover more than 15% of the total window area.
4. Only signs made of high quality materials such as wood and metal shall be permitted in the downtown districts.

E. Industrial District (I-1)

In the I-1 Industrial district, only the following signs shall be permitted:

1. Up to fifteen (15) square feet in total area of flags, and no more than three total flags at any given time.
2. No more than two total signs with a combined area in square feet no greater than three (3) times the building frontage in feet among the following sign types:
 - a. Awning – All awning signs in total may not cover more than 25% of the total awning area.
 - b. Marquee – A marquee sign may not exceed ten (10) square feet per face of the marquee sign. For any projecting signs or marquee signs hanging over a sidewalk or other public right-of-way, there must be a minimum of eight (8) feet in clearance under the marquee in a pedestrian or walking area.
 - c. Permanent Freestanding – A permanent freestanding sign may not be more than sixty-four (64) square feet in area. A permanent freestanding sign must be located a minimum of twenty-five (25) feet from the road right-of-way, and must be located a minimum of two hundred (200) feet from adjacent property lines.
 - d. Projecting – A projecting sign may not extend more than four (4) feet from the wall and may not exceed eight (8) square feet in area. For any projecting signs or marquee signs hanging over a sidewalk or other public right-of-way, there must be a minimum of eight (8) feet in clearance under the projecting sign in a pedestrian or walking area.
 - e. Wall – A wall sign may not have an area in square feet of more than 100% of the building frontage in feet.
3. No more than two total signs with a combined area in square feet no greater than one and one half (1.5) times the building frontage in feet among the following sign types:
 - a. Banner – A banner may not exceed fifteen (15) square feet in total area.
 - b. Temporary Freestanding – A temporary freestanding sign may not exceed twenty (20) square feet in area.
 - c. Window – All window signs in total may not cover more than 15% of the total window area.

F. Corridor Overlay District (CO)

In the Corridor Overlay (CO) district, the signs on each property shall be regulated as part of the underlying zoning district in which the property is located.

ARTICLE

6

ADMINISTRATION & ENFORCEMENT

Chapter 6.1 • ADMINISTRATIVE ORGANIZATION

Section 6.101 OVERVIEW

The Village Manager, or his designee, is responsible for enforcing the provisions of this Ordinance with the administrative responsibilities vested in the following Village entities:

- A. Village Council.**
- B. Planning Commission.**
- C. Zoning Board of Appeals.**
- D. Zoning Enforcement Officials**, which shall include the Village Manager and his designee(s).

The purpose of this Chapter is to set forth the scope of authority of these entities.

Section 6.102 VILLAGE COUNCIL

The Village Council shall have the following responsibilities and authority pursuant to this Ordinance.

- A. ADOPTION OF ZONING ORDINANCE AND AMENDMENTS.** In accordance with the intent of this Ordinance, and pursuant to the authority conferred by Michigan Public Act 110 of 2006, as amended, the Village Council shall have the authority to adopt this Ordinance, any amendments to this Ordinance which have been previously considered by the Planning Commission or at a hearing, or as decreed by a court of competent jurisdiction.
- B. SETTING OF FEES.** The Village Council shall, by resolution, have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. In the absence of specific action taken by the Village Council to set a fee for a specific permit or application, the Village Manager shall assess the fee based on the estimated costs of processing and reviewing the permit or application.

Section 6.103 PLANNING COMMISSION

- A. CREATION.** The Village Planning Commission is created pursuant to Michigan Public Act 33 of 2008, as amended. The Planning Commission shall have all the powers and duties provided for zoning commissions created pursuant to Michigan Public Act 110 of 2006, as amended.
- B. JURISDICTION.** The Planning Commission shall discharge the following duties:
 - 1. Review, revise, and enforce the Zoning Ordinance.**
 - 2. Site Plan Approval.**
 - 3. Special Land Use Approval.**
 - 4. Master Plan.**
 - 5. Other Duties and Responsibilities.** The Planning Commission shall be responsible for review of plats and any other matters relating to land development referred to the Commission by Village Council. The Planning Commission shall recommend appropriate regulations and action on such matters.

Section 6.104 ZONING BOARD OF APPEALS (ZBA)

- A. CREATION.** A five member Zoning Board of Appeals is hereby created, referred to as the Board of Appeals, which shall perform its duties and exercise its powers and jurisdiction, to the end that the objectives of this Ordinance are observed, public safety and general welfare secured, and substantial justice done. The Board of Appeals shall fix rules and regulations to govern its procedures.
- B. MEMBERSHIP.** Members of the Board of Appeals shall be appointed by the President of the Village of Three Oaks subject to confirmation by the Village Council. The membership shall serve at the pleasure of the Village Council for three year terms. The Village Council may appoint two alternate members who shall serve in the absence of any member(s) or serve in the instance that a member must be recused from any matter before the Board.
- C. JURISDICTION.** The Board of Appeals shall hear and decide on all matters relating to the following:

 - 1. **Generally.** Hear and decide on all matters referred to it by the provisions of this Ordinance.
 - 2. **Appeals from Administrative Decisions.** Hear and decide appeals from, and review any order, requirement, decision or determination made by the building, planning, or public services department in the enforcement of this Ordinance.
 - 3. **Interpretation.** Interpret the text of this Ordinance and the boundary of any zoning ordinance district as depicted on the Official Zoning Map.
 - 4. **Issue Variances and Warrants.** Where there are practical difficulties or unnecessary hardships, within the meaning of state law and this Ordinance, in the way of carrying out the strict letter of this ordinance, the Zoning Board of Appeals shall have the power upon appeal in specific cases to authorize such variation or modification of the provisions of this Ordinance so that the spirit of this Ordinance shall be observed, public safety and welfare secured and substantial justice done.

Section 6.105 ZONING ENFORCEMENT OFFICIALS

- A. ESTABLISHMENT OF THE ENFORCEMENT OFFICIALS.** The provisions of this Ordinance shall be administered by the Village Zoning Enforcement Officials. Duties shall be the administration of this Ordinance, including issuance of all zoning compliance statements whether an individual statement or as part of the issuance of a building permit pursuant to the Village Building Code, acceptance of any and all applications required in the administration of the Ordinance any other duties assigned or delegated to the Zoning Official by the Village Council or any other law regulation or Ordinance of the State of Michigan or the Village of Three Oaks.

The enforcement of this Ordinance shall be administered and enforced by the Enforcement Officer designated by and responsible to the Village Council.

- B. JURISDICTION.** Zoning Enforcement Officials shall have the following powers:

 - 1. **Form of Application, Permits and Certificates.** To prescribe the form of all applications, permits (including a Zoning compliance permit when required by the terms of this Ordinance), and certificates required under the terms of the ordinance. If no form is prescribed, a written document in the form of a letter requesting permission, in the case of an application stating precisely what permission is requested, or granting permission, in the case of a permit, stating precisely what permission is granted will suffice.
 - 2. **Receive Applications.** Receive and examine and certify completeness of all applications for permits, certificates, variances, and all other applications required under this Ordinance.

3. **Refer Applications to the Planning Commission or Board of Appeals.** Upon a finding that an application is complete, must refer all applications for permits, certificates, variances, special use permits and any other applications to the appropriate body
4. **Issue or Refuse Permits.** Issue permits for constructions, alternation, and occupancy of those uses which comply with Ordinance requirements.
5. **Issue Notice of Violation.** To issue a written notice of violation to each violator of this Ordinance, stating the nature of the violations with duplicate copies of the notice sent to the Planning Commission.
6. **Make Recommendations.** To make recommendations to the Planning Commission or Board of Appeals for any action deemed necessary.
7. **Records.** To keep records of applications, permits, or certificated issued, of variances and special use permits granted, inspections made, any report issued and notices or orders issued.
8. **Additional Duties and Powers.** Perform all other duties, and may exercise all other powers and privileges, as provided by this Ordinance.

