CODE OF ORDINANCES

VILLAGE OF

ONTONAGON, MICHIGAN

Published in 2024 by Order of the Village Council

PROOFS

municode
POWERED BY CIVICPLUS

info@municode.com | 800.262.2633 | www.municode.com
P.O. Box 2235 Tallahassee, FL 32316

PROOFS

OFFICIALS

of the

VILLAGE OF

ONTONAGON, MICHIGAN

AT THE TIME OF THIS RECODIFICATION

[Name of Mayor]
Mayor

[Council Member]
[Council Member]
[Council Member]
Village Council

[Name of Village Manager]
Village Manager

[Name of Attorney]
Village Attorney

[Name of Village Clerk]
Village Clerk

PROOFS

PROOFS

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the Village of Ontonagon, Michigan.

Source materials used in the preparation of the Code were the 1995 Code, as supplemented through July 10, 2017, and ordinances subsequently adopted by the village council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1995 Code, as supplemented, and any subsequent ordinance included herein.

Acknowledgments

This publication was under the direct supervision of Sandra S. Fox, Senior Code Attorney, and Caroline M. Spinks, Editor, of CivicPlus, LLC, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Willie DuPont, Village Manager, and Kori Weisinger, Village Clerk, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the village readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the village's affairs.

PROOFS

Copyright

All editorial enhancements of this Code are copyrighted by CivicPlus, LLC, and the Village of Ontonagon, Michigan. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of CivicPlus, LLC, and the Village of Ontonagon, Michigan.

© Copyrighted material.

CivicPlus, LLC, and the Village of Ontonagon, Michigan. 2024.

PROOFS

TABLE OF CONTENTS

CODE OF ORDINANCES 4
CHAPTER 1. GENERAL PROVISIONS 4
CHAPTER 2. ADMINISTRATION 9
ARTICLE I. IN GENERAL 9
ARTICLE II. VILLAGE COUNCIL 9
ARTICLE III. OFFICERS AND EMPLOYEES 15
DIVISION 1. GENERALLY 15
DIVISION 2. VILLAGE MANAGER 16
ARTICLE IV. BOARDS AND COMMISSIONS 18
DIVISION 1. GENERALLY 18
DIVISION 2. PLANNING COMMISSION 18
DIVISION 3. MARINA COMMISSION 19
DIVISION 4. RECREATION COMMISSION 20
ARTICLE V. FINANCE 21
ARTICLE VI. SPECIAL ASSESSMENTS 21
ARTICLE VII. CITATION METHOD OF CODE ENFORCEMENT 26
CHAPTER 3. RESERVED 30
CHAPTER 4. ANIMALS 31
ARTICLE I. IN GENERAL 31
ARTICLE II. CARE AND CONTROL 32
CHAPTER 5. RESERVED 33
CHAPTER 6. BUILDINGS AND CONSTRUCTION (RESERVED) 34
CHAPTER 7. RESERVED 47
CHAPTER 8. BUSINESSES 48
ARTICLE I. IN GENERAL 48
ARTICLE II. JUNKYARDS 48
ARTICLE III. TRANSIENT MERCHANTS 49
ARTICLE IV. MARIHUANA RELATED BUSINESSES 50
CHAPTER 9. RESERVED 56
CHAPTER 10. COMMUNITY DEVELOPMENT 57
ARTICLE I. IN GENERAL 57
ARTICLE II. DOWNTOWN DEVELOPMENT AUTHORITY 57
DIVISION 1. GENERALLY 57
DIVISION 2. TAX INCREMENT FINANCING PLAN 61
CHAPTER 11. RESERVED 63
CHAPTER 12. ENVIRONMENT 64
ARTICLE I. IN GENERAL 64
ARTICLE II. SAND AND GRAVEL PITS 64
ARTICLE III. TREES AND NOXIOUS WEEDS 64
ARTICLE IV. FLOOD DAMAGE CONTROL 66
DIVISION 1. GENERALLY 66
DIVISION 2. FLOOD HAZARD REDUCTION 71
DIVISION 3. ADMINISTRATION 72
CHAPTER 13. RESERVED 77
CHAPTER 14. FIRE PREVENTION AND PROTECTION 78
ARTICLE I. IN GENERAL 78
ARTICLE II. FIRE DEPARTMENT 78
ARTICLE III. OUTDOOR AND OPEN BURNING 79
ARTICLE IV. HAZARDOUS MATERIALS 85

PROOFS

CHAPTER 15. RESERVED 87
CHAPTER 16. OFFENSES AND NUISANCES 88
ARTICLE I. IN GENERAL 88
ARTICLE II. OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS 89
ARTICLE III. OFFENSES AGAINST THE PERSON 90
ARTICLE IV. OFFENSES AGAINST PROPERTY 91
DIVISION 1. GENERALLY 91
DIVISION 2. THEFT 91
DIVISION 3. DESTRUCTION OF PROPERTY 92
DIVISION 4. TRESPASS 93
ARTICLE V. OFFENSES AGAINST PUBLIC PEACE 94
ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS 95
DIVISION 1. GENERALLY 95
DIVISION 2. PROSTITUTION 96
DIVISION 3. GAMBLING* 97
ARTICLE VII. OFFENSES AGAINST PUBLIC SAFETY 98
DIVISION 1. GENERALLY 98
DIVISION 2. JUNK AND JUNK VEHICLES 102
ARTICLE VIII. OFFENSES ON SCHOOL GROUNDS 104
ARTICLE IX. OFFENSES INVOLVING MINORS 105
DIVISION 1. GENERALLY 105
DIVISION 2. CURFEW* 106
CHAPTER 17. RESERVED 108
CHAPTER 18. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES 109
ARTICLE I. IN GENERAL 109
ARTICLE II. SIDEWALK CONSTRUCTION AND MAINTENANCE 109
CHAPTER 19. RESERVED 111
CHAPTER 20. TRAFFIC AND VEHICLES 112
ARTICLE I. IN GENERAL 112
ARTICLE II. STOPPING, STANDING AND PARKING 114
DIVISION 1. GENERALLY 114
DIVISION 2. DISABLED MOTOR VEHICLES 114
ARTICLE III. SNOWMOBILES 115
ARTICLE IV. OFF-ROAD VEHICLES 116
ARTICLE V. TOURIST-ORIENTED DIRECTIONAL SIGNS 119
CHAPTER 21. RESERVED 139
CHAPTER 22. UTILITIES 140
ARTICLE I. IN GENERAL 140
ARTICLE II. WATER UTILITY 140
ARTICLE III. SEWER UTILITY 153
APPENDIX A. ZONING* 164
ARTICLE 1. INTRODUCTORY PROVISIONS 164
ARTICLE 2. ZONING INTENT AND PURPOSES 167
ARTICLE 3. ORDINANCE AND DISTRICT OVERVIEW 169
ARTICLE 4. USE OVERVIEW AND MATRIX 173
ARTICLE 5. GENERAL PROVISIONS 192
ARTICLE 6. SCHEDULE OF REGULATIONS – TRADITIONAL ZONING DISTRICTS 238
ARTICLE 7. FORM-BASED ZONING DISTRICTS 261
ARTICLE 8. RESERVED FOR FUTURE USE 289
ARTICLE 9. CONDITIONAL AND SPECIAL LAND USE REGULATIONS 289
ARTICLE 10. PLANNED UNIT DEVELOPMENT (PUD) 323
ARTICLE 11. RESERVED FOR FUTURE USE 333
ARTICLE 12. RESERVED FOR FUTURE USE 333

PROOFS

ARTICLE 13. NONCONFORMING LOTS, BUILDINGS, STRUCTURES, AND USES.....333
ARTICLE 14. ZONING ADMINISTRATION 335
ARTICLE 15. RULES OF MEASUREMENT AND DEFINITIONS.....384

PROOFS

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, Village of Ontonagon, Michigan," and may be so cited. Such Code may also be cited as the "Ontonagon Village Code."

(Code 1995, § 1-1)

Sec. 1-2. Definitions and rules of construction.

(a) It is the legislative intent of the village council, in adopting this Code, that all provisions and sections of this Code are liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the village. In the construction of this Code and any amendment thereto, the following rules and definitions shall be observed, unless the context clearly indicates otherwise:

Code. The term "this Code" or "Code" means the Code of Ordinances, Village of Ontonagon, Michigan, as designated in section 1-1.

Computation of time. The time within which an act is to be done, as provided in this Code or in any order issued pursuant to this Code, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day is Sunday or a legal holiday it shall be excluded; and when the time is expressed in hours, the whole of Sunday or a legal holiday, from midnight to midnight, shall be excluded if the time period expires on a Sunday or legal holiday.

County. The term "the county" or "this county" means the County of Ontonagon in the State of Michigan.

Delegation of authority. A provision that authorizes or requires a township officer or township employee to perform an act or make a decision or authorizes such officer or employee to act or make a decision through subordinates.

Fee schedule. The term "fee schedule" means the comprehensive schedule of village fees as approved from time to time by the village council, a copy of which is on file in the office of the village clerk.

Gender. Terms of one gender include all other genders. ~~A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations and to all neuter objects as well as to males.~~

MCL. The abbreviation "MCL" means the Michigan Compiled Laws, as amended or revised, and any successor statute. ~~*MCL/MSA.* The abbreviation ``MCL" means the Michigan Compiled Laws, as amended. The abbreviation ``MSA" means the Michigan Statutes Annotated, as amended.~~

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

Oath, affirmation, sworn, affirmed. The tern "oath" shall be construed to include the word "affirmation" in all cases where by law an affirmation may be substituted for an oath; and in like cases the word "sworn" shall be construed to include the word "affirmed."

Officer, department, board, commission or other agency. Whenever any officer, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the Village of Ontonagon, Michigan." Whenever by the provisions of this Code any officer of the village is assigned any duty or empowered to perform any act or duty, reference to such officer shall mean and include such officer or his deputy or authorized subordinate.

Or/and. The term "or" may be read "and" and the term "and" may be read "or" if the sense requires it.

PROOFS

Person. The term "person" includes firms, joint ventures, partnerships, corporations, clubs and all associations or organizations of natural persons, either incorporated or unincorporated, howsoever operating or named, and whether acting by themselves or by a servant, agent or fiduciary, and all federal, state and local agencies of government, as well as natural persons, and includes all legal representatives, heirs, successors and assigns thereof.

Public Acts. All references to "Public Acts" are references to Michigan Public Acts.

Public place. The terms "public place" means any place to or upon which the public resorts or travels, whether such place is owned or controlled by the village or any agency of the state, or is a place to or upon which the public resorts or travels by custom, or by invitation, expressed or implied.

Shall, may. The term "shall" is considered mandatory; "may" is considered permissive.

Sidewalk. The term "sidewalk" means that portion of a street between the curblines or lateral lines and the right-of-way lines which is intended for the use of pedestrians.

State. The term "the state" or "this state" means the State of Michigan.

Street, highway, or *alley.* The terms "street," "highway" or "alley" mean the entire width subject to an easement for public right-of-way, or owned in fee by the village, county or state, or every way or place, of whatever nature, whenever any part thereof is open to the use of the traveling public. The term "alley" means any such way or place providing a secondary means of ingress and egress from a property.

Tense. Words used in the present or past tense include the future as well as the present and past.

Village. The term "village" means the Village of Ontonagon, Michigan.

Village council. The term "village council" or "council" means the village council of the Village of Ontonagon.

Village manager. The term "village manager" means the village manager of the Village of Ontonagon, or his authorized representatives.

(b) Any word or term not defined in this Code shall be considered to be defined in accordance with its common or standard definition.

(Code 1995, § 1-2)

Sec. 1-3. Section catchlines and other headings.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

(Code 1995, § 1-3)

Sec. 1-4. References and notes.

Charter references, cross references, state law references and editor's notes are by way of explanation only and should not be deemed a part of the text of any section.

(Code 1995, § 1-4)

Sec. 1-5. History notes.

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

(Code 1995, § 1-13)

Sec. 1-6. Code does not affect prior offenses, rights, etc.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

PROOFS

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the village in effect on the date of adoption of this Code.

(Code 1995, § 1-5)

Sec. 1-7. Amendments to Code.

(a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section ____ of the Code of Ordinances, Village of Ontonagon, Michigan (or Ontonagon Village Code), is hereby amended to read as follows: . . .." The new provisions shall then be set out in full as desired.

(b) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, Village of Ontonagon, Michigan (or Ontonagon Village Code), is hereby amended by adding a section, to be numbered ____, which section reads as follows: . . .." The new section shall then be set out in full as desired.

(c) If a section is to be repealed, the following language shall be used: "That the Code of Ordinances, Village of Ontonagon, Michigan (or Ontonagon Village Code), is hereby amended by deleting a section, numbered ____."

(Code 1995, § 1-6)

Sec. 1-8. Supplementation of Code.

(a) By contract or by village personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the village council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections ____ to ____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Code 1995, § 1-7)

Sec. 1-9. Altering Code.

It shall be unlawful for any person in the village to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with this Code in any

PROOFS

manner whatsoever which will cause the law of the village to be misrepresented thereby.

(Code 1995, § 1-12)

Sec. 1-10. Certain provisions saved from repeal.

Nothing in this Code or the ordinance adopting this Code shall affect the following when not inconsistent with this Code:

(1) Any offense committed or penalty incurred or any right established prior to the effective date of this Code;

(2) Any ordinance levying annual taxes;

(3) Any ordinance appropriating money;

(4) Any ordinance authorizing the issuance of bonds or borrowing of money ~~(Ord. 1975 No. 5 and Ord. 1975 No. 6)~~;

(5) Any ordinance establishing utility rates;

(6) Any ordinance establishing franchises or granting special rights to certain persons;

(7) Any ordinance authorizing public improvements;

(8) Any ordinance authorizing the purchase or sale of real or personal property;

(9) Any ordinance annexing or detaching territory;

(10) Any ordinance granting or accepting easements, plats or dedication of land to public use;

(11) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the village;

(12) Any ordinance establishing or prescribing grades in the village;

(13) Any ordinance prescribing the number, classification or compensation of any village officers or employees;

(14) Any ordinance prescribing traffic and parking restrictions pertaining to specific streets;

(15) Any ordinance pertaining to rezoning;

(16) Any other ordinance, or part thereof, which is not of a general and permanent nature~~;~~.

~~and~~ All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the village clerk's office.

(Code 1995, § 1-14)

Sec. 1-11. Severability.

Should any provision or section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections of the Code, it being the intent of the village council that this Code shall stand, notwithstanding the invalidity of any provision or section thereof. The provisions of this section shall apply to the amendment of any section of this Code, whether or not the wording of this section is set forth in the amendatory ordinance.

(Code 1995, § 1-8)

Sec. 1-12. General penalty for violation of Code; continuing violations.

(a) Unless another penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code or any rule or regulation adopted or issued in pursuance of this Code shall be punished by a fine of not more than $500.00 and costs of prosecution, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this Code, whether or not such penalty is reenacted in the amendatory ordinance.

PROOFS

(b) In addition to the penalty prescribed in subsection (a) of this section, the village may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

(Code 1995, § 1-10)

Sec. 1-13. Enforcement by county sheriff's department by contract.

The village may, by contract with the sheriff's department, use the sheriff's department as the enforcing agency for this Code.

(Code 1995, § 1-15)

~~**Sec. 1-12. Aiding and abetting violations of code.**~~

Sec. 1-14. Method of service of notices by the village.

Unless otherwise provided in this Code, notice regarding sidewalk repairs, sewer or water connections, dangerous structures, abating nuisances or any other act, the expense of which is performed by the village, may be assessed against the premises under the provisions of this Code shall be served:

(1) By delivering the notice to the owner personally or by leaving such notice at his residence, the office or place of business with some person of suitable age and discretion;

(2) By mailing the notice by certified or registered mail to such owner at his last known address; or

(3) If the owner is unknown, by posting the notice in some conspicuous place on the premises at least five days before the act or action concerning which the notice is given. No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any village officer, unless permission is given by the officer to remove the notice.

(Code 1995, § 1-9)

PROOFS

Chapter 2

ADMINISTRATION

ARTICLE I. IN GENERAL

Secs. 2-1--2-18. Reserved.

ARTICLE II. VILLAGE COUNCIL

Sec. 2-19. Rules of the village council.

(a) *Authority.* The rules of the council are adopted by the council pursuant to MCL 61.1 et seq. ~~the provisions of Article 3 of the Public Acts of Michigan of 1895 (MCL 61.1 et seq.), as amended.~~

(b) *Meetings.* All meetings of the village council will be held in compliance with state statutes, including the Open Meetings Act, MCL 15.261 et seq., ~~No. 267 of the Public Acts of Michigan of 1976 (MCL 15.261 et seq.) as amended,~~ and with these rules.

(1) *Regular meetings.* The council shall meet in regular session on the second and fourth Mondays of each month beginning at 6:00 p.m. at the village office unless otherwise rescheduled by resolution of the council. If any regularly scheduled meeting falls on one of the following days, the regular meeting will be held on the next secular day that is not a holiday:

a. New Years Day;

b. Presidents Day;

c. Martin Luther King Day;

d. The last Monday of May, Memorial Day;

e. Independence Day;

f. Labor Day;

g. Veteran's Day;

h. Thanksgiving Day;

i. Christmas Eve;

j. Christmas Day;

k. New Years Eve;

l. All national and state general election days.

(2) *Special meetings.* A special meeting shall be called by the clerk upon the call of the village president or upon written request of any three members of the council. Notice of special meetings shall be given to each member at least 18 hours in advance of the special meeting and shall be served personally or left at the member's usual place of residence by the clerk or a designee. Special meeting notices shall state the time, place and purpose of the meeting. No official action shall be transacted at any special meeting of the council unless the item has been stated in the notice of such meeting.

(3) *Posting requirements for regular and special meetings.* The village clerk shall be responsible for providing the proper notice for all meetings of the council.

a. Within ten days after the first meeting of the council following the village elections, a public notice stating the dates, times and places of the regular monthly council meetings will be posted at the village office.

b. For a rescheduled regular or a special meeting of the council, a public notice stating the date, time and place of the meeting shall be posted at least 18 hours before the meeting at the village office.