Chapter 6.2 • SITE PLAN REVIEW

Section 6.201 PURPOSE

The purpose of site plan review is to determine the following:

- A. Compliance with this Zoning Ordinance;
- B. To promote the orderly development and redevelopment of the Village through an open and predictable review process;
- C. To promote the stability of land values and investments and the general welfare of the community;
- D. To help prevent the impairment or depreciation of land values and development/redevelopment by the erection of structures or additions thereto without proper attention to siting and appearance;
- E. To require the gradual upgrade of existing sites that do not conform with current standards of this Zoning Ordinance; and
- F. To ensure that the arrangement, location, design and materials within a site are consistent with the character of the Village and the goals and objectives of the Master Plan.

Section 6.202 TYPE OF SITE PLAN REQUIRED

NEW DEVELOPMENT. The Zoning Official shall not issue a statement of zoning compliance or issue a building permit for any proposed development in the R-2 and R-3 Residential, C-I Commercial, MU-1, MU-2, MU-3 Mixed districts, I-1 Industrial districts, or for any use requiring more than four (4) parking spaces in the R-1 Residential district except a single-family dwelling proposed for construction as an allowable use in these districts or as otherwise required in this Ordinance until a site plan has been reviewed and approved by the Planning Commission.

EXISTING DEVELOPMENT. The Zoning Official, upon review of a site plan for the addition to, modification of, or the demolition of any part of a legally conforming existing building or structure and upon finding the modification, addition to, modification of, or the demolition thereof conforms with the specifications of the district in which the property is located, shall issue a statement of zoning compliance or a building permit, provided the proposed action is in compliance with all other applicable laws and ordinances.

BUILDING FACADE PLAN. The Zoning Official shall not issue a statement of zoning compliance or building permit for any proposed development in the MU Mixed Use Districts until a building facade plan has been reviewed and approved by the Planning Commission.

APPLICATION PROCEDURES. An application for site (and building facade plan, when required) plan review shall be submitted twenty (20) days prior to the next scheduled Planning Commission meeting through the Zoning Official, who will review the application and plans for completeness, then transmit the application and site plan to the Planning Commission

Section 6.203 PRELIMINARY SITE AND BUILDING FACADE PLAN REVIEW

Preliminary sketches of proposed site and other development plans, including building facade plans, when required, may be submitted for review to the Planning Commission prior to final site plan submission. The purpose of such procedure is to allow discussion between the applicant and the Planning Commission and when determined by the Planning Commission, the Downtown Development Authority to better inform the

applicant of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for a final site plan.

- A. PRELIMINARY SITE PLANS SHALL INCLUDE, AS A MINIMUM, THE FOLLOWING:**
1. Legal description of the property.
 2. Small scale sketch of properties, streets, and uses of land of all properties abutting or across the street from the subject property.
 3. A generalized map, schematic plans and building sketches showing any existing or proposed arrangement of: Streets and lots; access points and other transportation arrangements; buffer strips, fences, wall and screening; natural characteristics including, but not limited to, open space, stands of trees, brooks, ponds, floodplain, hills, and similar natural assets; signs - location and lighting; buildings and other structures; architectural style, exterior surface materials, and the exterior surface color of all building facades that are viewable from a public street or right-of-way; and a Hazardous Material Report form for site plan review and state and/or County environmental permit checklist, as required by any applicable ground water protection ordinance adopted by the Village.
 4. A narrative declaration including: the overall objectives of the proposed development; number of acres (or square feet) allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space; dwelling unit densities by type; proposed method of providing sewer and water service as well as other public and private utilities; and proposed method of providing storm drainage.
- B. FACADE PLANS SHALL INCLUDE, AS A MINIMUM, THE FOLLOWING:** A generalized map, schematic plans and building sketches showing the existing proposed changes to the architectural style exterior surface materials and exterior surface color of all building facades viewable from a public street.
- C. PLANNING COMMISSION REVIEW OF PRELIMINARY SITE PLAN.** The Planning Commission shall review the preliminary site plan and make recommendations to the applicant at the regular Planning Commission meeting based on the purposes, objectives, and requirements of this Ordinance.
- D. PLANNING COMMISSION REVIEW OF FACADE PLAN.** The Planning Commission shall review the building facade plan and make recommendations based on approved downtown Plans and/or Design and Appearance Standards and Guidelines.

Section 6.104 FINAL SITE PLAN REQUIREMENTS

Each final site plan submitted for review shall have a sheet size of at least twenty four (24) inches by thirty six (36) inches and shall include the following information and such any other information as may be required by the Planning Commission from its review of the preliminary site plan:

- A. DESCRIPTIVE AND IDENTIFICATION DATA**
1. Applicant's name and address, and telephone number.
 2. Title block indicating the name of the development.
 3. Scale.
 4. Northpoint.
 5. Dates of submission and revisions (month, day, and year).
 6. Location map drawn to scale with northpoint.
 7. Legal and common description of property.
 8. The dimensions of all lots and property lines, showing the relationship of the site to abutting properties. If the site is a part of a larger parcel, the plan should indicate the boundaries of total land holding.
 9. A schedule for completing the project, including the phasing or timing of all proposed developments.
 10. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared plan.
 11. Written description of proposed land use.

12. Zoning classification of applicant's parcel and all abutting parcels.
13. Proximity to driveways serving adjacent parcels.
14. Proximity to intersection corner and major thoroughfares.
15. Notation of any variances which have or must be secured.
16. Net acreage (minus rights-of-way) and total acreage, to the nearest 1/10 acre.

B. SITE DATA

1. Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within 100 feet of the site.
2. Front, side, and rear setback dimensions.
3. Topography on the site and within 100 feet of the site at two foot contour intervals, referenced to a U.S.G.S. benchmark.
4. Proposed site plan features, including buildings, roadway widths and names, and parking areas.
5. Dimensions and centerlines of existing and proposed roads and road rights-of-way.
6. Acceleration, deceleration, and passing lanes, where required.
7. Proposed location of driveway entrances and on-site driveways.
8. Typical cross-section of proposed roads and driveways.
9. Location of existing drainage courses, floodplains, lakes and streams, with elevations.
10. Location and dimensions of wetland areas. If deemed necessary because of site or soil conditions or because of the scope of the project, a detailed hydrology study may be required.
11. Location of sidewalks within the site and within the right-of-way.
12. Exterior lighting locations and method of shielding lights from shining off the site.
13. Trash receptacle locations and method of screening, if applicable.
14. Transformer pad location and method of screening, if applicable.
15. Parking spaces, typical dimensions of spaces, indication of total number of spaces, drives, and method of surfacing.
16. Information needed to calculate required parking in accordance with Zoning Ordinance standards.
17. The location of lawns and landscaped areas, including required landscaped greenbelts.
18. Landscape plan, including location, size, type and quantity of proposed shrubs, trees and other live plant material, and method of irrigation.
19. Location, sizes, and types of existing trees five (5) inches or greater in diameter, measured at one (1) foot off the ground, before and after proposed development.
20. A summary table shall be provided as part of the landscape plan, listing the required landscaping for the project and clearly indicating how each requirement is satisfied by the plan.
21. Location and description of all easements for public right-of-way, utilities, access, shared access, and drainage.
22. Designation of fire lanes.
23. Loading/unloading area.
24. The location of any outdoor storage of materials and the manner by which it will be screened.

C. BUILDING AND STRUCTURE DETAILS

1. Location, height, and outside dimensions of all proposed buildings or structures.
2. Indication of the number of stores and number of commercial or office units contained in the building.
3. Building floor plans.
4. Total floor area.
5. Location, size, height, and lighting of all proposed signs.
6. Proposed fences and walls, including typical cross-section and height above the ground on both sides.
7. Building facade elevations, drawn to a scale of one (1) inch equals four (4) feet, or another scale approved by the Village and adequate to determine compliance with the requirements of this Ordinance. Elevations of proposed buildings shall indicate type of building materials, roof design, projections, canopies, awnings and overhangs, screen walls and accessory

building, and any outdoor or roof-located mechanical equipment, such as air conditioning units, heating units, and transformers, including the method of screening such equipment.

8. Such equipment shall be screened from view of adjacent properties and public rights of way. Such screening shall be designed to be perceived as an integral part of the building design.

D. INFORMATION CONCERNING UTILITIES, DRAINAGE, AND RELATED ISSUES

Schematic layout of existing and proposed sanitary sewers and septic systems; water mains, well sites, and water service leads; hydrants that would be used by public safety personnel to service the site; and, the location of gas, electric, and telephone lines. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store, or transport stormwater or wastewater. The point of discharge for all drains and pipes.

- E. OTHER DATA WHICH MAY BE REQUIRED.** Other data may be required if deemed necessary by the Village administrative officials, Planning Commission, or Village Council to determine compliance with the provisions in this Ordinance. Such information may include traffic studies, market analysis, environmental assessment and evaluation of the demand on public facilities and services.

Section 6.105 FINAL SITE PLAN REVIEW

PLANNING COMMISSION REVIEW OF FINAL SITE PLAN. The Planning Commission shall review the final site plan and either approve, deny or approve with conditions the final site plan based on the purposes, objectives and requirements of this Ordinance, and specifically the considerations listed above.

To insure compliance with the final site plan and any conditions imposed under the Ordinance, the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Planning Commission and Village Attorney covering the estimated cost of improvements associated with a project for which zoning approval is sought, be deposited with the Village Clerk to insure faithful completion of the improvements. The performance guarantee shall be filed with the Village Clerk prior to the issuance of a building permit by the Building Inspector for any portion of the project.

Each development shall be under construction within one (1) year after the date of final approval by the Planning Commission. If said applicant does not fulfill this provision, the Planning Commission may grant a sixty (60) day extension provided the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties but is ready to proceed. Should neither of the aforementioned provisions be fulfilled or a sixty (60) day extension has expired, without commencement of construction, the site development plan shall be null and void.

The Planning Commission shall undertake and complete all site plan reviews within sixty (60) days of submission of all required information by the applicant. Upon approval of said plan, the Chairman of the Planning Commission shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the Planning Commission's files and one (1) shall be forwarded to the Zoning Official for issuance of a building permit. The third copy shall be returned to the applicant. In the case of any dispute, the signed copy of copy retained by the Planning Commission shall serve as final evidence of the decision of the Planning Commission.

The Planning Commission recognizes that not all applications to be submitted for consideration under the terms of this Article will require full compliance with the submission requirements. An applicant may propose or the Zoning Official may accept an application not fulfilling all of the submission requirements when in the opinion of the Zoning Official that the submission materials are sufficient for the Planning Commission to render a decision on the applicant's request. Upon submission of an application, the Planning Commission may request and the applicant shall provide such additional information as deemed necessary to fulfill the review and approval responsibilities of this Article.

Chapter 6.3 • SPECIAL LAND USE REVIEW

Section 6.301 PURPOSE

The procedures and standards set forth in this section are intended to provide a consistent and uniform method for review of proposed plans for special land uses.

In hearing and deciding upon special land use approvals, the Planning Commission shall base its actions on the theory that the development and execution of a comprehensive zoning ordinance is founded upon the division of the Village into districts, within which districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are variations in the nature of special uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

Section 6.302 APPLICATION

An application for permission to establish a special use shall be submitted in accordance with the following procedures:

APPLICATION. Applications for a special land use shall be submitted twenty days prior to the next scheduled Planning Commission meeting. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Village Council. No part of this fee shall be refundable.

An application for a special land use permit shall be accompanied by the following information:

- A. A completed application form.
- B. A site plan, as specified in Article 6, Chapter 2.
- C. Other information which the Planning Commission may reasonably deem necessary for review.

PUBLIC HEARINGS. The Village shall schedule a public hearing in accordance with Article 6, Chapter 7.

Section 6.303 PLANNING COMMISSION REVIEW AND DETERMINATION

Following the public hearing, the Planning Commission shall review the special land use application, together with the public hearing findings and reports / recommendations of the Village Planner, Building Official, the Police and Fire Department, the Village Engineer, and any other reviewing agencies. The Planning Commission is authorized to deny, approve, or approve with conditions requests for special land use approval. Such a decision shall include the standards relied upon, finding of fact, conclusions, and conditions, if any.

Section 6.304 BASIS FOR DETERMINATION

The Planning Commission shall review the particular circumstances of the special use application under consideration in terms of the special use standards, and shall approve a special land use only upon a finding of compliance with each of the following standards, as well as site plan and other applicable standards.

- A. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area (including location, scale, and intensity).
- B. The special land use shall not change the essential use of the surrounding area.

- C. The proposed special land use shall promote the use of land in a socially and economically desirable manner. The special land use shall not adversely impact the social and economic well-being of those who will use the proposed land use or activity; residents, businesses, and landowners immediately adjacent; or the Village as a whole.
- D. The special land use shall minimize the impact of the traffic generated by the proposed use with consideration given to the following: proximity and access to major thoroughfares; number of curb cuts and shared access points; impact on traffic patterns; proximity and relation to intersections; location of and access to off-street parking; required vehicular turning movements; and pedestrian/ non-motorized traffic.
- E. The special land use shall not be hazardous to adjacent property, or involve uses, activities, materials, or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, or glare.
- F. The special land use shall not place demands on public services and facilities in excess of current capacity.
- G. The special land use shall be compatible with the natural environment.
- H. The special land use shall be compatible with and in accordance with the general principles and future land use configuration of the Village Master Plan and shall promote the intent and purpose of this Ordinance.

Section 6.305 CONDITIONS

The Planning Commission may impose reasonable conditions with the approval of a special land use permit. Conditions imposed shall further one or more of the following criteria:

- A. Conditions shall be designed to protect natural resources, the health, safety, welfare, and 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. Such considerations may include, but are not limited to vehicular or pedestrian traffic, compatibility with the Master Plan, potential impact on surrounding land uses, off-site impacts, and aesthetic quality. Conditions shall be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- C. Conditions shall be necessary to meet the intent and purpose of the Zoning Ordinance, related to the standards established in the Ordinance for the land use or activity under consideration, and necessary to ensure compliance with those standards.

Section 6.306 EFFECTIVE DURATION

Special land use approval shall be valid for a period of 180 days of the date of approval by the Planning Commission. After 180 days or if the use is discontinued through vacancy of the premises, lack of operation or otherwise discontinued for a continuous period of 180 days, the special land use shall lapse and be null and void.

Upon written request received by the Village prior to the expiration date, the Planning Commission may grant one extension of up to 180 days, provided that the approved special land use exception conforms to current Zoning Ordinance standards.

Section 6.307 AMENDMENT

When an application is received to expand or change the use, traffic pattern, or other elements of a special land use, the application shall be subject to the same procedures followed for an original special land use approval.

Section 6.308 REVOCATION

Approval of a special land use and site plan may be revoked by the Planning Commission if it is found that it no longer meets the standards of this Ordinance. The special land use shall be placed on the Planning Commission agenda and written notice to the applicant shall be given at least fifteen days prior to the meeting.

Chapter 6.4 • AMENDMENTS

Section 6.401 INITIATION OF AMENDMENT

The Village Council may, on its own motion, by the Planning Commission, or on petition, amend, supplement, modify, or change this Ordinance in accordance with the authority of Public Act 110 of 2006, as amended.

Section 6.402 AMENDMENT PROCESS

The amendment and application materials shall be prepared in accordance with the following provisions:

- A. APPLICATION.** An application (on a form provided by the Village), shall be filed with the Zoning Official, who shall transmit the application to the Planning Commission, if the application did not originate from the Planning Commission.
- B. TECHNICAL REVIEW.** Prior to the Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate Village staff, applicable outside agencies, and designated consultants for review.
- C. PUBLIC HEARING.** A public hearing shall be held for all proposed amendments in accordance with Article 6, Chapter 7.
- D. PLANNING COMMISSION CONSIDERATION.** Following the public hearing, the Planning Commission shall review the proposed amendment application, together with any reports / recommendations from staff, consultants, other reviewing agencies, and public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the *Criteria for Amendments*, as listed in Article 6, Chapter 4, and report its findings and recommendation to Village Council.
- E. VILLAGE COUNCIL DECISION.** Upon receipt of the report and recommendation from the Planning Commission, the Village Council may approve or deny the proposed amendment. If determined to be necessary, the Village Council may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the official Zoning Map, the Village Council shall approve or deny the amendment, based upon its consideration of the criteria of this Chapter.