PROOFS

c. The notice described above is not required for a meeting of the council in emergency session in the event of a severe and imminent threat to the health, safety or welfare of the public when two-thirds of the members of the council determine that delay would be detrimental to the village's efforts in responding to the threat.

d. Changes in the regular schedule shall not be made except upon the approval of the majority of the members in session. In the event the council shall meet and a quorum is not present, the council, upon the action of a majority of those present, may adjourn the meeting to another day provided that proper notice to members and public is given.

e. Copies of the notice of public meetings shall be provided upon request and payment of an annual fee for the costs of printing and postage, which fee shall be determined from time to time by action of the council.

(4) *Minutes of regular and special meetings.* In accordance with MCL 61.1 et seq. and the Open Meetings Act, MCL 15.261 et seq., ~~section 64.5 of General Law Village Act No. 3 of the Open Meeting Acts of Michigan of 1895 (MCL 61.1 et seq.) as amended and the Open Meetings Act,~~ the village clerk shall attend all council meetings and record all the proceedings and resolutions of the council. In the absence of the clerk, the council may appoint one of its own members or another person to temporarily perform the clerk's duties.

a. Within 15 days of a council meeting, a synopsis showing the substance of each separate decision of the council or the entirety of the council proceedings shall be prepared by the clerk and shall indicate the vote of the councilmembers. After the village president approves the document, it shall be published in a newspaper of general circulation in the village or posted in three public places in the village.

b. A copy of the minutes of each regular or special council meeting shall be available for public inspection at the village office during regular business hours.

(5) *Study sessions/work sessions.* Upon the call of the village president or the council, and with appropriate notice to the councilmembers and to the public, the council may convene a work session devoted exclusively to the exchange of information relating to municipal affairs. No votes shall be taken on any matters under discussion nor shall any councilmember enter into a formal commitment with another member regarding a vote to be taken subsequently. However, councilmembers may express their opinions and preferences as a result of the discussion.

(Code 1995, § 2-26; Ord. No. 2004-04, 11-22-2004)

Sec. 2-20. Conduct of meetings.

(a) *Meetings to be public.* All regular and special meetings of the council shall be open to the public, and citizens shall have a reasonable opportunity to be heard in accordance with such rules and regulations as the council may determine, except that the meetings may be closed to the public and the media in accordance with the Open Meetings Act, MCL 15.261 et seq.

(1) All official meetings of the council and its committees shall be open to the media, freely subject to recording by radio, television and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings.

(2) *Agenda preparation.* An agenda for each regular council meeting shall be prepared by the village president, village manager, and/or other responsible administrative officers or employees at the village office, with the following order of business:

a. Pledge of allegiance;

b. Call to order and roll call of council;

c. Public comment on agenda items;

d. Approval of consent agenda (if used);

e. Approval of regular agenda;

PROOFS

f. Public hearings;

g. Approval of council minutes;

h. Approval of bills;

i. Reports from council committees;

j. Reports from village officers)i.e., manager, treasurer, attorney, etc._;

k. Unfinished business;

l. New business;

m. Announcements;

n. Adjourn.

(3) Any councilmember or representative of committees, boards or commissions desiring to place a matter on the agenda shall notify the village manager and/or other responsible administrative officer or employee at the village office of such items by 2:00 p.m. on the Thursday preceding the next meeting. Items that are not received by the stated deadline shall not be considered by the council except upon the consent of the majority of the members present.

(b) *Consent agenda.* A consent agenda may be used to allow the council to act on numerous administrative or noncontroversial items at one time. Included on this agenda can be noncontroversial matters such as approval of minutes, payment of bills, approval of recognition resolutions, etc. Upon request by any member of the council, an item shall be removed from the consent agenda and placed on the regular agenda for discussion.

(c) *Agenda distribution.* Upon completion of the agenda and the compilation of any accompanying material related to items on the agenda, the village manager and/or other responsible administrative officer or employee at the village office shall immediately distribute the agenda packets. The packets may be distributed either by mail or by personal delivery.

(d) *Quorum.* A majority of the entire elected or appointed and sworn members of the council shall constitute a quorum for the transaction of business at all council meetings. In the absence of a quorum, a lesser number may adjourn any meeting to a later time or date with appropriate public notice. No member of the council may absent himself or herself without first having informed the village clerk of the impending absence and the reason for the absence.

(e) *Attendance at council meetings.* Election to the village council is a privilege freely sought by the nominee. It carries with it the responsibility to participate in council activities and represent the residents of the village. Attendance at council meetings is critical to fulfilling this responsibility. A general law village council is empowered by section 65.5 of the General Law Village Act as amended to adjourn a meeting if a quorum is not present and compel attendance in a manner prescribed by its ordinance.

(f) *Excusing absences for cause.* The council may excuse absences for cause. If a councilmember has more than three unexcused successive absences for regular or special council meetings, the council may enact a resolution of reprimand. In the event that the member's absences continue for more than three additional successive regular or special meetings of the council, the council may enact a resolution of censure or request the councilmember's resignation or both.

(g) *Duties of the council.* The council shall prescribe the rules of its own proceedings and shall keep a record of those proceedings. An office shall not be created or abolished; a tax or assessment imposed; a street, alley or public ground vacated; real estate or an interest in real estate purchased, leased, sold or disposed of; for the public improvement ordered, except by a concurring vote of two-thirds of the members. Money shall not be appropriated except by ordinance or resolution of the council. An ordinance appropriating money shall not be passed or a resolution appropriating money shall not be adopted, except by a concurring two-thirds vote of the members.

(h) *Presiding officer.* The presiding officer shall be responsible for enforcing these rules of procedure and for enforcing orderly conduct at meetings. The village president shall be the presiding officer. At the first meeting of the council following the seating of the newly elected councilmembers, the council shall appoint one of its members as president pro tempore, who shall preside in the absence of the president. In the absence of both the

PROOFS

president and the president pro tempore, the council shall select a presiding officer by a majority vote of the members present.

(i) *Disorderly conduct.* The presiding officer may call to order any person who is being disorderly by speaking out of order or otherwise disrupting the proceedings, failing to be germane, speaking longer than the allotted time or speaking vulgarities. Such person shall be seated until the presiding officer determines whether the person is in order. If the person so engaged in presentation is called out of order, he or she shall not be permitted to continue to speak at the same meeting except by special leave of the council. If the person shall continue to be disorderly and disrupt the meeting, the presiding officer may order the sergeant at arms to remove the person from the meeting. No person shall be removed from a public meeting except for an actual breach of the peace committed at the meeting.

(j) *Sergeant at arms.* The sergeant at arms shall be either the county sheriff or his or her designee, or a trooper from the state police.

(Code 1995, § 2-27; Ord. No. 2004-04, 11-22-2004)

Sec. 2-21. Closed meetings.

(a) *Purpose.* Closed meetings may be held only for the reasons authorized in the Open Meetings Act, which are the following:

(1) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent when the named person requests a closed meeting.

(2) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement when either negotiating party requests a closed hearing.

(3) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

(4) To consult with the municipal attorney or another attorney regarding trial or settlement strategy in connection with specific pending litigation, but only when an open meeting would have a detrimental financial effect on the litigating or settlement position of the council.

(5) To review the specific contents of an application for employment or appointment to a public office when a candidate requests that the application remain confidential. However, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting.

(6) To consider material exempt from discussion or disclosure by state or federal statute.

(b) *Calling closed meetings.* At a regular or special meeting, the councilmembers, elected or appointed and serving, by a two-thirds roll call vote may call a closed session under the conditions outlined in section C.1 of the Open Meetings Act, MCL 15.261 et seq. The roll call vote and purpose for calling the closed meeting shall be entered into the minutes of the public part of the meeting at which the vote is taken.

(c) *Minutes of closed meetings.* A separate set of minutes shall be taken by the clerk or the designated secretary of the council at the closed session. These minutes will be retained by the clerk, shall not be available to the public, and shall only be disclosed if required by a civil action, as authorized by the Open Meetings Act, MCL 15.261 et seq. These minutes may be destroyed one year and one day after approval of the minutes of the regular meeting at which the closed session was approved.

(Code 1995, § 2-28; Ord. No. 2004-04, 11-22-2004)

Sec. 2-22. Discussion and voting.

(a) *Rules of parliamentary procedure.* The rules of parliamentary practice as contained in the latest edition of Robert's Rules of Order shall govern the council in all cases to which they are applicable, provided that they are not in conflict with these rules, village ordinances or applicable state statutes. The village president may appoint a parliamentarian.

(1) The presiding officer shall preserve order and decorum and may speak to points of order in preference

PROOFS

to other councilmembers. The presiding officer shall decide all questions arising under this parliamentary authority, subject to appeal and reversal by a majority of the councilmembers present.

(2) Any member may appeal to the council a ruling of the presiding officer. If the appeal is seconded, the member making the appeal may briefly state the reason for the appeal and the presiding officer may briefly state the ruling. There shall be no debate on the appeal and no other member shall participate in the discussion. The question shall be, "Shall the decision of the presiding officer be sustained?" If the majority of the members present vote "Aye", the ruling of the presiding officer is sustained; otherwise, it is overruled.

(b) *Conduct of discussion.* During the council discussion and debate, no member shall speak until recognized for that purpose by the presiding officer. After such recognition, the member shall confine discussion to the question at hand and to its merits and shall not be interrupted except by a point of order or privilege raised by another member. Speakers should address their remarks to the presiding officer, maintain a courteous tone and avoid interjecting a personal note into debate.

(1) No member shall speak more than once on the same question unless every member desiring to speak to that question shall have had the opportunity to do so.

(2) The presiding officer, at his or her discretion and subject to the appeal process provided in subsection (a)(2) of this section ~~mentioned in section 2.29.1~~, may permit any person to address the council during its deliberations.

(3) The following order shall prevail:

a. Agenda item is read;

b. Testimony by the person causing the item to be before the council;

c. Presiding officer shall call to each councilmember for their questions; each member shall have five minutes;

d. Motion;

e. Second;

f. Repeat subsection (b)(3)c of this section

g. Vote;

h. Presiding officer shall announce the result of the vote.

(c) *Ordinances and resolutions.* No ordinance except an appropriation ordinance, an ordinance adopting or embodying an administrative or governmental code or an ordinance adopting a code of ordinances, shall relate to more than one subject, and that subject shall be clearly stated in its title. A vote on all ordinances and resolutions shall be taken by a roll call vote and entered in the minutes unless it is a unanimous vote. If the vote is unanimous, it shall be necessary only to so state in the minutes, unless a roll call vote is required by law or by council rules.

(d) *Roll call.* In all roll call votes, the names of the members of the council shall be called in alphabetical order, and the names to be called first shall be advanced one position in rotation in each successive roll call vote.

(e) *Duty to vote.* Elective to a deliberative body carries with it the obligation to vote. Councilmembers present at a council meeting shall vote on every matter before the body, unless otherwise excused or prohibited from voting by law. A councilmember who is present and abstains or does not respond to a roll call vote shall be counted as voting with the prevailing side and shall be so recorded, unless otherwise excused or prohibited by law from voting.

(1) Conflict of interest, as defined in MCL 15.303, ~~by law (Act No. 317 of the Public Acts of Michigan 1968 (MCL 15.321 et seq.) as amended),~~ shall be the sole reason for a member to abstain from voting. No member shall abstain from voting unless that member states his or her conflict of interest. If a question of conflict of interest arises, the council shall seek the opinion of the village attorney. The opinion of the village attorney shall be binding on the council with respect to the existence of a conflict of interest. A vote may be tabled, if necessary, to obtain the opinion of the village attorney.

PROOFS

(2) The right to vote is limited to the member of council present at the time the vote is taken. Voting by proxy or by telephone is not permitted.

(3) All votes must be held and determined in public; no secret ballots are permitted.

(f) *Results of voting.* In all cases where a vote is taken, the presiding officer shall declare the result. It shall be in order for any councilmember voting in the majority to vote for a reconsideration of the vote on any question at that meeting or at the next succeeding meeting of the council. When a motion to reconsider fails, it cannot be renewed.

(Code 1995, § 2-29; Ord. No. 2004-04, 11-22-2004)

Sec. 2-23. Citizen participation.

(a) *General.* Each regular council meeting agenda shall provide for reserved time for audience participation If requested by a member of the council, the presiding officer shall have discretion to allow a member of the audience to speak at times other than the reserved time for audience participation.

(b) *Length of presentation.* Any person who addresses the council during a council meeting or public hearing shall be limited to five minutes in length per individual presentation. The clerk will maintain the official time and notify the speakers when their time is up.

(c) *Addressing the council.* When a person addresses the council, he or she shall state his or her name and home address. Remarks should be confined to the question at hand, address their remarks to the presiding officer in a courteous tone, and avoid interjecting a personal note into their remarks. No person shall have the right to speak more than once on any particular subject until all other persons wishing to be heard on that subject have had the opportunity to speak.

(Code 1995, § 2-30; Ord. No. 2004-04, 11-22-2004)

Sec. 2-24. Miscellaneous.

(a) *Adoption and amendment of rules of procedure.* These rules of procedure of the council will be placed on the agenda of the first meeting of the council following the seating of the newly elected councilmembers for review. A copy of the adopted rules shall be distributed to each councilmember. The council may alter or amend its rules by ordinance at any time by a vote of a majority of its members after notice has been given of the proposed alteration or amendment.

(b) *Suspension of rules.* The rules of the council may be suspended for a specified portion of a meeting by an affirmative vote of two-thirds of the members present except that council actions shall conform to state statutes and to the state and the ~~United States~~ federal constitutions.

(c) *Bid awards.* Bids will be awarded by the council during regular or special meetings. A bid award may be made at a special meeting of the council if that action is announced in the notice of the special meeting.

(d) *Standing and special committees of council.*

(1) The village shall have the following standing committees:

a. Finance/budget;

b. Personnel;

c. Community development.

(2) Committee members will be appointed by the village president at the first regular meeting of the council after January 1 of each year. They shall be members of the council. The village president shall fill any committee vacancies. Committee members shall serve for a term of one year and may be reappointed.

(e) *Special committees.* Special committees may be established for a specific period of time by the village president or by a resolution of the council which specifies the task of the special committee and the date of its dissolution.

(f) *Citizen task forces.* Citizen task forces may be established by a resolution of the council which specifies the task to be accomplished and the date of its dissolution. Members of such committees will be appointed by the

PROOFS

village president, subject to the approval by a majority vote of the council and must be residents of the village. Vacancies will be filled by majority vote of the council in the same way appointments are made.

(g) *Authorization for contacting the village attorney.* The following officials are authorized to contact the village attorney regarding municipal matters:

(1) Village president;

(2) Village president pro tempore;

(3) Village manager.

(h) *Compensation of president and trustees.* The president and trustees of the village shall each receive an amount determined by an ordinance adopted by the village council from time to time for each regular meeting or legally called special meeting of the village council. Effective April 24, 1995, the village president shall receive $75.00 per meeting, and each trustee shall receive $75.00 per meeting.

(i) *Attendance.* Councilmembers must be physically present and in attendance for over one-half of the length of each meeting in order to be considered present. The village clerk shall keep records of attendance at all such meetings. Compensation shall not be received for more than two special meetings in addition to regular meetings during any calendar month. Payment shall be made out of the general fund of the village.

(j) *Smoking.* While a meeting of the village council is in session, no person shall smoke or possess lighted tobacco in the room wherein the meeting is being conducted. A sign reading "no smoking" shall be conspicuously posted by the village clerk prior to each meeting of the village council. Violation of this subsection, whether or not such notice is posted as provided in this subsection, shall be a misdemeanor and upon conviction, punishable as provided in section 1-12~~, as it may be amended from time to time~~.

(k) *Firearms.* While a meeting of the village council is in session, no person shall carry or possess a firearm, whether loaded or unloaded, in the room wherein the meeting is being conducted. Violation of this subsection shall be a misdemeanor and upon conviction, punishable as provided in section 1-12~~, as it may be amended from time to time~~.

(Code 1995, § 2-31; Ord. No. 2004-04, 11-22-2004; Ord. No. 2007-02, 1-8-2007)

Secs. 2-25--2-51. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Sec. 2-52. Compensation of other elected officials.

(a) As of April 1, 1993, the village clerk, village treasurer, and village assessor shall receive monthly sums, to be determined by ordinance of the village council from time to time, as full compensation for fulfilling the duties of their respective offices, whether performed by such officers directly or by their deputies as assistants; provided, however, that payment of compensation shall only be made directly to the aforementioned officers, whether their duties have been performed directly by them or by deputies or assistants in their behalf, and payment shall only be made for each full calendar month of service while in office. Compensation for any part of a month shall be prorated.

(b) In addition to the cash sums, the village clerk, treasurer, and assessor shall receive, free of charge to them, full participation in plan B-2 of the state municipal employee retirement system.

(c) The village clerk and treasurer shall also receive, free of charge to them, full participation in the state Blue Cross Blue Shield plan approved by the village council. The cost for all such compensation and benefits shall be payable from the general fund of the village treasury.

(Comp. Ords. 1984, § 102.02; Code 1995, § 2-51; Ord. No. 1985-2, § 2, 6-24-1985; Ord. No. 1987-1, § 2, 8-10-1987; Ord. No. 1989-1, § 2, 4-24-1989; Ord. No. 1991-1, § 2, 6-10-1991; Ord. No. 1993-4, § 2, 4-26-1993)

PROOFS

Secs. 2-53--2-77. Reserved.

DIVISION 2. VILLAGE MANAGER

Sec. 2-78. Establishment of office.

In accordance with the authority for the appointment of such village officers as the council shall deem necessary for the execution of the powers granted to the village pursuant to MCL 65.8 ~~contained in section 2 of chapter 11 and section 8 of chapter 5 of Act No. 3 of the Public Acts of Michigan of 1895 (MCL 71.2, 65.8), as amended, which is the Charter of the village~~, the village has established the office of village manager.

(Code 1995, § 2-61)

Sec. 2-79. Appointment; removal; qualifications; residency.

(a) The president shall, with the concurrence of four or more trustees, appoint a village manager for an indefinite term and the council may, by contract, enter into such other terms and conditions as the manager and council deem appropriate. The manager shall serve at the pleasure of the council and may be removed by the affirmative vote of four or more trustees, but only after a hearing before the council. The president may, for cause, suspend the manager with full pay, until the hearing. The action of the council in removing the manager shall be final.