Section 6.403 RE-APPLICATION

Whenever an application for an amendment to this Ordinance has been denied by Village Council, a new application for the same amendment shall not be accepted by the Planning Commission for consideration for a period of 180 days, unless the Planning Commission determines that one or more of the following conditions has been met:

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

Section 6.404 CRITERIA FOR AMENDMENTS

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

- A. Consistency with the goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.
- B. Compatibility of the site’s physical, geological, hydrological, and other environmental features with the uses permitted in the proposed zoning district.
- C. Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- D. The capacity of Village’s utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the Village.
- E. The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
- F. The boundaries of the requested rezoning district are reasonable in relationship to the surroundings and construction on the site will be able to meet the dimensional regulations for the requested zoning district.
- G. If a rezoning is appropriate, the requested zoning district is considered to be more appropriate from the Village’s perspective than another zoning district.
- H. If the request is for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or conditional uses in the current zoning district to allow the use.
- I. The requested rezoning will not create an isolated or incompatible zone in the neighborhood.

Section 6.405 CONDITIONAL REZONING

- A. The Village Council, following a public hearing and recommendation by the Planning Commission, may approve a petition for a rezoning with conditions requested by a property owner. The standards of this section shall grant a property owner the option of proposing conditions for the development and use of property in conjunction with an application for rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.
- B. **CONDITIONAL REZONING AGREEMENT.** The conditions attached to the rezoning shall be set forth by submitting a conditional rezoning agreement listing the proposed conditions. A conditional rezoning agreement shall contain the following information:
 - 1. A statement acknowledging that the rezoning with conditions was proposed by the applicant to induce the Village to grant the rezoning, and that the Village relied upon such proposal and would not have granted the rezoning but for the terms spelled out in the conditional rezoning agreement; and, further agreement and acknowledgment that the conditions and conditional rezoning agreement are authorized by all applicable state and federal laws and constitutions, and that the agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the Village.
 - 2. Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the conditional rezoning agreement.

3. Agreement and understanding that the approval and conditional rezoning agreement shall be binding upon and inure to the benefit of the property owner and Village, and their respective heirs, successors, assigns, and transferees.
4. The date upon which the rezoning with conditions becomes void, as specified in below. If an extension of approval is granted by the Village Council, a new conditional rezoning agreement with the new expiration date shall be recorded.
5. Agreement and understanding that, if a rezoning with conditions becomes void in the manner provided below, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.
6. Agreement and understanding that each of the requirements and conditions in the conditional rezoning agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved rezoning with conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.
7. A legal description of the property affected by the rezoning with conditions.
8. Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.
9. Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the agreement.
10. A conditional rezoning agreement may contain a conditional rezoning plan as an attachment, with such detail and inclusions proposed by the applicant and approved by the Village Council in accordance with this Section, following recommendation by the Planning Commission. Inclusion of a conditional rezoning plan as an attachment to a conditional rezoning agreement shall not replace the requirement for preliminary and final site plan, subdivision, condominium, or special land use review and approval, as the case may be.
11. Amendment. A proposed amendment to a conditional rezoning agreement shall be reviewed and approved in the same manner as a new rezoning with conditions.
12. Period of approval. Unless extended by the Village Council for good cause, the rezoning with conditions shall expire following a period of two (2) years from the effective date of the rezoning unless bona fide development of the property pursuant to approved building and other permits required by the Village commences within the two-year period and proceeds diligently and in good faith as required by ordinance to completion.
13. Expiration. In the event bona fide development has not commenced within two years from the effective date of the rezoning, the rezoning with conditions and the conditional rezoning agreement shall be void and of no effect. The landowner may apply for a one-year extension one time. The request must be submitted to the Village clerk before the two-year time limit expires. The landowner must show good cause as to why the extension should be granted.
14. Effect of expiration. If the rezoning with conditions becomes void in the manner provided in this section, either or both of the following actions may be taken:
 - i. The property owner may seek a new rezoning of the property; and/or

- ii. By the automatic reverter set forth in MCL 125.584g, the land shall revert to its former zoning classification upon the approval of a resolution by the Village Council.
- 15. Zoning map. If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned accompanied by a reference to "CR Conditional rezoning." The zoning map shall specify the new zoning district plus a reference to CR. By way of example, the zoning classification of the property may be "C-1 district with CR conditional rezoning," with a zoning map designation of "C-1 CR."
- 16. Review and approval process. An application for a rezoning with conditions shall be reviewed following the same process and procedures applicable to a rezoning set forth in Article 6 with the exception that the conditional rezoning agreement shall be executed between the applicant and the Village Council at the time of Village Council approval of a rezoning with conditions.
- 17. Recordation of a conditional rezoning agreement. A rezoning with rezoning conditions shall become effective following publication in the manner provided by law, and after recordation of the conditional rezoning agreement with the county register of deeds, whichever is later.
- 18. Violation of conditional rezoning agreement. If development and/or actions are undertaken on or with respect to the property in violation of the conditional rezoning agreement, such development and/or actions shall constitute a nuisance per se. In such case, the Village may issue a stop work order relative to the property and seek any other lawful remedies. Until curative action is taken to bring the property into compliance with the conditional rezoning agreement, the Village may withhold, or, following notice and an opportunity to be heard, revoke permits and certificates in addition to or in lieu of such other lawful action to achieve compliance.

Chapter 6.5 • VARIANCES, WARRANTS & APPEALS

Section 6.501 Standards for Approval

The Board of Appeals shall consider the following standards with respect to the application:

- A. That the application demonstrated special conditions and circumstances which exist that are particular to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
- B. That the literal interpretation of the provisions of this Ordinance would deprive the applicant of right commonly enjoyed by other proprietaries in the same district under the terms of this Ordinance.
- C. That the special conditions and circumstances do not result from the actions of the applicant.
- D. That issuance of a variance would not validate the use of an existing nonconforming of building, structure or use land as it currently exists.
- E. That the variance requested is the minimum variance which would make possible reasonable use of the land, buildings or structures.
- F. That the Board of Appeals can issue a statement of positive findings that the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- G. The Board of Appeals has established such appropriate conditions and safeguards to assure conformity with the terms of this Ordinance which shall be attached as conditions of the variance.

Section 6.503 Abandonment of a Board of Appeals Action

If any appeal or variance is not put into effect within six (6) months of the date of approval by the Board, is discontinued through vacancy of the premises, lack of operation or otherwise for a continuous period of six (6) months, then the special permit or variance shall lapse and be null and void. Future use of said property shall conform in its entirety to the provisions of this Ordinance; however, the Board of Appeals, for good cause, may grant an extension of time, not to exceed six (6) months, to comply or to continue such special permit or variance if, in its judgment, such extension is necessary in order to avoid injustice or undue hardship to the owners of the property.

Chapter 6.6 • NONCONFORMITIES

Section 6.601 INTENT

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of the Ordinance or amendment. Such nonconformities are declared by this Ordinance to be incompatible with the current or intended use of land in the district in which they are located.

It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their continuation. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Accordingly, the purpose of this section is to establish regulations that govern the completion, restoration, reconstruction, extension, and/ or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such work shall be deemed to be actual construction, provided that such work shall be diligently carried on until completion of the building involved.

Section 6.602 REPAIR AND ALTERATION OF NONCONFORMING USES

Maintenance and repairs of a building or other structure continuing a nonconforming use are permitted provided that such repairs do not extend the area or volume of space occupied by the nonconforming use, except as provided in Section 6.605.

Section 6.603 NONCONFORMING RESIDENTIAL DWELLING ALTERATION PERMITTED

A building or other structure containing residential nonconforming uses may be altered in any way to improve its livability provided that no such alternation may be made which will increase the number of dwelling units or volume of the building.

Section 6.604 CHANGE OF USE

A nonconforming use may be changed only to a conforming use. A nonconforming use may not be extended to displace a conforming use, nor may a building or structure regardless of the conformity or ownership, be combined with another building or structure, for the purpose of extending an existing nonconforming use or creating a different nonconforming use.

Section 6.605 ENLARGEMENT

A nonconforming use, building, or structure may be enlarged up to but no more than twenty-five (25) percent of its floor area as it existed at the date of adoption of the Ordinance amendment. Any such enlargement(s) must conform to all other Ordinance and / or regulations governing the district in which it is situated. This provision may be employed any number of times provided that the total enlargement(s) of the building or structure does not exceed the twenty-five (25) percent limitation as herein set forth. A Notice of Zoning Nonconformance shall be issued to show the size of such enlargement(s) at the date construction commenced and for each amendment thereto approved pursuant to this section.

Section 6.606 RESTORATION OF NONCONFORMING USE

A nonconforming building or structure damaged by fire, casualty, or other catastrophe in excess of fifty (50) percent of the structure's pre-catastrophe fair market value (as determined by the Assessor) may be restored, reconstructed and used as before provided that the volume of such use, building or structure shall not exceed, subject to the provision of this Section, the volume which existed prior to such damage and that any such restoration or reconstruction be substantially completed with-in one year or the occurrence of the damage.

Section 6.607 TIME OF TERMINATION

A nonconforming use shall be deemed to be permanently discontinued when such use has been discontinued or when there is evidence that the use and / or structure has been abandoned, such a prolonged vacancy, delinquent taxes, or other indicators, in excess of one (1) year.

Section 6.608 NONCONFORMING LOTS IN RESIDENTIALDISTRICTS

A single-family detached dwelling may be erected on a vacant lot located in a residentially zoned district allowing the construction of a single-family dwelling, provided such lot was nonconforming on February 14, 1974 provided the dwelling conforms to the yard setback requirements:

- A. **FRONT YARD.** The front yard shall conform to front yard setback requirement of the subject district.
- B. **SIDE YARD.** There shall be a side yard of no less than five (5) feet.
- C. **SIDE YARD STREET FRONTAGE.** The side yard shall be not less than twenty (20) feet.
- D. **REAR YARD.** There shall be a rear yard no less than eight (8) feet.

Section 6.609 VILLAGE REMOVAL OF NONCONFORMING USES AND STRUCTURES

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the Village, pursuant to Public Act 110 of 2006, as amended, may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of the nonconformity.

Chapter 6.7 • PUBLIC HEARING PROCESS

Section 6.701 PURPOSE

This Chapter shall present the basic provisions which shall apply to the following applications that require a public hearing: Amendments (including Rezoning), Variances / Warrants, and Special Land Uses.

Section 6.702 PUBLIC NOTICE

The following public notice procedure shall apply for any public hearing:

- A. NOTICE CONTENTS.** The notice shall contain the following information, where applicable:
- i. A description of the nature of the application and the purpose of the public hearing;
 - ii. A statement indicating the applicable sections of the Zoning Ordinance;
 - iii. A legal description and, when known, the address of the property;
 - iv. A statement of when and where the public hearing will be held;
 - v. A statement of when and where written comments can be sent concerning the application.
- B. NEWSPAPER PUBLICATION AND WRITTEN NOTIFICATION.** The general requirements for newspaper publication and written notification shall be as indicated in the following table:

Action Requested	Newspaper Publication Requirement	Written Notification Requirements
Adoption of a New Zoning Ordinance (1, 6)	Notices of public hearings must be published in a newspaper of general circulation within the Village not less than 15 days prior to the date of the hearing.	5
Ordinance Amendment (1, 7)		5
Rezoning (1, 7) ²¹		See footnote
Special Land Use		3
Variance / Warrant (2)		4

FOOTNOTES

1. The Planning Commission must hold at least one public hearing.
2. The Zoning Board of Appeals must hold a public hearing.
3. Notices must be mailed to owners and occupants of all properties and structures within 300 feet of the subject site, including those outside of the Village, if applicable. Notices must be postmarked not less than 15 days prior to the date of the hearing.
4. Notification of a dimensional variance request must be sent by mail to the owners and occupants of all property and structures within 300 feet of the subject site, including outside of the Village if applicable. Notification of an ordinance interpretation or decision appeal need not be sent by mail to surrounding property owners and occupants unless the interpretation or decision appeal involves a specific parcel, in which case notification must be sent by mail to the owners and occupants of all property within 300 feet of the subject site. Notices must be postmarked not less than 15 days prior to the date of the hearing.
5. Notice must be mailed to each electric, gas and pipeline utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and each airport manager, that has registered its name and mailing address with the Clerk to receive such notice. Notices must be postmarked not less than 15 days prior to the date of the hearing.
6. A property owner may request by certified mail, addressed to the Clerk, that the Village Council hold a public hearing to hear comments on a proposed ordinance provision (adoption of a new ordinance, ordinance amendment, or rezoning). Newspaper publication and written notification requirements shall be made as set forth in this Section for the corresponding type of proposed ordinance provision. It shall be the responsibility of the property owner requesting the public hearing to pay for the costs incurred by the Village for notification of the public hearing.

²¹ For a rezoning, if 10 or fewer adjacent properties are involved, notice must be sent by mail to the owners and occupants of all property and structures within 300 feet of the subject site, including those outside of the Village, if applicable. If 11 or more adjacent properties are involved, no additional notification is necessary and addresses may be omitted from the notice published in the newspaper. Notices must be postmarked not less than 15 days prior to the date of the hearing.

ARTICLE

7

DEFINITIONS

Chapter 7.1 • GENERALLY

Section 7.101 RULES OF CONSTRUCTION

The following rules of construction apply to the text of this Ordinance.

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive and discretionary.
- D. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A “building” or “structure” includes any part thereof.
- F. The phrase “used for” includes “arranged for”, “designed for”, “intended for”, “maintained for”, or “occupied for”.
- G. The word “person” includes an individual, a corporation, a partnership, a public utility, an incorporated association, or any other similar entity.
- H. Unless the context clearly indicates the contrary, or a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, “either . . . Or”, the conjunction shall be interpreted as follows:
 - 1. “And” indicates that all the connected items, conditions, provisions, or events shall apply.
 - 2. “Or” indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
 - 3. “Either . . . Or” indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- I. Terms not herein defined shall have the meaning customarily assigned to them.

Section 7.102 GENERAL DEFINITIONS

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

ADJACENT. Lots are adjacent when at least one boundary line of one lot touches a boundary line or lines of another lot. Exception: when the only touching boundary lines are located within a road easement or right-of-way.

ALLEY. A public or legally established private thoroughfare, other than a street, which affords a secondary means of vehicular access to abutting property.

ALTERATIONS. Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls, partitions, columns, beams, girders; or any change which may be referred to herein as “altered” or “reconstructed.”

ANIMAL (LARGE). A large animal shall mean a horse, cow, sheep, goat, pig, ostrich, or similar size fowl, including chickens and other poultry, or other similar creatures which are also associated with traditional farming or animal husbandry purposes.

ANIMAL (SMALL). A small animal shall mean a dog, cat, bird, reptile, mammal, fish or other nonhuman creature that can be kept in a relatively small or confined space and normally treated as a pet.

BLOCK. The property abutting one side of a street and lying between the two nearest intersecting streets; or between one intersecting street and a railroad right-of-way, unsubdivided acreage, river or live stream or between any of the foregoing and any other barrier to the continuity of development.

BUILDABLE AREA. The buildable area of a lot is the space remaining after compliance with the minimum required setbacks of this Ordinance.

BUILDING. A structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or property. This shall include tents, awnings, or vehicles situated on private property and used for purposes of a building.

BUILDING HEIGHT. The vertical distance measured from the bottom of the floor joists or floor slab of the first story to the highest point of the roof for flat roofs; and to the deck line of mansard roofs; and to the average height between eaves and ridges for gable, hip, and gambrel roofs. Where buildings have multiple or conflicting roof styles, the most restrictive method of measurement applies.