(b) The manager shall be selected solely on the basis of administrative and executive abilities with special reference to training and experience.

(c) The manager need not be a resident of the village at the time of the appointment but shall become a resident within 180 days from the date of the appointment, with extensions permitted upon approval of the council. The manager shall reside in the village thereafter during the term of office.

(Code 1995, § 2-62)

Sec. 2-80. Acting village manager.

The president, with the concurrence of four or more trustees, shall appoint or designate an acting manager during a vacancy in the office of village manager and shall make a permanent appointment within 180 days from the effective date of the vacancy. A village manager appointed in accordance with section 2-79 shall be deemed to be the acting manager from the date of the appointment until the appointee becomes a resident, if residency is deemed to be a qualification for the appointment.

(Code 1995, § 2-63)

Sec. 2-81. Compensation.

The village manager shall receive such compensation as the council shall determine by resolution or contract.

(Code 1995, § 2-64)

Sec. 2-82. Duties.

The village manager shall be the chief administrative officer of the village and shall be responsible to the village council for the efficient administration of all affairs of the village and shall exercise management supervision over all departments and over all public property belonging to the village. The manager shall have the following functions and duties:

(1) Attend all meetings of the village council and committees thereof and take part therein, but without a vote.

(2) Be responsible for personnel management and shall issue, subject to council approval, personnel rules applicable to all village employees. The manager shall have the following personnel responsibilities:

a. Appoint, suspend or remove all appointed administrative officers and department heads, subject to council approval. The manager shall recommend to the council the salaries or wages to be paid each such official.

b. Appoint, suspend or remove all other employees of the village. All such actions shall be based on

PROOFS

merit and taken pursuant to personnel rules approved by the council. The manager shall fix the salaries or wages of all such employees.

(3) Exercise supervisory control over all departments (including ~~the police department,~~ the department of public works~~,~~ and the fire department) and over the ~~chief of police,~~ street commissioner and fire chief ~~shall be subject to the direction of the manager~~.

(4) Attend all meetings of village boards and commissions, with the right to take part therein, and may be a voting member of the marina and recreation commission.

(5) Prepare and administer the budget as provided for in the Uniform Budgeting and Accounting Act, MCL 141.421a et seq.~~ Act No. 2 of the Public Acts of Michigan of 1968 (MCL 141.421, MSA 5.3228(21)), as amended.~~

(6) Be the purchasing agent of the village.

(7) Investigate all complaints concerning the administration of the village and shall have authority at all times to inspect the books, records and papers of any agent, employee or officer of the village.

(8) Make recommendations to the council for the adoption of such measures as may be deemed necessary or expedient for the improvements or betterment of the village.

(9) Serve as village zoning administrator.

(10) Perform other duties as required from time to time by the village council.

(Code 1995, § 2-65)

Sec. 2-83. Purchasing responsibilities.

(a) The village manager shall act as purchasing agent for all village offices and departments. The manager may delegate some or all of the duties as purchasing agent to another officer or employee, provided that such delegation shall not relieve the manager of the responsibility for the proper conduct of those duties.

(b) The village manager shall have the authority to purchase any product or service, provided that funds have been appropriated. The cost of the product or service shall not exceed the unencumbered balance of the appropriation for that account. The village manager may promulgate rules governing the purchase of products or services.

(c) The village manager shall have the authority to purchase any product or service, regardless of its cost, when such purchase is necessitated by an emergency condition. The expression "emergency condition" is defined to mean any event which presents an imminent threat to the public health or safety, or any event which would result in the disruption of a village service which is essential to the public health or safety.

(Code 1995, § 2-66)

Sec. 2-84. Dealing with employees.

Neither the council nor the village president shall attempt to influence the employment of any person by the village manager or in any way interfere in the management of departments under the jurisdiction of the manager. Except for purposes of inquiry, or during emergency situations or manager absence, the president and council and its members shall deal with departments under the jurisdiction of the village manager through the manager.

(Code 1995, § 2-67)

PROOFS

Secs. 2-85--2-111. Reserved.

ARTICLE IV. BOARDS AND COMMISSIONS

DIVISION 1. GENERALLY

Secs. 2-112--2-135. Reserved.

DIVISION 2. PLANNING COMMISSION

Sec. 2-136. Continued.

The village planning commission, as presently constituted, is continued, subject to the provisions of this division.

(Comp. Ords. 1984, § 104.01; Code 1995, § 2-101)

Sec. 2-137. Members; appointment; compensation.

The planning commission shall consist of five members who shall represent, so far as possible, different professions and occupations. Members of the planning commission shall be selected as follows:

(1) *Ex officio members.* One member of the village board of trustees, who shall be selected by resolution of the village council, shall be an ex officio member of the planning commission, whose term shall correspond to the member's term of office as a member of the village council. Ex officio members shall receive no additional compensation for service on the planning commission. All ex officio members appointed under this subsection shall have full voting rights. The village council may remove the member selected by the village council for inefficiency, neglect of duty, or malfeasance in office.

(2) *Appointed members.* The remaining four members shall be appointed by the village president and shall be subject to approval of the village council by majority vote. The term of each appointed member shall be three years or until his or her successor takes office, except that the terms of two of the members first appointed shall be for one year, and two for two years. An appointed member shall not hold another municipal office, except that one appointed member may be a member of the zoning board of adjustment or appeals. No appointed member shall receive compensation. After a public hearing, a member other than the member selected by the village council may be removed by the village president for inefficiency, neglect of duty, or malfeasance in office.

(3) *Vacancy in office.* A vacancy on the planning commission occurring otherwise than through the expiration of term shall be filled for the unexpired term by the village president in the case of a member selected or appointed by the village president, or by the village council in the case of the member appointed by the village council.

(Comp. Ords. 1984, § 104.02; Code 1995, § 2-102; Ord. No. 2001-01, 7-23-2001)

Sec. 2-138. Oath of office; filing.

Every person appointed to the village planning commission shall, within eight days after receiving notice of such appointment, take and subscribe to the official oath of office and file the same with the village clerk.

(Comp. Ords. 1984, § 104.03; Code 1995, § 2-103)

Sec. 2-139. Officers; regulations; records; reports to council.

The village planning commission shall elect its own officers from amongst its members and create and fill such other offices and appoint such employees as it may deem necessary for its work, within the budgetary appropriations made for the planning commission by the village council. The chairman of the planning commission shall hold office for a term of one year and shall be eligible for reelection. The planning commission shall adopt such rules and regulations as necessary for the transaction of its business and shall keep a record of its resolutions, transactions, findings and determinations which record shall be a public record and shall monthly submit to the village council a report of all expenditures made by the planning commission.

(Comp. Ords. 1984, § 104.04; Code 1995, § 2-104)

PROOFS

Sec. 2-140. Function; master plan.

It shall be the function and duty of the village planning commission to make and adopt a master plan for the physical development of the village, including any areas outside the boundaries of the village which, in the planning commission's judgment, bear relation to the planning of the village.

(Comp. Ords. 1984, § 104.05; Code 1995, § 2-105)

Sec. 2-141. Powers and duties.

All of the powers and duties set forth in the Michigan Planning Enabling Act, MCL 125.3801 et seq. ~~Act No. 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq.), as amended,~~ are granted to the village planning commission.

(Comp. Ords. 1984, § 104.06; Code 1995, § 2-106)

Sec. 2-142. Submission of budget to village council.

Prior to April 1 of each year, the planning commission shall submit to the village council an estimate of the money deemed necessary for the operation of the planning commission.

(Comp. Ords. 1984, § 104.07; Code 1995, § 2-107)

Secs. 2-143--2-167. Reserved.

DIVISION 3. MARINA COMMISSION

~~**Sec. 2-121. Penalty for violation.**~~

~~Any person who shall violate any provision of this division, or any provision of any rule, regulation or order adopted pursuant to authority granted by this division, shall upon conviction be punished as provided in section 1-10. Each day's failure to comply with any such provision shall constitute a separate violation.~~

~~(Comp. Ords. 1984, § 106.06; Code 1995, § 2-121)~~

Sec. 2-168. Members; terms; compensation.

(a) The village has created the village marina commission. The marina commission shall consist of seven members, three of whom will serve a three-year term following their appointment by the village president with the approval of the village council at the first regular meeting of the village council in April of the initial even-numbered year, or until their successors are appointed and qualified, and two of whom will serve a three-year term following their appointment by the village president at the first regular meeting of the village council in April of the initial odd-numbered year, or until their successors are appointed and qualified. Four of the seven members shall be chosen from among the electors of the village, the fifth member shall be appointed from among the electors of the county, and the sixth member shall be appointed from among the village trustees. The seventh member of the marina commission shall be the village manager.

(b) All members of the marina commission shall be required to subscribe to the oath of office, as required by law, before entering upon their duties. No member of the marina commission shall receive any salary or other compensation for his services but, upon approval of the village council, may be reimbursed for actual and necessary expenses incurred in performance of official duties.

(Comp. Ords. 1984, § 106.01; Code 1995, § 2-122; Ord. No. 2004-02, 5-24-2004)

Sec. 2-169. Officers; meetings.

The village manager shall serve the marina commission as its secretary-controller. The marina commission shall elect from among its members a chairman and such other officers as it deems appropriate, but no person shall hold more than one office. The marina commission shall hold at least two meetings each year, the first of which shall be an organizational meeting on the third Wednesday in April.

(Comp. Ords. 1984, § 106.02; Code 1995, § 2-123)

Sec. 2-170. Authority and duties.

The marina commission shall make, amend, revise and cause to be enforced written rules and regulations as

PROOFS

shall be necessary for proper administration of the marina, and further shall provide and cause to be levied and collected adequate fees and rentals so that the marina is self-supporting. All such regulations shall be submitted to the village council for its approval. Upon such approval, all such regulations may be enforced pursuant to this division. The marina commission shall also provide for and instruct the harbormaster on necessary operation and maintenance of the marina and provide the village council with such plans for expansion or alteration as may be needed to meet the needs of the boating public.

(Comp. Ords. 1984, § 106.03; Code 1995, § 2-124)

Sec. 2-171. Harbormaster appointment; compensation; duties.

(a) The village council shall annually appoint a harbormaster upon recommendation of the marina commission. The harbormaster shall enter upon his duties upon subscribing to the oath of office as required by law. The harbormaster shall receive such compensation as may be established from time to time by the village council.

(b) The harbormaster shall prepare and preserve all data pertaining to use of the marina and the movements of all watercraft moored or docked therein, and shall further maintain a daily transit and seasonal harbor log. The harbormaster shall be responsible for day-to-day operation and maintenance of the marina according to regulations promulgated by the marina commission and shall give such orders and directions relative to the location, berthing, manner of moving or use of watercraft in or about the harbor as may be necessary to promote good order.

(Comp. Ords. 1984, §§ 106.04, 106.05; Code 1995, §§ 2-125, 2-126)

Secs. 2-172--2-195. Reserved.

DIVISION 4. RECREATION COMMISSION

Sec. 2-196. Members; appointment; terms; compensation.

The village has created the village recreation commission. The recreation commission shall consist of seven members. Members of the recreation commission shall be selected as follows:

(1) *Ex officio members*. One member of the village board of trustees, who shall be selected by the village council and subject to approval of the village council by majority vote, shall be an ex officio member of the recreation commission whose term shall correspond to the member's term of office as a member of the village council. Ex officio members shall receive no additional compensation for service on the recreation commission. All ex officio members appointed under this subsection shall have full voting rights. The village council may remove the member selected by the village council for inefficiency, neglect of duty, or malfeasance in office. ~~One member shall be the village manager.~~

(2) *Appointed members*. One member shall be appointed by the village president, and subject to approval of the village council by majority vote, from among the officers of the local hockey association or the local figure skating club as users of the recreation facility with a vested interest in the continuation of the facility. The remaining four members shall be appointed by the village president from among the electors of the village and shall be subject to approval of the village council by majority vote. The term of each appointed member shall be three years following their first appointment at the first regular meeting of the village council in April, or until his or her successor takes office. No appointed member shall receive any salary or other compensation for his services, but, upon approval of the village council, may be reimbursed for actual and necessary expenses incurred in the performance of official duties. Any member selected by the village council may be removed by the village president for inefficiency, neglect of duty, or malfeasance in office. One member shall be the village manager.

(3) *Vacancy in office*. A vacancy on the recreation commission occurring other than through the expiration of a term shall be filled for the unexpired term by the village president, and subject to approval of the village council by majority vote.

(Code 1995, § 2-136; Ord. No. 1979-4, § 107.01, 9-10-1979; Ord. No. 2006-01, 2-27-2006; Ord. No. 2010-01, § 2-136, 6-29-2010)

Sec. 2-197. Officers.

The village manager shall serve the recreation commission as its secretary-controller. The recreation

PROOFS

commission shall elect from among its members a chairman and such other officers as it deems appropriate, but no person shall hold more than one office.

(Code 1995, § 2-137; Ord. No. 1979-4, § 107.02, 9-10-1979)

Sec. 2-198. Authority and duties of building supervisor; annual report.

(a) The recreation commission shall have primary responsibility for administration of the Ontonagon Multipurpose Recreation Building. The recreation commission shall make, amend, revise and cause to be enforced such written rules and regulations as shall be necessary for proper administration of the facility. The recreation commission shall further consider and recommend to the village council whether particular fees or rentals for various activities in the building, as well as commissions upon services rendered there, should be imposed. Upon village council approval of particular fees, rentals or commissions, the recreation commission shall cause the same to be levied and collected.

(b) The village council shall annually appoint one or more building supervisors who, under the direction of the recreation commission and ultimately under the direction of the village council, shall be responsible for the day-to-day operation of the facility.

(c) The recreation commission shall consider proposals for other recreational facilities or endeavors, or alterations to existing recreational facilities, and shall report to the village council in February of each year regarding the status of recreational activities in the village.

(Code 1995, § 2-138; Ord. No. 1979-4, § 107.03, 9-10-1979)

Secs. 2-199--2-219. Reserved.

ARTICLE V. FINANCE

Sec. 2-220. Fiscal year.

The fiscal year of the village, a municipal corporation, shall commence on April 1 of each year hereafter and terminate on March 31 of each succeeding year.

(Comp. Ords. 1984, § 101.01; Code 1995, § 2-161)

Secs. 2-221--2-248. Reserved.

ARTICLE VI. SPECIAL ASSESSMENTS

~~**Sec. 2-201. Short title.**~~

~~This article shall be known and may be cited as the Village of Ontonagon Special Assessments Ordinance.~~

~~(Code 1995, § 2-201; Ord. No. 2006-03, 9-25-2006)~~

Sec. 2-249. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: ~~For the purposes of chapter 2, article VI of the codified ordinances of the village the following definitions shall apply;~~

Cost, ~~as used in this chapter,~~ when referring to the cost of any public improvement, shall include the cost of service and publication of notices, preparation of plans, condemnation, spreading of rolls, advertising, financing, construction, and engineering, legal and other professional fees, interest on bonds for up to one year and all other costs incident to the making of such improvement, the special assessment therefore and the financing thereof.

Public improvement~~, as used in this chapter, shall mean~~ means any municipal improvement and/or services which is of such a nature as to result in special benefit to the real property in the vicinity of such improvement.

Report shall refer to the report prepared by the village staff or by the village engineer in accordance with section 2-252 hereof.

(Code 1995, § 2-202; Ord. No. 2006-03, 9-25-2006)

PROOFS

Sec. 2-250. Authority to assess.

The village council shall have the power to determine the necessity of any public improvement and to determine that the whole or only part of the expense shall be defrayed by special assessment upon the property especially benefited in the manner hereinafter provided.

(Code 1995, § 2-203; Ord. No. 2006-03, 9-25-2006)

Sec. 2-251. Initiation of project or district.

(a) Proceedings for making public improvements and defraying all of the costs or any part thereof by special assessment shall be initiated by the village council. The village council shall direct the village staff or village engineer to make an investigation of the proposed public improvement and to submit a report to the village council and to file a copy with the village clerk.

(b) Special assessment proceedings may be requested by the filing, with the village clerk, petitions signed by at least 50 percent of the owners of the property to be assessed for the cost of the improvement, requesting that the improvement be made and that the cost thereof be defrayed by special assessment upon the property benefited. Such petition may be considered by the village council but shall be advisory only.

(Code 1995, § 2-204; Ord. No. 2006-03, 9-25-2006)

Sec. 2-252. Engineering/staff report.

(a) Upon request of the village council, the village staff or village engineer shall investigate the proposed public improvement and prepare a report, which shall include:

(1) The concept of the proposed project;

(2) Cost estimates of the proposed project;

(3) Proposed special assessment district boundaries;

(4) Recommendations as to the portion of the cost to be borne by the special assessment district and the portion, if any, to be borne by the village at large.

(b) The report shall be submitted to the village council and filed with the village clerk. The village council shall not finally determine to proceed with the making of any public improvement until such report has been filed nor until after a public hearing has been held by the village council for the purpose of hearing objections to the making of such improvement.

(Code 1995, § 2-205; Ord. No. 2006-03, 9-25-2006)

PROOFS

Sec. 2-253. Tentative project approval.

The village council, after review of the report, may pass a resolution tentatively determining the necessity of the improvement, setting forth the nature thereof, prescribing what part or portion of the cost of such improvement shall be paid by special assessment upon the property benefited, and what part, if any, shall be paid by the village at large, designating the limits of the special assessment district to be affected, placing the complete information concerning the proposed public improvement on file in the office of the village clerk, for public examination, and directing the village clerk to give notice, pursuant to section 2-254, of a public hearing on the proposed improvement, at which time and place an opportunity will be given to interested persons to be heard.

(Code 1995, § 2-206; Ord. No. 2006-03, 9-25-2006)

Sec. 2-254. Public hearing notice.

The village clerk shall schedule a public hearing to be held at a meeting of the village council, and shall give at least ten days' notice, which notice shall be given by publication in a newspaper circulated in the village and by first-class mail to all property owners in the proposed special assessment district as shown by the last general tax assessment rolls of the village.

(Code 1995, § 2-207; Ord. No. 2006-03, 9-25-2006)

Sec. 2-255. Hearing on necessity.

(a) At the time of the public hearing pursuant to section 2-253, or any adjournment thereof, which may be without further notice, the village council shall hear any objections to the proposed public improvement and to the special assessment district, and may, without further notice, revise, correct, amend or change the plans, estimates and/or district; provided that if the amount of work is increased or additions are made to the district, then another hearing shall be held pursuant to notice as provided in section 2-254.

(b) If the village council determines to proceed with the improvement, a resolution shall be passed approving the concept and cost estimates of the proposed project, the proposed assessment district, the recommendations as to the portion to the cost to be borne by the special assessment district and the portion, if any, to be borne by the village at large, and directing the village assessor to prepare a special assessment roll and submit the same to the village council, provided that if, prior to the adoption of the resolution to proceed with the making of the public improvement, written objection thereto has been filed by the owners of the property in the district, which, according to the report will be required to bear more than 50 percent of the cost thereof, or by a majority of the owners of property to be assessed, no resolution determining to proceed with the improvements shall be adopted while such objections remain, except by the affirmative vote of the majority of members of the village council.

(Code 1995, § 2-208; Ord. No. 2006-03, 9-25-2006)

Sec. 2-256. Preparation of special assessment roll.

The village assessor, as chosen by the village council, shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement and assess to each lot or parcel of land the proportionate amount benefited thereby. The amount of each case shall be based upon the cost estimates of the village staff or village engineer as approved by the village council. When the assessment roll is complete, the village assessor shall submit the roll to the village council and file the roll with the village clerk.

(Code 1995, § 2-209; Ord. No. 2006-03, 9-25-2006)

Sec. 2-257. Tentative approval of the roll.

The village council shall review the special assessment roll and may pass a resolution to tentatively approve the assessment roll, direct that the roll be open for examination in the office of the village clerk and direct the village clerk to give notice, pursuant to section 2-254, of a public hearing on the proposed special assessment roll, at which time and place the village council will meet to review the roll and provide an opportunity to interested persons to be heard.

(Code 1995, § 2-210; Ord. No. 2006-03, 9-25-2006)

Sec. 2-258. Hearing on special assessment roll.

(a) At the time of the public hearing pursuant to section 2-257, or any adjournment thereof, which may be without further notice, the village council shall hear any objections to the proposed assessment roll, and may, without further notice, correct the proposed assessment roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein or it may, by resolution, confirm the assessment roll or annul the assessment roll and direct that new proceedings be instituted.

(b) No special assessment roll shall be confirmed by resolution of the village council except by affirmative vote of a majority of the village councilmembers present at the hearing where the role is presented. Any person objecting to the proposed assessment roll shall file his objections thereto in writing with the village clerk before the close of such hearing. Should there be written objections so filed by the owners of more than one-half of the property to be assessed, the assessment shall not be confirmed except by the affirmative vote of the majority of members of the village council. Upon resolution confirming the special assessment roll, it shall become binding and conclusive. If the special assessment roll is annulled, the same proceeding shall be followed in making a new roll as in the making of the original roll.

(Code 1995, § 2-211; Ord. No. 2006-03, 9-25-2006)

Sec. 2-259. Creation of lien.

Special assessments and all interest and charges thereon, shall, from the date of the confirmation of such roll,

PROOFS

constitute a lien upon the respective lots or parcels of land assessed and until paid shall be a charge against the respective owners of the several lots and parcels of land. Such lien shall be of the same character and effect as the lien created for village taxes and shall include accrued interest and penalty.

(Code 1995, § 2-212; Ord. No. 2006-03, 9-25-2006)

Sec. 2-260. Collection.

(a) Following approval of the special assessment roll, the village treasurer shall collect the same.

(b) Special assessments shall be payable in one installment, or in such number of approximately equal annual installments, not exceeding 20, as the village council may determine. The first installment of a special assessment shall be due on or before such time after confirmation as the village council shall fix, and the subsequent installments shall be due at intervals of 12 months from the due date of the first installment or from such other dates as the village council shall fix.

(c) All unpaid installments prior to the transfer to the village tax roll shall bear interest payable annually at a rate to be fixed by the village council, not exceeding eight percent per annum, with such interest to commence at such time as shall be fixed by the village council. The whole assessment against any lot or parcel of land may be paid to the village treasurer at any time in full, with interest and penalties accrued to the date of the payment of the next installment.

(d) If any installment of a special assessment is not paid when due, then the same shall deemed to be delinquent, and there shall be collected thereon, in addition to the interest as provided in this section, a penalty at a rate of one percent for each month or a fraction thereof if the same remains unpaid before being reported to the village council for reassessment upon the village tax roll.

(e) Statements of the several assessments to the respective owners of the several lots and parcels of land assessed, as indicated by the records by the village assessor, stating the amount of the assessment and the manner in which it may be paid, shall be mailed by the village treasurer; provided, however, that the failure to mail any such statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.

(Code 1995, § 2-213; Ord. No. 2006-03, 9-25-2006)

Sec. 2-261. Certification of total cost.

Upon completion of the improvement, the financing thereof and the payment of the cost thereof, the village clerk shall certify to the village council the total cost of said improvement together with the amount of the original roll for said improvement.

(Code 1995, § 2-214; Ord. No. 2006-03, 9-25-2006)

Sec. 2-262. Disposition of excessive assessments; additional assessments.

(a) Should the assessments in any special assessment roll prove insufficient for any reason to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection of such assessments, then the village council shall make additional pro-rata assessments to supply the deficiency.

(b) Should the amount collected on assessments prove larger than necessary by five percent or less of the amount of the original roll, the village council may place the excess in any of the funds of the village, but if such excess shall exceed five percent, then the same shall be refunded pro rata on the assessments against the several parcels of land according to the amounts thereof.

(c) Such refund shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be applied towards the payment of the next village tax levied against such property.

(Code 1995, § 2-215; Ord. No. 2006-03, 9-25-2006)

Sec. 2-263. Division of lots after assessment.

Should any lots or land be divided after confirmation of the special assessment roll, the village assessor shall

PROOFS

apportion the uncollected amounts upon the several lots and land so divided and shall enter the several amounts as amendments upon the special assessment roll. The village treasurer shall, within ten days after such apportionment, send notice of such action to the persons concerned at the address shown on the last general tax assessment roll by first-class mail. The apportionment shall be final and conclusive on all parties, unless protest in writing is received by the village treasurer within 20 days of the mailing of the aforesaid notice.

(Code 1995, § 2-216; Ord. No. 2006-03, 9-25-2006)

Sec. 2-264. Invalidity of assessment or roll.

(a) When a special assessment shall, in the opinion of the village council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the village council shall, whether the improvement has been made or not, have the power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment. Payments already made and not refunded on premises included in the reassessment shall be applied upon the reassessment on said premises.

(b) If the village attorney submits a written opinion finding the assessment roll illegal, in whole or in part, the village council may revoke its confirmation, or correct the illegality if possible and reconfirm the roll as amended, provided that no property which is not involved in the illegality shall be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.

(Code 1995, § 2-217; Ord. No. 2006-03, 9-25-2006)

Sec. 2-265. Actions to contest collection.

No suit or action or any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment or reassessment:

(1) Unless, within 15 days after the confirmation of the special assessment roll, written notice is given to the village clerk for the attention of the village council indicating an intention to file such suit or action and stating the grounds on which it is claimed such assessment or reassessment is illegal; and

(2) Unless such suit or action shall be commenced within 30 days after the confirmation of the special assessment roll.

(Code 1995, § 2-218; Ord. No. 2006-03, 9-25-2006)

Sec. 2-266. Certain postponements of payments.

~~The village council may provide that any person who meets the current low income guidelines, as published annually by HUD, and who, in the opinion of the village council, because of an inability to pay the special assessments, may execute to the village an instrument creating a lien of the benefit for the village on all or any part of the real property owned by such person, which lien will mature and be effective from and after the execution of such instrument, shall be recorded with the register of deeds of Ontonagon County, and shall not be discharged or released until the terms thereof are met in full. The village council shall establish the procedure for making this section effective.~~

(a) The village council may provide that any person:

(1) Who meets the current low income guidelines, as published annually by HUD; and

(2) Who, in the opinion of the village council, ~~because of~~ has an inability to pay the special assessments;

May execute to the village an instrument creating a lien in favor of ~~the benefit for~~ the village on all or any part of the real property owned by such person. ~~which~~ The lien will mature and be effective from and after the execution of such instrument, shall be recorded with the register of deeds of the county, and shall not be discharged or released until the terms thereof are met in full.

(b) The village council shall establish the procedure for making this section effective.

(Code 1995, § 2-219; Ord. No. 2006-03, 9-25-2006)

PROOFS

Secs. 2-267--2-295. Reserved.

ARTICLE VII. CITATION METHOD OF CODE ENFORCEMENT

Sec. 2-296. ~~A).~~ Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Act Public Act 236 of 1961, as amended.~~

Authorized official means any public officer, agent or personnel authorized by ordinance to issue municipal civil infractions, including the village manager, department of public works supervisor (or their designees or agents) and any ~~police~~ enforcement officer having jurisdiction within the village.

Bureau means the municipal ordinance violations bureau as established by this article.

Municipal civil infraction means an act or omission that is prohibited by any ordinance, but which is not a crime, and for which civil sanctions, including without limitations, fines, damages, expenses, and costs, may be ordered, as authorized by MCL 600.8701 to 600.8735 ~~Chapter 87 of Public Act 236 of 1961, as amended~~. A municipal civil infraction is not a lesser included offense of a violation of this article that is a criminal offense.

Municipal civil infraction action means a civil infraction in which the defendant is alleged to be responsible for a municipal civil infraction.

Municipal civil infraction citation means a written complaint or notice prepared by an authorized official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal civil infraction violation notice means a written notice prepared by an authorized official, directing a person to appear at the municipal ordinance violations bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the village, as authorized by MCL 600.8396 ~~under Sections 8396 and 8707(6) of the Act~~.

(Ord. No. 2008-01, § 1-11(a), 6-10-2008)

Sec. 2-297. ~~B).~~ General penalties; continuing violations; injunctive relief.

(a) Unless a violation of an ordinance is specifically designated in the ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor punishable as provided in section 1-12.

(b) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the Code or any ordinance, plus any costs, damages, expenses, and other sanctions, as authorized under MCL 600.8701 to 600.8735 ~~Chapter 87 of Public Act 236 of 1961, as amended,~~ and other applicable laws.

(1) Unless otherwise specifically provided, the civil fine for a particular municipal civil infraction violation shall be not less than $50.00 nor more than $500.00, plus costs and other sanctions, for each infraction. Costs shall include all expenses, direct and indirect, to which the village has been put in connection with the municipal civil infraction.

(2) Increased civil fines may be imposed for repeated violations by a person of any ordinance provision. As used in this section, the term "repeat offense" means a second (or any subsequent) municipal civil infraction violation (based on the date of the commission of the offense) of the same requirement or provision ~~(i)~~ committed by a person within any three-year period (unless some other period is specifically provided by ordinance) and ~~(ii)~~ for which the person admits responsibility or is provided by ordinance for a particular municipal civil infraction violation, the increased fines for a repeat offense shall be as follows:

a. The fine for any offense which is a first repeat offense shall be no less than $100.00 nor more than $500.00, plus costs.

b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than $500.00, plus costs.

PROOFS

c. A "violation" includes any act which is prohibited by any ordinance or any omission or failure to act where the act is required by any ordinance.

d. Each act of violation and each day on which any violation of any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

e. In addition to any remedies available at law, the village may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of the ordinance. The penalty or sanction shall be in addition to the abatement of the violating condition, any injunctive relief, revocation of any permit or license, or other process.

f. The penalties and sanctions provided by this section, unless another penalty or sanction as expressly provided, shall apply to the amendment of any section of this Code whether or not such penalty or sanction is enacted in the amendatory ordinance.

(Ord. No. 2008-01, § 1-11(b), 6-10-2008)

Sec. 2-298. ~~C).~~ Action; commencement.

A municipal civil infraction action may be commenced upon the issuance by an authorized official of:

(1) A municipal civil infraction citation directing the alleged violator to appear in court; or

(2) A municipal civil infraction violation notice directing the alleged violator to appear at the village municipal ordinance violations bureau to pay fines and costs.

(Ord. No. 2008-01, § 1-11(c), 6-10-2008)

Sec. 2-299. ~~D).~~ Citations; issuance and service.

Municipal civil infraction citations shall be issued and served by authorized officials as follows:

(1) The time for appearance specified in the citation shall be within a reasonable time after the citation is issued.

(2) The place for appearance specified in a citation shall be the district court.

(3) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the authorized official and issued to the alleged violator as provided in MCL 600.8705 ~~by Section 8705 of the Act~~.

(4) A citation for a municipal civil infraction signed by an authorized official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

(5) An authorized official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.

(6) An authorized official may issue a citation to a person if:

a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

b. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney or village attorney approves in writing the issuance of the citation.

(7) Citations shall be served by an authorized official as follows:

a. Except as provided by subsection (7)b of this section, an authorized official shall personally serve a copy of the citation upon the alleged violator.

PROOFS

b. If the municipal civil infraction involves the use or occupancy of land, a building, or other structure, a copy of the citation does not need to be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building, or structure by posting the copy of the citation or attaching a copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address.

(Ord. No. 2008-01, § 1-11(d), 6-10-2008)

Sec. 2-300. ~~E).~~ Contents of citations.

(a) A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

(b) Further, the citation shall inform the alleged violator that he or she may do one of the following:

(1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.

(2) Admit responsibility for the municipal civil infraction with explanation or by mail by the time specified for appearance or, in person, or by representation.

(3) Deny responsibility for the municipal civil infraction by doing either of the following:

a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the village.

b. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

(c) The citation shall also inform the alleged violator of all of the following:

(1) That if the alleged violator desires to admit responsibility with explanation in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.

(2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.

(3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the authorized official.

(4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.

(5) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(d) The citation shall contain a notice in boldface type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing of appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(Ord. No. 2008-01, § 1-11(e), 6-10-2008)

Sec. 2-301. ~~F).~~ Municipal ordinance violations bureau established; procedure; accounting.

(a) The village has established a municipal ordinance violations bureau ("bureau") as authorized under MCL 600.8396 ~~section 8396 of the Act~~ to accept admissions of responsibility for municipal civil infraction in response to municipal civil infraction violation notices issued and served by authorized officials, and to collect and retain civil fines and costs as prescribed by this article. The bureau shall be located at the village clerk's office and shall be under the supervision and control of the village clerk.

PROOFS

(b) The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(c) Municipal civil infraction violation notices shall be issued and served by authorized village officials under the same circumstances and upon the same persons as provided for citations in subsections 2-299(6) and (7). In addition to any other information required by this article, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(d) An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

(e) If an authorized official issues and serves a municipal ordinance violation notice, and if an admission of responsibility is not made and the civil fines and costs, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by MCL 600.8705 and 600.8709 ~~sections 8705 and 8709 of the Act~~ but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

(f) The village clerk shall retain all municipal ordinance violation notices, and shall account to the village council as directed concerning the number of admissions and denials of responsibility for municipal civil infractions and the amount of fines collected. The amounts collected in civil fines shall be placed in the general fund of the village.

(g) Nothing in this article shall prevent or restrict the village from issuing a municipal civil infraction citation for any violation, from prosecuting any violation in a court of competent jurisdiction or from taking other enforcement action as authorized by law.

(Ord. No. 2008-01, § 1-11(f), 6-10-2008)

PROOF

Chapter 3

RESERVED

PROOFS

Chapter 4

ANIMALS

ARTICLE I. IN GENERAL

Sec. 4-1. Purpose.

The purpose of this chapter is to promote the public health, safety, comfort and general welfare of the community through the proper control and care of animals by their owners and others. It is deemed by the village that the ownership of an animal is a privilege which carries with it responsibilities to the community and its residents with regard to the care and custody of the animal. In interpretation and application, the provisions of this chapter shall be construed to impose a primary responsibility for compliance with the provisions of this chapter on the owner of the animal.

(Code 1995, § 4-1; Ord. No. 2002-01, 5-28-2002)

Sec. 4-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: ~~For the purposes of this chapter, certain words used herein are defined as follows:~~

Animal means any live creature except human beings, fish, reptiles and birds.

Animal control officer means any person designated by the state or other unit of government as a law enforcement officer who is qualified to perform such duties under the laws of the state.

Animal shelter means any facility operated by an animal protection organization, governmental agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

Domestic animal means an animal that is traditionally regarded as a house pet and is a species that has been kept as a tame pet.

Kennel means any premises, house, building, or enclosure used for the purpose of keeping, possessing, harboring, or having the care of domestic animals for the purpose of breeding or procreation of the animals, or caring for the animals for hire.

Nuisance per se means any animal which:

(1) Molests or attacks people or other animals;

(2) Damages private or public property;

(3) Barks, whines, howls, or makes any noise in excess, to cause annoyance to people in the neighborhood or to persons utilizing the public walks or streets of the neighborhood;

(4) Defecates repeatedly at the same general location (excepting the owner's premises).

Owner means every person having a right of property in the animal, and every person who keeps or harbors the animal or has it in his/her care, and every person who permits the animal to remain on or about any premises occupied by him/her.

Pet means an animal kept for pleasure rather than utility.

Restraint means any animal secured by a leash or lead, or under the control of a responsible person and obedient to that person's commands, or inside the real property limits of its owner.

Wild animal means an animal which falls under the designated responsibility of the state department of natural resources (DNR).

(Code 1995, § 4-3; Ord. No. 2002-01, 5-28-2002)

PROOFS

Sec. 4-3. Penalties for violations.

(a) Any person violating any of the provisions of this chapter is guilty of a misdemeanor punishable by a fine not to exceed $100.00 or by imprisonment in the county jail for a period not to exceed 90 days, or both such fine and imprisonment.

(b) Any continuing violation or a repeated violation of this chapter shall constitute a nuisance per se and may be abated by an action in circuit court separately or in addition to criminal proceedings.