COURT. A yard, other than a required open space, on the same lot with a building or group of buildings, and which is bounded on two or more sides by such building or buildings.

DISTRICT. This term is synonymous with the term “zone” or “zone district” is a portion of the Village of Three Oaks within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

ERECT. Build, construct, attach, hang, place, suspend, affix, move upon, or any physical operations on the premises required for the building. Excavation, fill, drainage, and the like, shall be considered a part of erection.

FAÇADE. That portion of any exposed exterior elevation of a building extending from grade to top of the parapet, wall or eaves and the entire width of the exposed building elevation.

FAMILY. An individual or group of two or more persons related by blood, marriage or adoption, together with foster children of the principal occupants, with not more than two 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 nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition does not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

FLOOR AREA.

Gross Floor Area. The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The “floor area” of a building, which is what this normally is referred to as, includes the basement floor area when more than one-half (½) of the basement height is above the established curb level or finished lot grade, whichever is higher. Any space devoted to off-street parking or loading shall not be included in floor area. Areas of basements, utility rooms, breezeways, unfinished attics, porches (enclosed or unenclosed) or attached garages are not included.

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

JUNK. “Junk” in addition to including garbage and rubbish shall mean any motor vehicles, machinery, appliances, product, merchandise with parts missing, or scrap metals or other scrap materials that are damaged, deteriorated, or are in a condition which renders them incapable of performing the function for which they were intended.

LOT. A lot of record or a parcel of land including, in addition to the land required to meet the regulations of this ordinance, all of the land area shown in a request for a zoning compliance permit, used or intended to be used as the site for a principal and accessory building or use.

LOT AREA. The total horizontal area within the lot lines of a lot. For lots fronting or adjacent to private streets, lot area shall be interpreted to mean that area within lot lines separating the lot from the private street, and not the centerline of such private street.

LOT, CORNER. A lot where the interior angle of two adjacent sides at the intersection of the two streets is less than 135 degrees. A lot abutting upon a curved street shall be considered a corner lot for the purposes of this ordinance if the arc is a radius of less than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended form an interior angle of less than 135 degrees.

LOT COVERAGE. The part or percent of the lot occupied by buildings or structure, including accessory building or structures.

LOT DEPTH. The mean horizontal distance measured from the front street right-of-way line to the rear lot line.

LOT, DOUBLE FRONTAGE. Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of such lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

LOT, INTERIOR. Any lot other than a corner lot.

LOT LINE. Any line dividing one lot from another lot, or from a street right-of-way or from any public place:

Front Lot Line. In the case of an interior lot, the line separating such lot from the street. In the case of a corner or through lot, the line separating such lot from that street which is designated as the front street in the request for zoning compliance permit.

Rear Lot Line. The lot boundary opposite the most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to the farthest from the front lot line, not less than ten feet long and wholly within the lot.

Side Lot Line. A side lot line is any lot line not a front lot line or a rear lot line. A side lot line separating a lot from a side street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Side Street Lot Line. In the case of a corner lot, the side street lot line is the line separating such lot from the street which is not designated as the front street in the plat or in the application for a building permit or zoning occupancy permit.

Lot, of Record. A parcel of land, which is set forth as a separate parcel on any plat on record with the county register of deeds or any parcel which has been separated therefrom in accordance with the provisions of the Plat Act, and which exists as described.

Lot, Through. A double-frontage lot having a street for both front and rear lot lines.

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

MASTER PLAN. A comprehensive plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the Village and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

NONCONFORMITIES.

Nonconforming Structure. A structure or portion thereof lawfully existing at the effective date of this ordinance or amendments thereto that does not conform to ordinance provisions for the district in which it is located, but is otherwise in compliance with all other applicable federal, state, county and Village laws, ordinances, regulations and codes.

Nonconforming Use of Land. A use that lawfully occupied a parcel or contiguous parcels of land or structure and land in combination at the effective date of this ordinance or amendments thereto that does not conform to the use regulations of the district in which it is located, or does not have special approval where provisions of this Ordinance require such approval, but is otherwise in compliance with all other applicable federal, state, county and Village laws, ordinances, regulations and codes.

Nonconforming Lot of Record. A platted or unplatted parcel of land lawfully existing at the effective date of this Ordinance or amendments thereto that does not conform to ordinance provisions for the district in which it is located.

Nonconforming Site. A parcel of land that was developed or improved with structures and other site improvements prior to the date of adoption of current zoning ordinance provisions for site design, landscaping, pedestrian access, exterior lighting, paving and other site elements.

Illegal Structure. A structure or portion thereof, which is not a conforming or a nonconforming structure, or is not in compliance with all applicable federal, state, county and Village laws, ordinances, regulations and codes.

Illegal Use of Land. A use that occupies one or more contiguous parcels of land, or structures and land in combination, which is not a conforming or a nonconforming use, or is not in compliance with all applicable federal, state, county and Village laws, ordinances, regulations and codes.

Cessation. To terminate, abandon or discontinue a use of land for a period of time that, under the provisions of this ordinance, would prevent the use from being resumed.

OCCUPIED. Including the word “occupancy” shall mean in fact used at the time in question.

OFF-STREET LOADING SPACE. An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

PARKING LOT. A land area for the parking of automobiles consisting of more than three parking spaces. Off-street parking required in relation to one-family dwelling residential use is not include in this definition.

PARKING SPACE. An area of land adequate to carry out the regulations of Article 4, Chapter 2.

PLANNING COMMISSION. The Planning Commission of the Village as designated in accordance with Public Act No. 33 of 2008.

PORCH, ENCLOSED. A covered entrance to a building or structure which is totally enclosed, which projects out from the main wall of such building or structure and which has a separate roof or an integral roof with the principal building or structure to which it is attached.

PORCH, OPEN. A covered entrance to a building or structure which is unenclosed, except for columns supporting the porch roof, which projects out from the main wall of such building or structure and which has a separate roof or an integral roof with the principal building or structure to which it is attached.

PUBLIC UTILITY. Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under state or municipal regulations, to the public, electricity, gas, steam, communication, telegraph, transportation, water, or sewer.

SETBACK, REQUIRED. The distance required to obtain the front, side or rear open space or buffer strip stipulated in this Ordinance.

SITE PLAN. A plan to scale, showing uses and structures proposed for parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, building, major landscape features-both natural and manmade; and, depending on requirements, the locations of proposed utility lines.

SPECIAL LAND USE PERMIT. A use specified in this Ordinance as permissible in a specific use district only after special conditions are met.

STORY. That part of a building, other than a mezzanine, included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor thereof. Specifically:

Top Story Attic. A half story when the main line of the eaves is not above the middle of the interior height of said story.

First Story. The highest story having its interior floor surface not more than four feet above the curb level, or the average elevation of the finished grade along the front of the building were it set back from the street.

Basement. That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement. A basement is considered a story if over fifty percent (50%) of its height is above the level from which the height of the building is measured.

Half-story. that part of a building between a pitched roof and the uppermost full story, such part having a floor area which does not exceed one-half ($\frac{1}{2}$) of the floor area of such full story, provided the area contains at least two hundred (200) square feet, with a clear height of at least seven (7) feet six (6) inches.

STREET. A dedicated and accepted public street, or a permanent unobstructed private easement of access with a roadway suitable for vehicular travel at least ten feet wide which affords the principal means of vehicular access to abutting property; such private easement having a right-of-way of 60 feet or more, excepting where an easement of access of lesser width exists prior to the adoption of this Ordinance.

STRUCTURE. Any constructed or erected materials or combination of materials the use of which requires location on or connection to the ground; including, but not limited to buildings, stadia, radio towers, sheds, storage bins, fences and signs.

USE, ACCESSORY. A subordinate use which is customarily incidental to the principal use on the same lot.