(Code 1995, § 4-6; Ord. No. 2002-01, 5-28-2002)

Sec. 4-4. Enforcement.

This chapter shall be enforced through the complaint process by the animal control officers as defined in section 4-2.

(Code 1995, § 4-7; Ord. No. 2002-01, 5-28-2002)

Secs. 4-5--4-26. Reserved.

ARTICLE II. CARE AND CONTROL

Sec. 4-27. Number of animals to be kept as pets.

The number of animals to be kept as pets shall not be limited, except that it is unlawful for any person in the village limits to possess, harbor, shelter or keep adult animals in or about the premises of any dwelling unless they are consistently and adequately controlled and cared for by the owner, and do not constitute a nuisance per se.

(Code 1995, § 4-4; Ord. No. 2002-01, 5-28-2002)

Sec. 4-28. Running at large.

(a) All pets shall be kept under restraint. No person owning or having charge, care, custody or control of any pet shall cause, permit, or allow the pets to run at large, or to be on any property or premises other than those of the person owning such pets unless such pets are restrained by a substantial chain or leash or is in the charge, care, custody, or control of a person with the ability to restrain it. Owners shall be responsible for the proper disposal of any solid animal wastes deposited by his/her animals at, near, or upon public or private property within the village.

(b) Pets that are within the confines of a secure enclosure on the owner's premises shall be considered to be restrained.

(Code 1995, § 4-5; Ord. No. 2002-01, 5-28-2002)

Sec. 4-29. Prohibited animals.

No farm animal, wild animal or non-domestic animal, such as, but not limited to, a horse, cow, swine, sheep, goat, chicken, goose or duck, shall be kept in any dwelling or on the same lot or premises of any dwelling or any vacant lot in the village.

(Ord. No. 2009-01, § 4-8, 8-10-2009)

PROOFS

Chapter 5

RESERVED

PROOFS

Chapter 6[1]

BUILDINGS AND CONSTRUCTION (RESERVED)

(RESERVED)

~~**ARTICLE I. IN GENERAL**~~

~~**Secs. 6-1—6-25. Reserved.**~~

~~**ARTICLE II. HOUSING STANDARDS**~~

~~DIVISION 1. GENERALLY~~

~~**Secs. 6-26—6-35. Reserved.**~~

~~DIVISION 2. HOUSING COMMISSION~~

~~**Sec. 6-36. Continued.**~~

~~The village housing commission, as presently constituted, is hereby continued, subject to the provisions of this division.~~

~~(Comp. Ords. 1984, § 701.01; Code 1995, § 6-36)~~

~~**Sec. 6-37. Members; appointment; compensation.**~~

~~The housing commission shall consist of five members who shall be appointed by the village president. The term of office shall be five years, and members shall receive no compensation for service on the housing commission. Vacancies shall be filled by appointment by the village president for the remainder of the unexpired term.~~

~~In addition to the five-member commission, the village has created two honorary memberships for Dorothy Aubrey and Clarice Cane, who shall have all the privileges of membership. The two honorary memberships should not be counted for purposes of quorum. The two regular commission member positions who have been provided honorary membership shall be deemed open for appointment by the village president.~~

~~(Comp. Ords. 1984, § 701.02; Code 1995, § 6-37; Ord. No. 1992-2, § 1, 5-6-1992)~~

~~**Sec. 6-38. Meetings; rules; records; quorum; officers.**~~

~~The housing commission shall meet at regular intervals, such meetings to be public. It shall adopt its own rules of procedure and shall keep a record of the proceedings. Three members shall constitute a quorum for the transaction of business. A president and vice-president shall be elected by the housing commission. The housing commission may appoint a director who may also serve as secretary, and such other employees or officers as shall be necessary. The housing commission shall prescribe the duties of all of its officers and employees and may fix their compensation. The housing commission may from time to time as necessary, employ engineers, architects and consultants.~~

~~(Comp. Ords. 1984, § 701.03; Code 1995, § 6-38)~~

PROOFS

---

[1] Chapter 6. Buildings and Construction.

- This chapter is unedited. Basic editing will be done after this draft is reviewed. During editing, all sections will be renumbered, history notes will be updated, grammatical and spelling issues will be resolved, etc.
- All the provisions of this chapter are quite old. Please confirm that they are still current and that the village has no other building regulations other than those encompassed in the zoning regulations.

Sec. 6-39. Powers; report to council.[2]

The housing commission shall have all of the powers and duties set forth in MCL 125.657 Act No. 18 of the Public Acts of Michigan of 1933 (Extra Session) (MCL 125.651 et seq., MSA 5.3011 et seq.), as amended, and shall make a report of its activities to the village council at its first regular meeting in June of each year.

(Comp. Ords. 1984, § 701.04; Code 1995, § 6-39)

Secs. 6-40—6-50. Reserved.

DIVISION 3. STANDARDS AND SPECIFICATIONS

Sec. 6-51. Definitions.

(a)The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Basement means a portion of a building located partly underground but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

Cellar means a portion of a building located partly or wholly underground and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Dwelling means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing shall not be regarded as a dwelling.

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

Extermination means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods approved by the health officer.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets, and storage spaces.

Health officer means the legally designated village manager or his authorized representative.

Infestation means the presence, within or around a dwelling, of any insects, rodents, or other pests.

Multiple dwelling means any dwelling containing more than two dwelling units.

Occupant means any person, over one year of age, living, sleeping, cooking, or eating in, or having actual possession of a dwelling unit or rooming unit.

Operator means any person who has charge, care, or control of a building, or part thereof, in which dwelling units or rooming units are let.

Ordinary minimum winter conditions means the temperature 15 degrees Fahrenheit above the lowest recorded temperature for the previous ten-year period.

Owner means any person who alone or jointly or severally with others:

(1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Shall have charge, care, or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner. Any such

PROOFS

[2] **Sec. 6-39. Powers; report to council. C**itations are reformatted as shown.

person thus representing the actual owner shall be bound to comply with the provisions of this division, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Plumbing means and includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catchbasins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Roominghouse means any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rubbish means combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery, and dust.

Supplied means paid for, furnished, or provided by or under the control of, the owner or operator.

Temporary housing means any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

(b) When the words ``dwelling,'' ``dwelling unit,'' ``roominghouse,'' ``rooming unit,'' ``premises,'' are used in this division, they shall be construed as though they were followed by the words ``or any part thereof.''

(Comp. Ords. 1984, § 700.01; Code 1995, § 6-51)

Sec. 6-52. Penalties for violation.

Any person who shall violate any provision of this division, or any provision of any rule or regulation adopted by the health officer pursuant to authority granted by this division shall, upon conviction, shall be punished according to the provisions of section 1-10. Each day's failure to comply with any such provision shall constitute a separate violation.

(Comp. Ords. 1984, § 700.12; Code 1995, § 6-52)

Sec. 6-53. Inspection of dwellings, dwelling units, rooming units and premises.

The health officer is authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming units, and premises located within this village, in order that he may perform his duty of safeguarding the health and safety of the occupants of dwellings and of the general public.

For the purpose of making such inspections, the health officer is authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units, and premises. The owner or occupant of every dwelling, dwelling unit, and rooming unit, or the person in charge thereof, shall give the health officer free access to such dwelling, dwelling unit or rooming unit and its premises, at all reasonable times for the purpose of such inspection, examination, and survey.

Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this division or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this division.

(Comp. Ords. 1984, § 700.02; Code 1995, § 6-53)

Sec. 6-54. Enforcement; service of notices and orders; hearings.

When the health officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this division or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the person responsible therefor, as provided in this section. Such notice shall:

PROOFS

(1) Be put in writing.

(2) Include a statement of the reasons why it is being issued.

(3) Allow a reasonable time for the performance of any act it required.

(4) Be served upon the owner or his agent, or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is served upon him personally; if a copy thereof is sent by registered mail to his last known address; if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of this state.

(5) Such notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this division and with rules and regulations adopted pursuant thereto.

(b) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this division, or of any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the village council, provided that such person shall file in the office of the health officer a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten days after the day the notice was served. Upon receipt of such petition, the health officer shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than ten days after the day on which the petition was filed, provided that, upon application of the petitioner, the health officer may postpone the date of hearing for a reasonable time beyond such ten-day period, if in his judgment, the petitioner has submitted a good and sufficient reason for such postponement.

(c) After such hearing the village council shall sustain, modify, or withdraw the notice, depending upon their finding as to whether the provisions of this division and of the rules and regulations adopted pursuant thereto have been complied with. If the village council sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to subsection (a) of this section shall automatically become an order if a written petition for a hearing is not filed in the office of the health officer within ten days after such notice is served. After a hearing in the case of any notice suspending any permit required by this division or by any rule or regulation adopted pursuant thereto, when such notice has been sustained by the village council, the permit shall be deemed revoked. Any such permit which has been suspended by a notice shall be deemed to be automatically revoked if a petition for hearing is not filed in the office of the health officer within ten days after such notice is served.

(d) The proceedings at such hearing, including the findings and decision of the village council, shall be summarized, reduced to writing, and entered as a matter of public record in the office of the health officer. Such record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the village council may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this state.

(e) When the health officer finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this division, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the health officer shall be afforded a hearing as soon as possible. After such hearing, depending upon his finding as to whether the provisions of this division and of the rules and regulations adopted pursuant thereto have been complied with, the health officer shall continue such order in effect, or modify it or revoke it.

(Comp. Ords. 1984, § 700.03; Code 1995, § 6-54)

Sec. 6-55. Adoption of rules and regulations by the health officer.

The village council is authorized to make and, after a public hearing has been held in accordance with the laws governing the conduct of public hearings by the village council, to adopt such written rules and regulations as may be necessary for the proper enforcement of the provisions of this division, provided that such rules and regulations shall not be in conflict with the provisions of this division. The village council shall file a certified copy of all rules and regulations which they may adopt with the village clerk. Such rules and regulations shall have the same force

PROOFS

and effect as the provisions of this division, and the penalty for violation thereof shall be the same as the penalty for violation of the provisions of this division, as provided in this division.

(Comp. Ords. 1984, § 700.04; Code 1995, § 6-55)

Sec. 6-56. Minimum standards for basic equipment and facilities.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements:

(1) Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water and sewer system approved by the health officer.

(2) Every dwelling unit, except as otherwise permitted under subsection (4) of this section, shall contain a room which affords privacy to a person within the room and which is equipped with a flush water closet and a lavatory basin in good working condition and properly connected to a water and sewer system approved by the health officer.

(3) Every dwelling unit, except as otherwise permitted under subsection (4) of this section, shall contain, within a room which affords privacy to a person within the room, a bathtub or shower in good working condition and properly connected to a water and sewer system approved by the health officer.

(4) The occupants of not more than two dwelling units may share a single flush water closet, a single lavatory basin, and a single bathtub or shower if:

a. Neither of the two dwelling units contains more than two rooms, provided that for the purposes of this subsection, a kitchenette or an efficiency kitchen with not more than 60 square feet of floor area shall be counted as a room;

b. The habitable area of each such dwelling unit shall equal not more than 250 square feet of floor area; and

c. Such water closet, lavatory basin, and bathtub or shower shall be in good working condition and properly connected to a water and sewer system approved by the health officer.

(5) Every kitchen sink, lavatory basin, and bathtub or shower required under the provisions of subsections (1) through (4) of this section shall be properly connected with both hot and cold water lines.

(6) Every dwelling unit shall be supplied with adequate rubbish storage facilities, type and location of which are approved by the health officer.

(7) Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, type and location of which are approved by the health officer.

(8) Every dwelling unit shall have supplied water-heating facilities which are properly installed, are maintained in safe and good working condition, are properly connected with the hot water lines required under the provisions of subsection (5) of this section, and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120 degrees Fahrenheit. Such supplied water-heating facilities shall be capable of meeting the requirements of this subsection when the dwelling or dwelling unit heating facilities required under the provisions of section 6-57(5) are not in operation.

(9) Every dwelling unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the laws of this state and this village.

(Comp. Ords. 1984, § 700.05; Code 1995, § 6-56)

Sec. 6-57. Minimum standards for light, ventilation and heating.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

(1) Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten percent of the floor area of such room. Whenever walls or other portions of structures face a window of any such

PROOFS

room and such light obstruction structures are located less than three feet from the window and extended to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight type window in the top of such room, the total window area of such skylight shall equal at least 15 percent of the total floor area of such room.

(2) Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight type window size, as required in subsection (1) of this section, except where there is supplied some other device affording adequate ventilation and approved by the health officer.

(3) Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in subsections (1) and (2) of this section, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet compartments equipped with a ventilation system which is kept in continuous operation and approved by the health officer.

(4) Where there is electric service available from power lines which are not more than 300 feet away from a dwelling, every habitable room of such dwelling shall contain at least two separate floor or wall type electric convenience outlets, or supplied ceiling type electric light fixture; and every water closet compartment, bathroom, laundry room, furnace room and public hall shall contain at least one supplied ceiling or wall type electric light fixture. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.

(5) Every dwelling shall have heating facilities which are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located therein to a temperature of at least 70 degrees Fahrenheit, at a distance three feet above floor level, under ordinary minimum winter conditions.

(6) Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

(7) During that portion of each year when the health officer deems it necessary for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens, provided that such screens shall not be required during such period in rooms deemed by the health officer to be located high enough in the upper stories of buildings as to be free from such insects, and in rooms located in areas of this village which are deemed by the health officer to have so few such insects as to render screens unnecessary.

(8) Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.

(Comp. Ords. 1984, § 700.06; Code 1995, § 6-57)

Sec. 6-58. Safe and sanitary maintenance of parts of dwelling and dwelling units.

No person shall occupy as owner-occupant or let to another for occupancy, any dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

(1) Every foundation, floor, wall, ceiling, and roof shall be reasonably weathertight, watertight, and rodentproof; shall be capable of affording privacy; and shall be kept in good repair.

(2) Every window, exterior door, and basement hatchway shall be reasonably weathertight, watertight, and

PROOFS

rodentproof; and shall be kept in sound working condition and good repair.

__ Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

__ Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks, and obstructions.

__ Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

__ Every supplied facility, piece of equipment, or utility which is required under this division shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

__ No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this division to be removed from or shut off from or discontinued for any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the health officer.

__ No owner shall occupy or rent to any other occupant any vacant dwelling unit unless it is clean, sanitary, and fit for human occupancy.

(Comp. Ords. 1984, § 700.07; Code 1995, § 6-58)

Sec. 6-59. Minimum space, use, and location requirements.

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

__ Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof, the floor space to be calculated on the basis of total habitable room area.

__ In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof.

__ No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.

__ At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet, and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

__ No cellar space shall be used as habitable room or dwelling unit.

__ No basement space shall be used as a habitable room or dwelling unit unless:

__ The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness.

__ The total of window area in each room is equal to at least the minimum window area sizes as required in section 6-57(1).

__ Such required minimum window area is located entirely above the grade of the ground adjoining such window area.

__ The total of openable window area in each room is equal to at least the minimum as required under

PROOFS

section 6-57(2), except where there is supplied some other device affording adequate ventilation and approved by the health officer.

(Comp. Ords. 1984, § 700.08; Code 1995, § 6-59)

Sec. 6-60. Responsibilities of owners and occupants.

(a) Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(b) Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.

(c) Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish containers required by section 6-56(6).

(d) Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents, in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers required by section 6-56(7). It shall be the responsibility of the owner to supply such facilities or containers for all dwelling units in a dwelling containing more than four dwelling units and for all dwelling units located on premises where more than four dwelling units share the same premises. In all other cases it shall be the responsibility of the occupant to furnish such facilities or containers.

(e) Every occupant of a dwelling or dwelling unit shall be responsible for hanging all screens and double or storm doors and windows whenever the same are required under the provisions of this division, or of any other rule or regulation adopted pursuant thereto, except where the owner has agreed to supply such service.

(f) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises. Every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a ratproof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

(g) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(Comp. Ords. 1984, § 700.09; Code 1995, § 6-60)

Sec. 6-61. Roominghouses.

No person shall operate a roominghouse or shall occupy or let to another for occupancy any rooming unit in any roominghouse, except in compliance with the provisions of every section of this division except the provisions of sections 6-56 and 6-60.

(a) No person shall operate a roominghouse unless he holds a valid roominghouse permit issued by the health officer in the name of the operator and for the specific dwelling or dwelling unit. The operator shall apply to the health officer for such permit, which shall be issued by the health officer upon compliance by the operator with the applicable provisions of this division and of any rules and regulations adopted pursuant thereto. This permit shall be displayed in a conspicuous place within the roominghouse, at all times. No such permit shall be transferable. Every person holding such a permit shall give notice in writing to the health officer within 24 hours after having sold, transferred, given away, or otherwise disposed of ownership of interest in, or control of any roominghouse. Such notice shall include the name and address of the person succeeding to the ownership or control of such roominghouse. Every roominghouse permit shall expire at the end of one year following its date of issuance, unless sooner suspended or revoked as provided in this section.

(b) Any person whose application for a permit to operate a roominghouse has been denied may request and shall be granted a hearing on the matter before the village council under the procedure provided by section 6-54.

PROOFS

- Whenever, upon inspection of any roominghouse, the health officer finds that conditions or practices exist which are in violation of any provision of this division or of any rule or regulation adopted pursuant thereto, the health officer shall give notice in writing to the operator of such roominghouse that unless such conditions or practices are corrected within a reasonable period, to be determined by the health officer, the operator's roominghouse permit will be suspended. At the end of such period, the health officer shall reinspect such roominghouse, and if he finds that such conditions or practices have not been corrected, he shall give notice in writing to the operator that the latter's permit has been suspended. Upon receipt of notice of suspension, such operator shall immediately cease operation of such roominghouse, and no person shall occupy for sleeping or living purposes any rooming unit therein.
- Any person whose permit to operate a roominghouse has been suspended, or who has received notice from the health officer that his permit is to be suspended unless existing conditions or practices at his roominghouse are corrected, may request and shall be granted a hearing on the matter before the village council, under the procedure provided by section 6-54, provided that if no petition for such hearing is filed within ten days following the day on which such permit was suspended, such permit shall be deemed to have been automatically revoked.
- At least one flush water closet, lavatory basin, and bathtub or shower, properly connected to a water and sewer system approved by the health officer and in good working condition, shall be supplied for each eight persons or fraction thereof residing within a roominghouse, including members of the operator's family wherever they share the use of the facilities, provided that in a roominghouse where rooms are let only to males, flush urinals may be substituted for not more than one-half the required number of water closets. All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times. No such facilities shall be located in a basement except by written approval of the health officer.
- The operator of every roominghouse shall change supplied bed linen and towels therein at least once each week, and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.
- Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant thereof.
- Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the laws of this state and this village.
- The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for maintenance of a sanitary condition in every other part of the roominghouse. He shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.
- Every provision of this division which applies to roominghouses shall also apply to hotels, except to the extent that any such provision may be found in conflict with the laws of this state or with the lawful regulations of any state board or agency.