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

YARD. An open space other than a courtyard located on the same lot as a main building or use, unoccupied or unobstructed from the ground upward, except as otherwise provided herein. In measuring to determine the width of a yard, the minimum horizontal distance between the lot line and the main building shall be used.

Front yard. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line, a proposed right-of-way as indicated on the master thoroughfare plan, or a private road easement used for ingress and egress, whichever is closest to the building which is to be located on the property, and the nearest point of the main building.

Rear yard. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line or zoning district line, whichever is closer to the building, except for changes in the zoning districts involving only residential zoning districts, a proposed right-of-way as indicated on the master thoroughfare plan, or a private road easement used for ingress and egress, whichever is closest to the building which is to be located on the property, and the nearest point of the main building.

Side yard. An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line or zoning district line, whichever is closer to the building, except for changes in the zoning districts involving only residential zoning districts, a proposed right-of-way as indicated on the master thoroughfare plan, or a private road easement used for ingress and egress, whichever is closest to the building which is to be located on the property, and the nearest point of the main building.

Side street yard. The area extending between the front yard and the rear yard situated between the side street lot line and the face of the principal building which is parallel to, or most nearly parallel to, the side street lot line.

Required yard. A yard, as defined herein, that occupies the area of a required setback

Non-required Yard. A yard, as defined herein, that occupies the area between a required setback line and a principal building.

ZONING BOARD OF APPEALS. The Zoning Board of Appeals of the Village of Three Oaks.

Section 7.103 USE DEFINITIONS

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

ACCESSORY BUILDING OR STRUCTURE. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having permanent location on the ground, and that is intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot or parcel as the principal use to which it is exclusively related.

AUTOMOBILE SERVICE (COMMERCIAL). A place of business serving auto-related needs including, but not limited to: gas station, car wash, or mechanic offering routine service, minor repairs or customization. Minor repairs generally include any repair or service that does not require removal of the engine head, transmission, or differential. Major mechanical work; body repair work; painting; welding; storage of vehicles not in operating condition; commercial parking lots or garages; or any work involving undue noise, glare, fumes or smoke are automobile service (industrial) uses and are not considered automotive commercial establishments. Vehicle sales or auto parts sales that occur entirely within an enclosed building

are considered retail sales (indoor). Vehicle sales or any sales activity that occurs outdoors are considered retail sales (unrestricted outdoor).

BAR, TAVERN, OR ALCOHOL SERVICE ESTABLISHMENT. A place of business selling alcoholic beverages for consumption on the premises, and where the sale of food may be incidental to the sale of such beverages. This includes any establishment in receipt of a valid alcoholic beverage license from the state which permits the sale of alcoholic beverages for consumption on the premises as the principal use (such uses are listed in Section 537 (mcl 436.1537) of the Michigan Liquor Control Act, PA 58 of 1998, as amended). Manufacturers of alcoholic beverages that are not listed in Section 537 of PA 58 of 1998 (as amended) shall be considered a manufacturing and processing use for the purposes of compliance with this Ordinance.

BED AND BREAKFAST. A group of 10 or fewer lodging units located in a one family dwelling unit that may provide services for dining, meeting, or recreation.

CHILD CARE CENTER OR DAY CARE CENTER. A facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents are not immediately available to the child, as defined in Public Act 116 of 1973.

DRIVE-THROUGH FACILITY. A business establishment so developed that its retail or service character includes a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, or to provide self-service for patrons and food carryout.

EDUCATIONAL FACILITY.

College or University. A facility for post-secondary education that grants associate, bachelor, master, or doctoral degrees and that may include research functions or professional schools.

Primary or Secondary. A facility offering instruction at the pre-school to high school level.

Vocational. A facility offering instruction or training in trades or occupations such as secretarial, paralegal, business, beauty, barber, bartender, acupuncture, massage, design, or other similar vocations. This classification excludes training and education in any activity that is not otherwise permitted in the zoning district.

FINANCIAL INSTITUTION. A business that offers financial services.

GREENHOUSE / NURSERY. A building whose roof and sides are made largely of glass or other transparent or translucent material, and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or personal enjoyment. As defined in this section, a greenhouse or nursery is a principal use when the greenhouse or nursery includes retail sales on the site, or when the total area of greenhouses or buildings involved in the nursery use have lot coverage of greater than 10%.

HOME OCCUPATION. An occupation or profession customarily carried on by the occupant of a dwelling unit at the dwelling as a secondary use that is clearly subservient to the use of the dwelling for residential purposes.

HOTEL. A group of more than 25 lodging units that may provide services for dining, meeting, or recreation.

KEEPING OF HOUSEHOLD ANIMALS OR PETS. The keeping of ordinary household animals or pets within the dwelling or accessory building.

KENNELS. The breeding or raising of three or more dogs, cats, or other household pets of three months age or older 1) not owned by the owner or occupant of the premises or 2) for commercial gain.

MANUFACTURING, FABRICATION AND PROCESSING (LIGHT). The finishing or processing of materials from premade or pre-structured materials or components, and where the operations create little or no noise,

odor, vibration, glare, and air/water pollution. The operating characteristics of these uses create little or no impact on surrounding properties.

This type of use includes, but is not limited to the following uses or products: Textile Product Mills; Apparel Manufacturing; Computer and Electronic Product Manufacturing; Miscellaneous Manufacturing.

MANUFACTURING, FABRICATION AND PROCESSING (HEAVY). A manufacturing establishment whose operations include storage of materials; processing, fabrication, or assembly of products; and loading and unloading of new materials and finished products. These uses do not produce or use in large quantities as an integral part of the manufacturing process toxic, hazardous, or explosive materials. Because of the nature of its operations and products, little or no noise, odor, vibration, glare and/or air/water pollution is produced, and therefore, these uses have minimal impact on surrounding properties.

This definition includes, but is not limited to the following uses or products: Food Manufacturing (except Other Oilseed Processing, Fats and Oils Refining and Blending, Sugarcane Mills, Cane Sugar Refining, Beet Sugar Manufacturing, Animal (except poultry) Slaughtering, Rendering and Meat Byproduct Processing, Poultry Processing, Seafood Canning, Fresh and Frozen Seafood Processing, and Spice and Extract Manufacturing); Soft Drink Manufacturing; Bottled Water Manufacturing; Textile Mills; Leather and Allied Product Manufacturing; Wood Product Manufacturing (except Wood Preservation); Paper Manufacturing (except Pulp Mills, Paper (except newsprint) Mills, Newsprint Mills, and Paperboard Mills); Printing and Related Support Activities; Plastics and Rubber Products Manufacturing (except Tire Manufacturing); Fabricated Metal Product Manufacturing (except Iron and Steel Forging and Nonferrous Forging); Machinery Manufacturing; Electrical Equipment, Appliance, and Component Manufacturing; Transportation Equipment Manufacturing; Furniture and Related Product Manufacturing; and Publishing Industries.

MINI-WAREHOUSE. A building or group of buildings containing separate storage spaces used for the storage of personal property.

MIXED USE BUILDING. A building containing a mixture of residential and non-residential uses.

MEDICAL CLINIC. A facility for examining and treating patients with medical problems on an outpatient basis, including ambulatory care or similar medical services that generally require a stay of less than 24 hours. Medical clinics include immediate care or urgent care facilities, where emergency treatment is the dominant form of care provided at the facility.

MULTIPLE FAMILY APARTMENT BUILDING. A building used exclusively for residential purposes containing five or more residential dwelling units. A multiple-family structure where units are available for lease or rent for periods of less than one month shall be considered a lodging use.

RECYCLING CENTER. A facility at which recoverable resources such as newspapers, magazines, glass, metal, cans, plastic materials, tires, grass and leaves, and similar items (except mixed, unsorted municipal or medical waste) are collected, stored, flattened, crushed, banded, or separated by grade or type; compacted banded, or packaged for shipment to others for the manufacture of new products.

RESEARCH FACILITY. A facility for research and development of technical, medical, biological, or other similar fields or products that does not involve the use of animal husbandry, incinerators, heavy equipment, mass manufacturing, fabrication, processing, or the sale of products.