(Comp. Ords. 1984, § 700.10; Code 1995, § 6-61)

Sec. 6-62. Designation of unfit dwellings and legal procedure of condemnation.

The designation of dwelling or dwelling units as unfit for human habitation and the procedure for the condemnation and placarding of such unfit dwelling or dwelling units shall be carried out in compliance with the following requirements:

- Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the health officer:
  - One which is so damaged, decayed, dilapidated, insanitary, unsafe, or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.

PROOFS

(1) One which lacks illumination, ventilation, or sanitation facilities adequate to protect the health or safety of the occupants or of the public.

(2) One which because of its general condition or location is insanitary, or otherwise dangerous, to the health or safety of the occupants or of the public.

(b) Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the health officer, shall be vacated within a reasonable time as ordered by the health officer.

(c) No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the health officer. The health officer shall remove such placard whenever the defects upon which the condemnation and placarding action were based have been eliminated.

(d) No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such except as provided in subsection (3) of this section.

(e) Any person affected by any notice or order relating to the condemning and placarding of a dwelling or dwelling unit as unfit for human habitation may request and shall be granted a hearing on the matter before the village council, under the procedure set forth in section 6-54.

(Comp. Ords. 1984, § 700.11; Code 1995, § 6-62)

Sec. 6-63. Conflicting provisions.

(a) When a provision of this division is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or code of this village existing on the effective date of the ordinance from which this section was derived, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

(b) If a provision of this division is found to be in conflict with a provision of any other ordinance or code of this village existing on such effective date which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this division shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this division.

(Comp. Ords. 1984, § 700.13; Code 1995, § 6-63)

Secs. 6-64—6-85. Reserved.

ARTICLE III. SWIMMING POOLS

Sec. 6-86. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Swimming pool means any manmade or enclosed body of water, or any natural body of water modified by man for swimming purposes, having a normal water depth in excess of 18 inches.

(Code 1995, § 6-86; Ord. No. 1985-3, § 907.01, 7-22-1985)

Sec. 6-87. Fencing and gate requirements.

(a) No swimming pool shall be filled or used unless it is enclosed by a fence from the ground to 51/2 feet in height, impenetrable and constructed in such manner as to be resistant to climbing by small children, ages four and under. Fences erected within five feet of a property line must be eight feet in height. Gates for access to the pool shall have self-enclosing and self-latching devices at the top of each gate inaccessible to small children. Gates shall further have positive locking devices and shall be locked when the pool is not in use by adults or skilled swimmers.

(b) At the option of a homeowner or operator of a pool, the requirements of subsection (a) need not be met if a barrier is installed, the design of which and practical effect of which provides security against access by small children equivalent to the fencing requirements of subsection (a) of this section, in the opinion of the village

PROOFS

manager. A homeowner desiring to employ such a barrier as an alternative to the requirements of subsection (a) of this section shall not fill or use a pool without first having received written approval of the village manager following inspection of the barrier.

(Code 1995, § 6-87; Ord. No. 1985-3, § 907.02, 7-22-1985; Ord. No. 1988-1, § 1, 6-27-1988)

Sec. 6-88. Penalty for violation.

The legal occupant of any premises upon which there exists a swimming pool in violation of this article, as well as any other person who shall violate the provisions of this article, shall be guilty of a misdemeanor and, upon conviction, shall be punished according to the provisions of section 1-10.

(Code 1995, § 6-88; Ord. No. 1985-3, § 907.03, 7-22-1985)

Secs. 6-89—6-110. Reserved.

ARTICLE IV. DANGEROUS BUILDINGS

Sec. 6-111. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous buildings means and includes:

(1) Any building, shed, fence, or other manmade structure which is dangerous to the public health because of its condition, and which may cause or aid in the spread of disease, or injury to the health of the occupants of it or neighboring structures;

(2) Any building, shed, fence or other manmade structure which because of faulty construction, age, lack of proper repair or any other cause, is especially liable to fire and constitutes or creates a fire hazard;

(3) Any building, shed, fence or other manmade structure, which by reason of faulty construction or any other cause, is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such structure; and

(4) Any building, shed, fence or other manmade structure, which because of its condition or because of lack of doors or windows is available to and frequented by malefactors or disorderly persons who are not lawful occupants of such structure.

(Comp. Ords. 1984, § 604.01; Code 1995, § 6-111)

Sec. 6-112. Declaration of nuisance.

Any such dangerous building in the village is hereby declared to be a nuisance.

(Comp. Ords. 1984, § 604.01; Code 1995, § 6-112)

Sec. 6-113. Penalty for violation.

Any person who violates or fails to comply with any of the provisions of this article, or any order made under the authority hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined as prescribed in section 1-10.

(Comp. Ords. 1984, § 604.10; Code 1995, § 6-113)

Sec. 6-114. Examination and inspection.

Upon complaint to the village council and upon direction of the village council, the chief of police and/or the village manager and/or a building inspection committee, appointed by the village council, are authorized and empowered, at all reasonable times, to enter into and upon all premises within the village for the purposes of examination and inspection thereof, without liability for trespass.

(Comp. Ords. 1984, § 604.02; Code 1995, § 6-114)

Sec. 6-115. Investigation; determination of violation.

PROOFS

Upon complaint that any of the provisions of this article are being violated, or upon their own motion without complaint, the village chief of police and/or the village manager and/or a building inspection committee, appointed by the village council, may make an investigation and if he/they shall find that any building or other structure is maintained in violation of this article, he/they shall make a written determination as to violation, and to what extent the building or other structure so investigated should be repaired, or whether such building or structure should be torn down or completely removed, and immediately file same with the village clerk for use by the village council and by any other interested party.

(Comp. Ords. 1984, § 604.03; Code 1995, § 6-115)

Sec. 6-116. Service of notice of determination of violation.

Upon making and filing such determination as described in section 6-115, it shall be the duty of the village clerk to notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building, as shown by the land records of the county register of deeds, of such building or other structure, of the making and filing of such determination and shall specify a time as soon as practicable thereafter when, and a place where, such owner may appear before the village council, and be heard by them respecting the condition of such building or structure.

The notice must be served at least ten days before the date of hearing therein mentioned, by any person of suitable age and discretion by delivering the notice personally to such owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building as shown by the land records of the county register of deeds, or by certified mail, return receipt requested, directed to such owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building, as shown by the land records of the county register of deeds at their last known address. The person making service shall make proof of such service, under oath, and file the proof with the village clerk immediately after making such service.

(Comp. Ords. 1984, § 604.04; Code 1995, § 6-116)

Sec. 6-117. Hearing.

At the time and place specified for such hearing, the village council shall consider such determination of the village chief of police and/or the village manager and/or the building inspection committee, or the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building, as shown by the land records of the county register of deeds of such building or structure. The village council may affirm, reverse or modify the determination of the village chief of police and/or the village manager and/or the building inspection committee and shall, by resolution, enter an order on the records accordingly. The determination of the village chief of police and/or the village manager and/or the building inspection committee, as affirmed or modified by the village council shall be final and conclusive insofar as it involves findings of fact or exercise of discretion.

(Comp. Ords. 1984, § 604.05; Code 1995, § 6-117)

Sec. 6-118. Compliance by owner.

If the order of the village council is to repair, tear down or remove, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building, as shown by the land records of the county register of deeds of such building or structure, shall be given not less than 15 days from the entry of such order by the village council to signify in writing the intention to comply therewith, and to begin the necessary work. When the work of repairing, tearing down or removing, as the case may be, is begun, it shall be the duty of the owner to carry the same forward with reasonable diligence. Failure of the owner to signify in writing his intention to comply with the terms of the order of the village council is in violation of this article.

(Comp. Ords. 1984, § 604.06; Code 1995, § 6-118)

Sec. 6-119. Posting of notice.

Further, upon making and filing such determination, it shall be the duty of the village chief of police to place a notice on all dangerous buildings reading as follows: ``This building has been found to be a dangerous building by the village chief of police and/or the village manager and/or the building inspection committee and the village council. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given by the owner, occupant, lessee, mortgagee, or agent of this building, and all other

PROOFS

persons having an interest in this building as shown by the land records of the Register of Deeds of the County of Ontonagon. It is unlawful to remove this notice until such notice is complied with."

(Comp. Ords. 1984, § 604.07; Code 1995, § 6-119)

Sec. 6-120. Failure of owner to comply.

If the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building, as shown by the land records of the county register of deeds of such building or structure, shall fail to comply with the order of the village council within the time specified in section 6-118 or, having begun the work or repairing, tearing down or removing such building or structure in compliance with such order, shall fail to prosecute such work with reasonable diligence, the village building inspection committee is hereby authorized to proceed forthwith to make arrangements for such repairs or to tear down or remove such building or structure, as the case may be, on behalf of the village.

(Comp. Ords. 1984, § 604.08; Code 1995, § 6-120)

Sec. 6-121. Remedies of village.

Any expense which may be incurred by the village in repairing, tearing down or removing any building or structure under the authority of section 6-120, shall be a debt due from the owner of such building or structure to the village, and may be recovered by the village in an action of assumpsit against such owner. In addition to the above remedy for recovery of such expense, the village council may charge the same or such part thereof as it may deem proper, upon the lot or premises or on account of which such expense was incurred and cause the same to be assessed upon the lot or premises, and collected as a special assessment.

(Comp. Ords. 1984, § 604.09; Code 1995, § 6-121)

PROOFS

Chapter 7

RESERVED

PROOFS

Chapter 8

BUSINESSES

ARTICLE I. IN GENERAL

~~Sec. 8-1. Penalty for violation.~~

~~Any person who shall violate or assist in the violation of any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-12. Every day that such violation continues shall constitute a separate and distinct violation under the provisions of this chapter.~~

~~(Code 1995, § 10-27; Ord. No. 1993-5, § 4, 5-10-1993)~~

~~Sec. 8-2. Recreational marihuana.~~

~~(a) *Prohibition and title*.~~

~~(1) It is hereby determined by the village council of the village, that pursuant to the Michigan Regulation and Taxation of Marihuana Act, Section 6.1, the village elects to prohibit recreational marihuana businesses and establishments within its boundaries.~~

~~(2) This ordinance shall be known and cited as the Ontonagon Village Recreational Marihuana Ordinance.~~

~~(b) *Repeal, amend or replacement clause*.~~

~~(1) This ordinance may be repealed, amended or replaced by the village council as may be permitted the laws of the state.~~

~~(2) The village council shall not repeal, amend or replace this ordinance for a period of 18 months from the date of enactment. This provision shall provide the village sufficient time to enact or amend the zoning ordinance and other ordinances that may be necessary for the regulation of recreational marihuana businesses and facilities.~~

~~(c) *Saving clause*. The provisions of this ordinance are hereby declared to be severable and if any clause, word, section or provision is declared void and unenforceable, for any reason, by a court of competent jurisdiction, the remaining portions of said ordinance shall remain in force.~~

~~(d) *Effective date*. This ordinance shall become effective 30 days after adoption and publication.~~

~~(Ord. No. 2019-01, §§ 1--4, 10-14-2019)~~

Secs. 8-1--8-20. Reserved.

ARTICLE II. JUNKYARDS

Sec. 8-21. Declaration of public nuisance.

The village has determined that an unprotected junkyard creates an unsightly condition tending to reduce the value of private property, invites plundering, constitutes attractive nuisances which are a hazard to the health and safety of children, invites children and other persons to the exposure of hazardous waste material and confined spaces and is contrary to the public health, safety, and general welfare of the village, and constitutes a public nuisance.

(Code 1995, § 10-26; Ord. No. 1993-5, § 1, 5-10-1993)

Sec. 8-22. ~~I-2~~ Industrial zoned district; fencing required.

Any person shall be required to construct a minimum six-foot high commercially available fence to eliminate access to a junkyard operated in accordance with such village ordinances as well as any state statutes relating thereto. A fence installed around the perimeter of the I-2 industrial zoned property is acceptable under this section.

(Code 1995, § 10-28; Ord. No. 1993-5, § 2, 5-10-1993)

PROOFS

Sec. 8-23. ~~I-2~~ Nonindustrial zoned district; fencing required.

Any person shall be required to construct a minimum six-foot solid commercially available fence around the perimeter of the junkyard.

(Code 1995, § 10-29; Ord. No. 1993-5, § 3, 5-10-1993)

Secs. 8-24--8-49. Reserved.

ARTICLE III. TRANSIENT MERCHANTS

Sec. 8-50. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Transient merchant means a person selling, or offering for sale, goods or services to the public for prompt delivery by virtue of peddling merchandise or services from door-to-door, or operating from a fixed location on only a temporary or intermittent basis; provided, however, that for purposes of this article, the term "transient merchants" shall not include:

(1) Wholesalers selling to retailers;

(2) Solicitors of orders for goods or services to be delivered not less than three days hence;

(3) Merchants having a fixed, permanent retail sales location within the Township of Ontonagon, notwithstanding some door-to-door sales; and

(4) Nonprofit corporations or persons acting directly for charitable, religious, educational or athletic entities as defined in section 501c of the United States Internal Revenue Code.

(Comp. Ords. 1984, § 906.01; Code 1995, § 10-51)

Sec. 8-51. Registration required.

Prior to attempting sales or otherwise conducting business as or on behalf of a transient merchant in the village, a person must register with the village clerk and provide evidence satisfactory to the clerk of compliance with state sales tax license laws, transient merchant license laws and/or other state or local regulations which may be applicable.

(Comp. Ords. 1984, § 906.02; Code 1995, § 10-53)

Sec. 8-52. Application; fees; termination; appeal.

(a) Application for registration to the village clerk must be accompanied by a nonrefundable registration fee ~~of $25.00~~ as provided in the village fee schedule. The fee shall, however, be waived for veterans licensed by the county clerk pursuant to MCL 35.441 ~~section 1 of Act No. 359 of the Public Acts of Michigan of 1921 (MCL 35.441, MSA 4.1241), as amended~~. The clerk shall have 24 hours, or longer if necessary, to review the application and confirm information. If, however, notice of intent to register is given to the village clerk at least 72 hours before actual application, a decision by the village clerk may be expected immediately. The village clerk shall refuse to register any applicant who is not in compliance with all applicable state and local laws and regulations.

(b) Each registration with the village clerk shall expire three months following the date upon which application for registration is made. A registration shall be deemed void by virtue of false statement in or with reference to the application, or violation of law or ordinance or conditions of registration by the transient merchant or his agents. Refusal by the village clerk to register a transient merchant may be appealed by the merchant to the village council within ten days of the village clerk's decision.

(Comp. Ords. 1984, § 906.03; Code 1995, § 10-54)

Sec. 8-53. Registration does not constitute village approval.

The registration provided for in section 8-52 shall not be deemed approval by the village clerk of the village, or any of its agents, of the transient merchant or his company or his merchandise.

(Comp. Ords. 1984, § 906.04; Code 1995, § 10-55)

PROOFS

Sec. 8-54. Prohibited representations and mandatory disclaimers.

A transient merchant may not advertise the fact of registration, nor otherwise represent to the public that the village has reviewed or approved of the merchant or his merchandise or service. The merchant must, however, respond to the request of any citizen as to whether or not the merchant has in fact registered~~, but~~. The merchant must further state to the citizen that registration does not imply village approval of the merchant or his merchandise.

(Comp. Ords. 1984, § 906.05; Code 1995, § 10-56)

Sec. 8-55. Location of business.

A transient merchant shall not operate from a fixed location within the public street right-of-way, including, by way of example, not limitation, a parking space on the street.

(Comp. Ords. 1984, § 906.06; Code 1995, § 10-57)

Secs. 8-56--8-83. Reserved.

ARTICLE IV. MARIHUANA RELATED BUSINESSES

Sec. 8-84. Purpose and definitions.

~~*Purpose.*~~

~~This Ordinance is an exercise of the police powers of the village and provides a mechanism for licensing and regulating marihuana related businesses to the extent permissible under state law for purposes of protecting the public health, safety, and welfare of the residents of the village.~~

(a) The village finds that the activities described in this article are connected to and will impact the public health, safety, and welfare of its citizens. ~~and it is therefore necessary to~~ Therefore, the village adopts this article for the purposes of regulating and enforcing the safety, security, fire, police, and health and sanitation practices related to such activities and ~~to~~ providing a method to defray the administrative costs incurred by such regulation and enforcement.

(b) It is not the intent of this article to diminish, abrogate, or restrict the protections for recreational marihuana use found in the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951 et seq.) (MRTMA) and for medical marihuana use found in the Medical Marihuana Facilities Licensing Act, MLA 333.27101 et. Seq.) (MMFLA).

(Ord. No. 2023-03, § 1(a), 4-8-2024)

Sec. 8-85. Definitions.

(a) Unless otherwise specifically provided in this section, the definitions in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., and the Medical Marihuana Facilities Licensing Act, MLA 333.27101 et seq., shall apply to this article.

(b) *Definitions*. ~~The words and phrases used in this article shall have the following meanings, or the meanings ascribed in the MMFLA, the MRTMA or the state administrative rules, unless the context clearly indicates otherwise:~~ In addition, the following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Applicant means the person filing the application.

Application means an application for a license under this article and includes all supplemental documentation attached or required to be attached thereto.

Building means the particular building within which the licensee will be authorized to conduct the marihuana related business activities pursuant to the license.

~~*Clerk/zoning administrator* means the village clerk/zoning administrator or his/her designee.~~

License means a current and valid permit for a marihuana related business issued under this article by the village, which shall be granted to a licensee only for and limited to a specific person and property.