OFFICE. A room or group of rooms used for conducting a business profession, service, or government. Such facilities may include, but are not limited to, offices of attorneys, engineers, architects, physicians, dentists, accountants, finance companies, real estate companies, insurance companies, financial planners, or corporate offices. Offices exclude manufacturing activities, but may include research and development activities.

OUTDOOR DINING (SIDEWALK OR PATIO). Areas located outdoors in the open air or under canopies that are open to the elements where food or drinks are served to patrons. Outdoor dining may occur on a public sidewalk, or on a patio, deck, rooftop, or other similar location located on private property.

OUTDOOR STORAGE OR OUTDOOR YARD. A use involving primarily the keeping of personal or business property or motor vehicles outside of a building, or a use where the use is characterized primarily by its outdoor component. Examples of such uses include, but are not limited to contractor's supply yards, lumber yards, recreational vehicle storage yards, and commercial vehicle storage.

PARK OR RECREATION FACILITY. An open area designed for the active and/or passive use of the general public and which may or may not contain playground or exercise facilities and equipment. Parks or recreation facilities may be privately owned, so long as they are not operated as a for-profit enterprise

PERSONAL SERVICE ESTABLISHMENT. An establishment or place of business primarily engaged in the provision of maintenance of items worn or carried by persons. Such services are usually but not always recurrent in nature. Examples of personal service uses include, but are not limited to, beauty and barber shops, shoe repair shops, health spas, therapeutic massage, tailor shops, and the like.

PET BOARDING FACILITY. A business for the temporary boarding and care of common household pets. Boarding generally occurs during daytime hours, but may include overnight boarding. Pet boarding facilities may provide related services such as retail sales, grooming, or training, but no animals may be bred or sold at a pet boarding facility.

PLACE OF ASSEMBLY. A commercial facility for public assembly including, but not limited to arenas, auditoriums, conference facilities, banquet facilities, convention centers, exhibition halls, and theatres and performing arts centers.

PRIVATE CLUB, FRATERNAL ORGANIZATION, OR LODGE HALL. A membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of dues paying members and their guests.

PUBLIC PARKING LOT/STRUCTURE. A publicly owned, or privately owned for-profit parking facility available to the general public for parking motor vehicles, including both parking lots and parking structures.

RELIGIOUS INSTITUTION. A facility used for regular organized religious worship and related activities, including living quarters for church ministry or other members of the religious order who carry out their duties primarily on the site, religious education classes, and limited recreation facilities.

REGULATED USE. A use which because of its very nature, is recognized as having serious or objectionable operational characteristics, particularly when several of them are concentrated within close proximity to each other. Concentrations of such uses often create deleterious effects upon adjacent areas or uses, particularly single family residential neighborhoods. Regulated uses include:

Pawn Shops. A person, corporation, or member, or members of a co-partnership or firm, who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

Second Hand Stores. A commercial enterprise specializing in the sale of used and second hand items and in receiving donations of items from customers. Such enterprises may include, but are not limited to, used bookstores, consignment shops, thrift stores, and surplus stores.

Sexually Oriented Businesses. A business characterized by an emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" of "Specified Anatomical Areas" (as defined below), for observation by patrons therein. "Specified Sexual Activities", for the purposes of this Section are defined as follows:

- i. Human male genitals in a state of sexual stimulation or arousal;
- ii. Acts of human masturbation, sexual intercourse or sodomy;
- iii. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

“Specified Anatomical Areas” are defined as follows:

- i. Less than opaquely covered; (i) human genitals, pubic region, (ii) buttock and (iii) female breast below a point immediately above the top of the areola:
- ii. Human male genitals in discernible turgid state, even if completely and opaquely covered.

RESTAURANT. A place of business dedicated to the preparation and sale of food and beverage for immediate consumption on or off site.

RETAIL SALES. Any generally recognized retail business that supplies commodities on the premises to the general public where all sales and display of goods shall occur entirely indoors. Commodities supplied may include groceries and similar food products for consumption off the premises.

External off-site impacts for retail sales establishments are in the majority of cases directly and proportionately related to the size of the retail establishment. These impacts include traffic and parking generation, truck deliveries, and building scale in relation to surrounding development. There are three categories of indoor retail sales establishment, distinguished by the size of the ground floor area:

- i. Retail Sales (small). Up to 10,000 square feet of gross first floor sales area on the site or within the development.
- ii. Retail Sales (medium). Between 10,001 and 50,000 square feet of gross first floor sales area on the site or within the development.
- iii. Retail Sales (large). Greater than 50,000 square feet of first floor sales area on the site or within the development.

SALVAGE YARDS/RESOURCE RECOVERY FACILITIES/JUNK YARDS. A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled. Examples of such uses include but are not limited to automobile wrecking yards, house wrecking and structural steel materials and equipment, but not including the purchase or storage of used equipment in operable condition or used or salvageable materials as part of manufacturing operations.

SERVICE AND REPAIR (INDUSTRIAL). Establishments primarily engaged in providing services to commercial and business establishments. Operations may include large-scale facilities, and including but not limited to building maintenance services, laundry or dry cleaning plants, equipment rental and leasing, refrigeration service and repair, welding repair, armature rewinding shops, and the like.

SINGLE FAMILY DWELLING UNIT. A building designed exclusively for residential occupancy by not more than one household.

SUSTAINABLE ENERGY GENERATION.

- i. **Small Wind Energy System.** A wind energy conversion system consisting of a wind turbine, tower or axis, blades or blade system, and associated control or conversion electronics primarily intended to reduce on-site consumption of utility power.
- ii. **Solar Energy System.** A cell, panel, or array that converts solar energy to usable thermal, mechanical, chemical, or electrical energy, including any energy storage devices.

TEMPORARY AND SPECIAL EVENT. A use established for a fixed period of time with the intent to discontinue such use upon the expiration of such time that does not involve the construction or alteration of any permanent structure. Such uses include, but are not limited to fairs, outdoor dances, temporary displays, circuses, and other similar activities including the provision of food and beverages for consumption on premises (provided such food operations and facilities meet Health Department standards).

TOWNHOUSE (3+ UNITS). A building containing three or more dwelling units where each dwelling unit is divided by a party wall extending the full height of the building with no visible separation between walls or roof, and where dwelling units have a horizontal separation but not a vertical separation. Each townhouse dwelling is capable of individual use and maintenance without trespassing on adjoining dwellings and

access, and utilities and service facilities are independent for each dwelling. Each dwelling unit has a first floor entrance into the unit directly from the exterior of the building.

TWO FAMILY DWELLING UNIT. A building designed exclusively for residential occupancy by two dwelling units with the character of a single family structure, and with separate kitchen, sleeping, and sanitary facilities for each household.

WIRELESS TELECOMMUNICATION FACILITIES. Wireless telecommunication support facilities and antennas.

WHOLESALE STORAGE/DISTRIBUTION (NONTOXIC, NONHAZARDOUS). Establishments primarily engaged in selling durable and nondurable goods to retailers; industrial, commercial, institutional, farm, building trade contractors, or professional business uses; or to other wholesalers. Activities may include physically assembling, sorting, and grading goods into large lots and breaking bulk for redistribution in smaller lots. Operations with more than 25 percent of sales to retail customers are considered a retail use, and shall be located in an appropriate zone.

WORKSHOP/SHOWROOM. Offices and showrooms for plumbers, electricians, decorators, contractors, or similar uses such as the repair or servicing of goods or products other than motor vehicles where goods or services associated with the service use are displayed, offered, or serviced. Goods offered for sale may be produced on the site.

UTILITY (MINOR). The erection, construction, alteration or maintenance by public utilities or municipal departments which are necessary for the furnishing of adequate services by such utilities or municipal departments for the general health, safety or welfare., and that include underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, buildings with a footprint of less than 990 square feet, and similar equipment in connection therewith, but not including outdoor storage yards or substations.

UTILITY (MAJOR). The erection, construction, alteration or maintenance by public utilities or municipal departments of any utility facility that includes utility buildings with a footprint greater than 990 square feet, substations, and storage yards.