PROOFS

Licensee means the person that holds a current and valid license issued pursuant to this article that allows the licensee to operate as one of the following, specified in the license:

(1) Grower;

(2) Processor;

(3) Retail establishment/provisioning center;

(4) Secure transporter;

(5) Safety compliance facility;

(6) Microbusiness;

(7) Designated consumption establishment;

(8) Marihuana event organizer; and

(9) Temporary marihuana event.

Marihuana means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this article, the term "marihuana" does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;

(2) Industrial hemp; or

(3) Any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

Marihuana consumption lounge means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license issued under MRTMA.

Marihuana event organizer means a state license holder authorized to apply for a temporary marihuana event license in accordance with the MRTMA.

Marihuana grower means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana microbusiness means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

Marihuana processor means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana related business means any marihuana facility or establishment as defined and licensed by this state to grow, process, manufacture, test, transport or retail marihuana and marihuana-infused products as defined in MRTMA, MMMA, and MMFLA.

Marihuana retailer means a licensee authorized under the MRTMA to purchase or transfer marihuana or marihuana-infused products from only a licensed marihuana establishment and sell or transfer to only a licensed marihuana establishment or an individual 21 years of age or older.

Marihuana safety compliance facility means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

Marihuana secure transporter means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

PROOFS

MMFLA means the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

MMMA means the Michigan Medical Marihuana Act, MCL 333.264.21 et seq.

MRTMA means the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.

~~*Person* means a natural person, company, partnership, corporation, limited liability company, or any joint venture for a common purpose.~~

Property means the real property comprised of a lot, parcel, or other designated unit of real property upon which the marihuana related business is situated.

Provisioning center means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. The term "provisioning center" includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a registered primary caregiver to assist a qualifying patient connected to the caregiver through the state's marihuana registration process in accordance with the MMMA is not a provisioning center for purposes of this article.

State licensee means a person holding a current and valid state operating license for a marihuana related business.

State operating license means a license that is issued by the cannabis regulatory agency under MRTMA or MMFLA.

Temporary marihuana event means a license held by a marihuana event organizer under MRTMA, which the state has approved, that authorizes an event where the onsite sale or consumption of marijuana products, or both, are authorized at the location and on the dates indicated on the state operating license.

~~*Village* means the Village of Ontonagon, Michigan.~~

(Ord. No. 2023-03, § 1(B), 4-8-2024)

Sec. 8-86. License required; application; term; display.

(a) No person shall own or operate a marihuana related business in the village without first fulfilling the application requirements, receiving a certificate of zoning compliance or certificate of occupancy from the clerk/zoning administrator's office, and being issued a state operating license by the state cannabis regulatory agency.

(b) Every applicant for a license to maintain, operate or conduct a marihuana related business as permitted by this article shall file an application under oath with the clerk/zoning administrator's office upon a form provided by that office.

(c) A license is not transferable and shall only apply to the person, and property listed on the license. If there are any changes in ownership of the entity approved for the license, the new information must be filed with the village, and the village will accept changes in the ownership of the licensed entity if the state approves the changed ownership with regard to its license, along with any fee established by the village council for change of ownership review and processing.

(d) Licenses shall be valid for a period of one year from the date of issuance.

(e) Licenses shall be displayed at all times, inside the location, in an open and conspicuous place.

(Ord. No. 2023-03, § 2, 4-8-2024)

Sec. 8-87. Types of village licenses.

Only the following types of licenses are authorized to be issued:

(1) Marihuana retailer.

(2) Marihuana grower.

(3) Marihuana processor.

PROOFS

(4) Provisioning center.

(5) Marihuana safety compliance facility.

(6) Marihuana secure transporter.

(7) Marihuana microbusiness.

(8) Consumption lounge.

(9) Marijuana event organizer.

(10) Temporary marihuana event.

(Ord. No. 2023-03, § 3, 4-8-2024)

Sec. 8-88. Initial and annual fees.

(a) A non-refundable license application fee shall be paid by each applicant for a license to operate a marihuana related business in the village. The non-refundable fee shall be in an amount of not more than $5,000.00 as set by resolution of the village council. Fees may from time to time be amended.

(b) The fee shall be paid with the initial application, as well as with each subsequent annual renewal application. The annual application fee is for the purpose of helping defray administrative and enforcement costs associated with the operation of a marihuana related business in the village.

(Ord. No. 2023-03, § 4, 4-8-2024)

Sec. 8-89. Operation standards and specifications.

(a) No license to conduct a marihuana related business shall be issued unless the village confirms that the proposed marihuana related business complies with the following requirements:

(1) The proposed location is in an allowable zoning district.

(2) There shall be no residence or living quarters on the property.

(b) The proposed use must meet all applicable written and duly promulgated regulations of village and other governmental agencies having jurisdiction, including MMMA or MRTMA, and must to the extent required have the approval of these governments or governmental agencies or be reasonably assured of such approval.

(c) The location shall be monitored at all times by closed circuit video recording system for security purposes. The camera and recording system must be of adequate quality, color rendition, and resolution to allow the ready identification of any individual committing a crime anywhere on the site and recordings kept for at least 30 days.

(d) The location shall have a centrally monitored alarm system.

(e) Interior and exterior lighting must be of sufficient footcandles and color rendition so as to allow the ready identification of any individual committing a crime anywhere on the site at a distance of 40 feet.

(f) Windows and roof hatches shall be secured overnight so as to prevent unauthorized access, and shall be equipped with latches that may be released quickly from the inside to allow exit in the event of an emergency. Bars on exterior windows and doors are strictly forbidden.

(g) No cultivated marijuana or dried marijuana product shall be visible from the building exterior.

(h) All marihuana facilities or businesses shall be licensed by the cannabis regulatory agency and shall abide by all laws, rules, orders, and conditions imposed upon such facility or business.

(i) For marihuana facilities or businesses, no persons under the age of 18 years shall be allowed on-site, unless the individual is a qualified patient or person with a registry identification card and accompanied by his or her licensed attending physician, parent, or documented legal guardian.

(j) No cultivation of marihuana shall be visible with the naked eye from any public or other private property. No outdoor cultivation shall occur at a location unless it is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry.

PROOFS

(k) Dried marihuana shall be stored in fully enclosed and secured structures or a locked vault or safe bolted to the floor of the facility.

(l) Marihuana and marihuana-infused products shall not be consumed on site except at designated consumption establishments or temporary marihuana events.

(Ord. No. 2023-03, § 5, 4-8-2024)

Sec. 8-90. Hours of operation for marihuana retailers.

~~Marihuana Retailer: Hours of Operation.~~

The hours of operation for marihuana retailers shall be no earlier than 9:00 a.m. and no later than 9:00 p.m. Monday through Sunday.

(Ord. No. 2023-03, § 6, 4-8-2024)

Sec. 8-91. License application review.

(a) *Approval*. An applicant may be granted a license by the village if the applicant satisfies all of the criteria contained in this article and is selected to receive a license via the selection process outlined by the village in the application. Upon approval of all conditions in this article, an applicant will be provided a certificate of zoning compliance to comply with the state licensing process.

(b) *Denial*. The village shall use the information provided on the application as a basis to conduct a thorough background investigation on the applicant and its operator. Any false information provided on the application is cause to deny a license. An applicant is ineligible to receive a license if any of the following circumstances exist:

(1) The applicant has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past ten years or has been convicted of a controlled substance-related felony within the past ten years.

(2) The applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state, or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state, within the past five years.

(3) The applicant fails to demonstrate the ability to maintain adequate property liability and casualty insurance for its proposed establishment.

(4) If the applicant, or any officer, director, member, partner, or any individual holding an interest in the entity is delinquent in any tax under federal, state, or local law or is in arrears to the city, including water, special assessments or taxes.

(5) If the applicant has a history of noncompliance with any regulatory requirements in the village or any other jurisdiction.

(c) *Waiver and release of village liability.* By accepting a license issued pursuant to this article, the licensee waives and releases the village, its officers, elected officials, and employees from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of marihuana related business owners or operators, employees, clients, or customers for a violation of any laws, rules, or regulations.

(d) *Indemnification of village.* By accepting a license issued pursuant to this ordinance, all licensees agree to indemnify, defend, and hold harmless the village, its officers, elected officials, employees, and insurers against all liability, claims, or demands arising on account of bodily injury, sickness, disease, death, property loss or damage, or any other loss of any kind.

(Ord. No. 2023-03, § 7, 4-8-2024)

Sec. 8-92. Violations and penalties; license revocation; council review.

(a) If an applicant or licensee fails to comply with this article, if a licensee no longer meets the eligibility requirements for license under this article, or if an applicant or licensee fails to provide information the village requests to assist in any investigation or inquiry, the village may deny, suspend, or revoke a license.

PROOFS

(b) The clerk/zoning administrator, or his or her designee, may suspend a license without notice or hearing, upon a documented determination that false information was provided on the application, the safety or health of patrons, employees, or the public is jeopardized by continuing the establishment's operation, or for a failure to comply with any provision of this Code. The suspension may remain in effect until the village clerk/zoning administrator, or his or her designee, determines that the cause for suspension has been abated. The clerk/zoning administrator, or his or her designee, may revoke the license upon a determination that the licensee has not made satisfactory progress toward abating the hazard.

(c) A license will automatically be revoked upon revocation or denial of a state operating license under MMFLA or the MRTMA by the state.

(d) Any party aggrieved by an action of the clerk/zoning administrator or his or her designee suspending or revoking a license shall be given a hearing before the village council upon request. A request for a hearing must be received by the clerk/zoning administrator, in writing, within 21 days after the date of mailing of the action by the clerk/zoning administrator or his or her designee.

(e) The village council may conduct investigative and contested case hearings, issue subpoenas for the attendance of witnesses, issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents, and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties of the village council under this article.

(f) In addition to the sanctions outlined in this section, any person who violates any provision of this article shall be responsible for a civil infraction and subject to the payment of a civil fine of $500.00, in addition to costs incurred for each offense. A separate offense shall be deemed committed each day or on which a violation or noncompliance occurs or continues, unless otherwise provided.

(g) A violation of this article is deemed to be a nuisance per se. In addition to any other remedy available at law, the village may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this article.

(Ord. No. 2023-03, § 8, 4-8-2024)

Sec. 8-93. Village responsibility.

(a) The clerk/zoning administrator shall provide the following information to the applicant or to the cannabis regulatory agency, as applicable, within 90 days after notification from the applicant that the applicant has applied for a state operating license under this article:

(1) A copy of this article.

(2) A copy of any zoning regulations that apply to the proposed establishment within the village.

(3) A description of any violation of this Code or zoning regulations committed by the applicant, but only if those violations relate to activities licensed under this article or under MRTMA or MMFLA.

(4) Final written approval or denial of an application.

(b) Information the village obtains from an applicant related to licensure under this article is exempt from disclosure under the Freedom of Information Act, MCL 15.231 to 15.246.

(c) As of the effective date of the ordinance from which this article is derived, marihuana is classified as a Schedule 1 Controlled Substance under federal law, which makes it unlawful to manufacture, distribute, cultivate, produce, possess, dispense, or transport marihuana. Nothing in this article is intended to grant immunity from any criminal prosecution under federal law. Nothing in this article is intended to promote or condone the production, distribution, or possession of marihuana in violation of any applicable law.

(Ord. No. 2023-03, § 9, 4-8-2024)

PROOFS

Chapter 9

RESERVED

PROOFS

Chapter 10[3]

COMMUNITY DEVELOPMENT

ARTICLE I. IN GENERAL

Secs. 10-1--10-18. Reserved.

ARTICLE II. DOWNTOWN DEVELOPMENT AUTHORITY

DIVISION 1. GENERALLY

Sec. 10-19. Creation; body corporate.[4]

The village has created and established in the village a downtown development authority pursuant to MCL 125.4202 ~~Act No. 197 of the Public Acts of Michigan of 1975 (MCL 125.1651 et seq., MSA 5.3010(1) et seq.), as amended, referred to in this article as the Act~~. This article shall constitute the articles of incorporation. The downtown development authority is a public body corporate ~~as provided in the Act~~, with the power to sue or be sued in any court of this state. Words used in this article~~, defined in the Act,~~ shall have the same definition as provided in MCL 125.4201 ~~the Act~~.

(Code 1995, § 18-26; Ord. No. 1985-4, § 1100.01, 7-22-1985)

Sec. 10-20. Name; registered agent; registered office.

The name of the downtown development authority (DDA) is the Ontonagon Downtown Development Authority. The principal office of the DDA will be located at the Ontonagon Village Offices, 315 Quartz Street, Ontonagon, Michigan 49953, and the registered agent for service of process shall be the village clerk.

(Code 1995, § 18-27; Ord. No. 1985-4, § 1100.02, 7-22-1985)

Sec. 10-21. District area.

(a) The downtown district which is subject to the jurisdiction of the DDA shall encompass, lie within or be comprised of the areas described as follows:

Commencing at the intersection of M-38 (Greenland Road) and Parker Avenue; thence southeast along the north side of right-of-way of M-38 to intersection of M-38 and South Seventh Street; thence north along South Seventh Street to the north section line of Section 31, Township 52 North, Range 39 West; thence east along section line to corner of Sections 30, 29, 31 and 32; thence south along section line to the southeast corner of the northeast corner of Section 31; thence west along the south line of the northeast quarter of Section 31 to the southwest corner of the northeast quarter of Section 31; thence north to M-38; thence northwest along the south side of M-38 right-of-way to the intersection of M-38 and Parker Avenue, minus property not included within the corporate boundaries of the village; and also NE 1/4 of NE 1/4, Section 31, Township 52 North, Range 39 West, SW 1/4 of NE 1/4, Section 31, Township 52 North, Range 39 West, NW 1/4 of NE 1/4, Section 31, Township 52 North, Range 39 West, SE 1/4 of NE 1/4, Section 31, Township 52 North, Range 39 West; except:

a. A parcel of land in the SW 1/4 of NE 1/4, Section 31-52-39 starting at the north quarter corner of Section 31, thence south a distance of 810.31 feet to the intersection of the westerly boundary line

---

[3] **Chapter 18. Community Development. T**his chapter is unedited. Basic editing will be done after this draft is reviewed. During editing, all sections will be renumbered, history notes will be updated, grammatical and spelling issues will be resolved, etc.

[4] **Sec. 18-26. Creation; body corporate.** The cited act was amended and codified with new numbering in 2019. See suggested corrections.

PROOFS

of the Ontonagon Greenland Road (M-38) right-of-way, thence south 60 degrees 05 minutes 03 seconds east along the Greenland Road a distance of 1,300.91 feet to the point of beginning; thence south 29 degrees 30 minutes west a distance of 400 feet; thence northwest 60 degrees 05 minutes 03 seconds a distance of 250 feet; thence northeast 29 degrees 30 minutes a distance of 400 feet to the westerly boundary of Greenland Road and M-38, thence along the right-of-way to the point of beginning.

b. A parcel of land in the N 1/2 of NE 1/4, Section 31-52-39 starting at the north quarter corner of Section 31, thence south a distance of 810.31 feet to the intersection of the west boundary line of the Ontonagon Greenland Road (M-38) right-of-way, thence south 60 degrees 05 minutes 03 seconds east along the right-of-way M-38 a distance of 1,050.91 feet to the point of beginning; thence south 29 degrees 30 minutes west a distance of 400 feet; thence north 60 degrees 05 minutes 03 seconds west a distance of 500 feet; thence north 29 degrees 30 minutes east a distance of 100 feet; thence south 60 degrees 05 minutes 03 seconds east a distance of 300 feet; thence north 29 degrees 30 minutes east a distance of 300 feet to the westerly boundary of the Greenland Road and M-38; thence south 60 degrees 05 minutes 03 seconds east a distance of 200 feet to the point of beginning.

c. A parcel of land in the NW 1/4 of NE 1/4, and the SW 1/4 of the NE 1/4, Section 31-52-39 starting at the west quarter line corner, thence south a distance of 810.31 feet to the intersection of the westerly boundary line of the Ontonagon Greenland Road (M-38); thence south 60 degrees 30 minutes east a distance of 850.91 feet to the point of beginning; thence south 29 degrees 30 minutes west a distance of 300 feet; thence north 60 degrees 30 minutes west a distance of 300 feet; thence north 29 degrees 30 minutes east a distance of 300 feet to the west boundary of the Greenland Road (M-38); thence south 60 degrees 30 minutes east along the boundary line of the Greenland Road (M-38) a distance of 300 feet to the point of beginning.

d. A parcel of land commencing at the east quarter corner of Section 31-52-39, thence north 0 degrees 4 minutes 56 seconds west along the east line of Section 31, 415.26 feet; thence north 56 degrees 2 minutes 36 seconds west 277.60 feet to the point of beginning; thence north 34 degrees 30 minutes 55 seconds east 400 feet; thence north 55 degrees 29 minutes 5 seconds west 200 feet; thence south 34 degrees 30 minutes 32 seconds west 403.77 feet more or less to the highway right-of-way line; thence south 56 degrees 33 minutes 36 seconds east 200 feet along the highway right-of-way line to the point of beginning, being a part of the SE 1/4 of NE 1/4, Section 31 and containing 1.85 acres more or less. Also including a 66-foot right-of-way access along the west side of the parcel, as surveyed.

e. Parcel of land in the SE 1/4 of NE 1/4 commencing at the east quarter corner of Section 31; thence running west along the quarter line 9.75 chains, north 35 degrees east 16.88 chains to section line between Sections 31 and 32, thence south 13.88 chains along section line to the point of beginning. A road 50 links wide in the SE 1/4 of NE 1/4 bounded as follows: Commencing 9.75 chains west of the east quarter post of Section 31; thence north 35 degrees east 9.48 chains to the Ontonagon-Greenland Road; thence along the road north 55 degrees west 50 links, thence south 35 degrees west 9.48 chains to the centerline of section 31; thence 50 links more or less to the point of beginning, containing one-half acre, more or less.

(b) In addition, the following properties are added to the village Downtown Development Authority District:

(1) Blocks 9 and 10 of the Island Plat.

(2) Blocks 35, 36, 37, 38, and 39 of the original plat of the village.

(3) All of the Levi Hanna's Addition subdivision.

(4) All of Hanna's Addition of SW 1/4 of SW 1/4 of Section 30, T 52, N, R 39 W.

(5) Lot 7 to Lot 12 of the Breitenbach's Subdivision.

(6) All unplatted lands with the following boundaries: POB the intersection of the S line of Sec 30, T 52 N, R 39 W and the E ROW of M-38, then W along the S line of Sec 30 to the SW Cm of Sec 25, T 52 N, R

PROOFS

40 W, then W along S line of Sec 25 to the intersection with the W Bank of the Ontonagon River, then northeasterly to the SW Cm of Blk 8 of the Island Plat, then E to SE Cm of Blk 40 of the Original Plat, then N to SE Cm of Blk 41, then E to SE Cm of Blk 34, then N to SE Cm of Blk 33, then E to the intersection of the E ROW of Greenland Rd and the N ROW of Parker Avenue, then E along N Parker Ave. ROW to intersection of E line of Lots 8 and 9 of the Plat of E % of SW %, then S to N line of Breitenbach's Subdivision, then E to NE Cm of Lot 7, then S to the S ROW of Alsace Street, then W along S Alsace St. ROW to E ROW of Greenland Road, then southeasterly along E ROW of Greenland Road/M-38 to POB.

(Code 1995, § 18-28; Ord. No. 1985-4, § 1100.03, 7-22-1985; Ord. No. 1987-2, 12-14-1987; Ord. No. 2019-02, § 1, 10-14-2019)

Sec. 10-22. Purpose.[5]

The purpose of the DDA is to halt property value deterioration, eliminate the causes of such deterioration, increase property tax valuation where possible in the downtown district, and promote economic growth, as well as to accomplish such other objectives in the public interest as are authorized in MCL 125.4201 et seq. ~~by the Act~~

(Code 1995, § 18-29; Ord. No. 1985-4, § 1100.04, 7-22-1985)

Sec. 10-23. Powers; exceptions.[6]

(a) The DDA shall possess all of the powers granted by statute, whether or not specifically provided in this section, and those incident thereto, except that the DDA may not do the following acts without the authorization by resolution or ordinance of the village council:

(1) Establish the position of director pursuant to MCL 125.4205 ~~section 5 of the Act~~, with a bond in the penal sum of $10,000.00.

(2) Borrow money and issue revenue bonds or notes of the DDA pursuant to MCL 125.4213 ~~section 13 of the Act~~.

(3) Implement a tax increment financing plan pursuant to MCL 125.4214 and MCL 125.4215 ~~sections 14 and 15 of the Act~~, or other development plan pursuant to MCL 125.4217 and MCL 125.4219 ~~sections 17 and 19 of the Act~~.

(b) The enumeration of any powers in this section shall not be construed as a limitation upon the general powers of the DDA, unless the context shall clearly indicate otherwise; provided, however, that the DDA shall not under any circumstances levy taxes for the operation of the DDA.

(Code 1995, § 18-30; Ord. No. 1985-4, § 1100.05, 7-22-1985)

Sec. 10-24. Fiscal year; budget; revenues; liabilities.

The fiscal year of the DDA shall be April 1 through March 31. The DDA shall prepare a budget for each of its fiscal years which shall be subject to the approval of the village council. Revenues of the DDA shall consist of voluntary contributions or donations, grants, nontax revenues raised or earned by the DDA, appropriations to the DDA made from time to time by the village council, loans, the proceeds of bonds and other revenues raised pursuant to MCL 125.4201 et seq. ~~the Act.~~ The DDA shall not incur liability beyond its reasonably anticipated revenues. Liabilities of the DDA shall not be obligations of the village, except as otherwise provided by in MCL 125.4201 et seq. ~~the Act~~ and special ordinance. The DDA has no assets at the time of its organization.

(Code 1995, § 18-31; Ord. No. 1985-4, § 1100.06, 7-22-1985)

Sec. 10-25. Term.

The DDA shall continue in existence perpetually or until dissolved by act of the village council or by law. However, the DDA shall not be dissolved if such dissolution could operate as an impairment of any of its contracts.

---

[5] **Sec. 18-29. Purpose.** Citations are corrected and reformatted as shown.

[6] **Sec. 18-30. Powers; exceptions.** Citations are corrected and reformatted as shown.

PROOFS

(Code 1995, § 18-32; Ord. No. 1985-4, § 1100.07, 7-22-1985)

Sec. 10-26. Governing board membership; terms; vacancies.

(a) The governing body of the DDA shall be a board which shall consist of the president of the village and eight other members appointed by the president of the village with the approval of the village council. At least five of the members of the board shall be persons having an interest in property located in the downtown district. At least one of the members shall be a resident of the downtown district. No person except the village president may simultaneously serve on this board and the governing bodies of the village, township, school or county.

(b) Of the members first appointed, two shall be appointed for one year, two for two years, two for three years, and two for four years. Thereafter, an appointed member shall serve for a term of four years. There shall be no right to reappointment, but reappointment is permissible. A member shall, in any event, hold office until the member's successor is appointed and qualified.

(c) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office, filing the same with the village clerk.

(d) An appointment to fill a vacancy on the board shall be made by the village president for the unexpired term only.

(e) Pursuant to notice and an opportunity to be heard, a member of the board may be removed for cause during his term by the village council. Involuntary removal of a member during his term is subject to review by the county circuit court. In case of temporary absence or disability of any member, the village president may appoint, with approval of the village council, some person of similar qualifications to temporarily act in place of the absent member.

(f) Members of the board shall serve without compensation but may be reimbursed for actual and necessary expenses by motion of the board.

(Code 1995, § 18-33; Ord. No. 1985-4, § 1100.08, 7-22-1985)

Sec. 10-27. Officers.

(a) The officers of the board shall be a chairman, vice-chairman, secretary and treasurer, who shall be members of the board elected by the board. The term of ~~the~~ office of each officer~~s~~ shall be one year~~, but~~ except that each officer shall continue to serve until his successor is elected and enters upon his duties. In case of the temporary absence or disability of any officer, the board may appoint some person temporarily to act in his place. The secretary and treasurer may each receive compensation, fixed by the board, for the duties of their respective offices.

(b) The chairman shall preside at meetings of the board and may sign and execute all authorized bonds, contracts, checks and other obligations and execute interest coupons with his facsimile signature in the name of the DDA when so authorized by the board. He shall do and perform such other duties as may be fixed by the bylaws and from time to time assigned to him by the board.

(c) The vice-chairman shall preside and accomplish the duties of the chairman in the absence of the chairman and shall perform all such other duties as may be fixed by the bylaws and from time to time assigned to him by the board.

(d) The secretary shall keep the minutes of all meetings of the board in books obtained for that purpose. He shall attend to the giving, serving and receiving of all notices or process of or against the corporation. He may sign or affix his facsimile signature, as the case may be, with the chairman, in the name of the DDA, to all bonds, contracts and other obligations authorized by the board and affix the seal of the DDA thereto. He shall have charge of all books and records which the board has not placed within the custody and keeping of some other officer, and shall at all times make such books and records open to inspection and examination by the board or any member thereof, by the village council, and by the public pursuant to the Freedom of Information Act. The secretary shall perform all the duties incident to this office and such other duties as may be fixed by the bylaws or from time to time assigned to him by the board.

(e) The treasurer shall have custody of all of the funds and securities of the DDA which may come into his hands or possession. When necessary or proper, he shall endorse in behalf of the DDA for collection checks, notes and other obligations and shall deposit them to the credit of the DDA in a designated bank or depository. He shall

PROOFS

sign all receipts and vouchers for payment made to the DDA. He shall, jointly with such other officer as may be designated by the board, sign all checks, promissory notes, and other obligations of the DDA when so ordered by the board. He shall render a statement of his cash accounts when required by the board. He shall regularly keep full and accurate accounts in books obtained for that purpose of all monies received and paid by him on account of the DDA, and he shall, at all reasonable times, exhibit his books and accounts to the board or any member thereof, the village council, and to the public pursuant to the Freedom of Information Act. He shall perform all acts incidental to the position of the treasurer fixed by the bylaws or assigned to him from time to time by the board. He shall be bonded for the faithful discharge of his duties as treasurer, the bond to be of such character, form, and in such amount as the board may require. The bond shall be paid by the DDA as an expense of the DDA.

(Code 1995, § 18-34; Ord. No. 1985-4, § 1100.09, 7-22-1985)

Sec. 10-28. Open meetings; quorum; voting.[7]

(a) Meetings of the board shall be held at least quarterly at such time and place as shall be prescribed by the board.

(b) Special meetings of the board may be called by the chairman or any three members thereof by serving written notice of the time and place upon each member of the board, personally, or by leaving it at his place of residence at least 24 hours prior to the time of such meeting, or by depositing the same in a United States post office or mailbox within the village at least 72 hours prior to the time of such meeting, properly addressed with postage prepaid. Special meetings of the board at which all members are present shall be deemed to be valid, even ~~though~~ if no notice thereof was given as specified in this subsection.

(c) Any member of the board may waive notice of any meeting either before or after the holding thereof. At least the majority of the members of the board shall be required for a quorum. The board shall act by motion or resolution.

(d) For the passage of any resolution providing for the issuance of bonds or for the execution of any contract, there shall be required a majority vote of the full membership of the board existing at that time. For all other matters, a vote of the majority of the members of the board present at the meeting at which a quorum is present shall be sufficient for passage.

(e) The board shall have the right to adopt rules or bylaws governing its procedure which are not in conflict with the terms of any statute or this article. The board shall keep a journal or minutes of its proceedings which shall be signed by the secretary. All votes shall be ayes and nays, except that where the vote is unanimous, it shall only be necessary to so state.

(f) The board is subject to the Open Meetings Act, MCL 15.261 et seq. ~~Act No. 267 of the Public Acts of Michigan of 1976 (MCL 15.261 et seq., MSA 4.1800(11) et seq;hk;.);\hk;, as amended.~~

(Code 1995, § 18-35; Ord. No. 1985-4, § 1100.10, 7-22-1985)

Secs. 10-29--10-59. Reserved.

DIVISION 2. TAX INCREMENT FINANCING PLAN

Sec. 10-60. Findings.

(a) The development plan portion of the tax increment financing plan meets the requirements set forth in ~~section 217 (~~MCL 125.4217~~) of the Act~~, and the tax increment financing plan portion of the plan meets the requirements set forth in ~~section 214 (~~MCL 125.4214~~) of the Act~~.

(b) The proposed method of financing the development is feasible, and the authority has the ability to arrange the financing.

(c) The development is reasonable and necessary to carry out the purposes of the Recodified Tax Increment

---

[7] **Sec. 18-35. Open meetings; quorum; voting.** Citations are corrected and reformatted as shown.

PROOFS

Financing Act, MCL 125.4301 et seq.

(d) Any land included within the development area to be acquired is reasonably necessary to carry out the purposes of the Act.

(e) The development plan portion of the plan is in reasonable accord with the master plan of the city.

(f) Public services, such as fire and police protection and utilities, are or will be adequate to service the development area.

(g) Changes in zoning, streets, street levels, intersections, and utilities, to the extent required by the plan, area reasonably necessary for the plan and for the city.

(Ord. No. 2019-03, § 1, 10-28-2019)

Sec. 10-61. Public purpose.

The village council hereby determines that the plan constitutes a public purpose.

(Ord. No. 2019-03, § 2, 10-28-2019)

Sec. 10-62. Best interest of the public.

The village council hereby determines that it is in the best interests of the public to halt property value deterioration, increase property tax valuation, eliminate the causes of the deterioration in property values, and to promote growth in the downtown district to proceed with the plan.

(Ord. No. 2019-03, § 3, 10-28-2019)

Sec. 10-63. Approval and adoption of plan.

The plan is hereby approved and adopted. A copy of the plan and all later amendments thereto shall be maintained on file in the village clerk's office.

(Ord. No. 2019-03, § 4, 10-28-2019)

PROOFS

Chapter 11

RESERVED

PROOFS

Chapter 12

ENVIRONMENT

ARTICLE I. IN GENERAL

Secs. 12-1--12-18. Reserved.

ARTICLE II. SAND AND GRAVEL PITS

Sec. 12-19. Maximum depth.

There shall be no excavation to a depth less than two feet above maximum groundwater level in any existing or subsequent sand or gravel pits within the village limits.

(Comp. Ords. 1984, § 605.01; Code 1995, § 22-77)

Sec. 12-20. Distance from roads.

There shall be no excavation within 25 feet of existing road areas, and, if such excavation exists at the present time, they shall be backfilled at no greater than a slope of a 45-degree angle leaving at least 15 feet for cars to park off the right-of-way of the road.

(Comp. Ords. 1984, § 605.02; Code 1995, § 22-78)

Sec. 12-21. Excavations near lot lines.

Excavations within 25 feet of lot lines shall be sloped at no greater than a 45-degree angle.

(Comp. Ords. 1984, § 605.03; Code 1995, § 22-79)

Sec. 12-22. Fences.

Excavations where a greater slope than a 45-degree angle is created to a depth of ten feet shall be adequately fenced or barricaded to keep out children while the pit is in operation.

(Comp. Ords. 1984, § 605.04; Code 1995, § 22-80)

Sec. 12-23. Unused pits; maximum slope.

When it is anticipated that the sand or gravel pit will not be used for a period of one month or more, the excavation shall be sloped to an angle no greater than a 45-degree angle.

(Comp. Ords. 1984, § 605.05; Code 1995, § 22-81)

Sec. 12-24. Unused pits; topsoil.

It shall be a violation of this article to leave a sand or gravel pit unused for more than one year without distributing topsoil evenly over the area.

(Comp. Ords. 1984, § 605.06; Code 1995, § 22-82)

Sec. 12-25. Penalties for violation.

Any person who shall violate or assist in the violation of any provision of this article shall, upon conviction, be punished as provided in section 1-12.

(Comp. Ords. 1984, § 605.07; Code 1995, § 22-76)

Secs. 12-26--12-53. Reserved.

ARTICLE III. TREES AND NOXIOUS WEEDS

Sec. 12-54. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them

PROOFS

in this section, except where the context clearly indicates a different meaning:

Clear vision triangle means the triangle on any corner lot which has its three points: the point in intersection of the curbs or road edges, and the two points which are located on the curb or road edges 20 feet measured in a straight line from the said point of intersection.

Street means all the land lying between property lines on either side of all the public streets, boulevards and alleys in the village.

Tree means tree, bushes, shrubs and plants.

~~*Village* means the Village of Ontonagon.~~

Weeds means ragweed, Canada thistles, burdocks, crabgrass, quack grass, wild growing bushes, milk weeds, wild carrot, oxeye daisies, or other noxious weeds.

(Code 1995, § 56-26; Ord. No. 1998-2, 4-13-1998)

Sec. 12-55. Control of trees.

The village shall have control of and be responsible for the maintenance, care and removal of all trees planted or overhanging the streets, parks or other public places of the village. The trimming or removal of any tree in or overhanging any street, necessary to accommodate utility lines or for any other purpose is under the supervision of the village. The owner of the land abutting on any street may plant trees in that part of said street abutting his land, not used for public travel upon obtaining prior written permission of the village.

(Code 1995, § 56-27; Ord. No. 1998-2, 4-13-1998)

Sec. 12-56. Protection.

No person shall remove, injure, deface or destroy any tree in any street or public place.

(Code 1995, § 56-28; Ord. No. 1998-2, 4-13-1998)

Sec. 12-57. Safeguards.

No person in charge of the erection, repair, alteration or removal of any structure shall fail to guard or protect any tree in the vicinity of such structure in such a manner as to prevent injury to any such tree.

(Code 1995, § 56-29; Ord. No. 1998-2, 4-13-1998)

Sec. 12-58. Signs.

No person shall nail, tie or otherwise fasten cards, signs, posters, boards or other articles to any tree growing in any street, park or other public place in the village; with the exception of village personnel engaged in a village hazard abatement activity.

(Code 1995, § 56-30; Ord. No. 1998-2, 4-13-1998)

Sec. 12-59. Dead trees.

Every abutting owner shall remove all dead, diseased or dangerous trees, or broken or decayed limbs of trees when said tree or any part of thereof overhangs a street, or grows so close to the street as to endanger persons using the same.

(Code 1995, § 56-31; Ord. No. 1998-2, 4-13-1998)

Sec. 12-60. Vision obstructions (corner lots).

No grass, weeds, shrubs, or other plant growth exceeding a height of six inches, is located within the clear vision triangle on any corner lot.

(Code 1995, § 56-32; Ord. No. 1998-2, 4-13-1998)

Sec. 12-61. Height restrictions.

No person shall fail to keep cut any grass or weeds which exceeds a height of six inches, is located on public property, private property or adjacent right-of-way, and is within 50 feet of a structure or public right-of-way.

PROOFS

(Code 1995, § 56-33; Ord. No. 1998-2, 4-13-1998)

Sec. 12-62. Notices.

Whenever the village manager or his duly authorized enforcement officer determines that there has been a violation of this article, he shall give notice to the owner or agent of the property. Such correction order shall state a responsible time for correction to be made on the described property.

(Code 1995, § 56-34; Ord. No. 1998-2, 4-13-1998)

Sec. 12-63. Abatement after notice.

If, at the expiration of the time limit in said notice, the owner has not complied with the requirements thereof, the village shall carry out or cause to be carried out the requirements of said notice from the village. The cost of such abatement shall be charged against the premises and the owner thereof.

(Code 1995, § 56-35; Ord. No. 1998-2, 4-13-1998)

Sec. 12-64. Immediate abatement.

The village manager may declare any tree, shrub, or plant, including weeds which endangers public property or the health and safety of the public, a nuisance and may abate any such public nuisance without giving notice if the public health and safety requires immediate action. Thereafter the cost of abating such nuisance may be charged against the premises of the owner thereof.

(Code 1995, § 56-36; Ord. No. 1998-2, 4-13-1998)

Sec. 12-65. Penalty.

Any owner or agent who shall violate any provision of this article shall be guilty of a civil infraction and shall be subject to a fine not less than $50.00 but not exceeding $100.00. Each day that the violation goes unabated shall be considered a new violation subject to an ongoing $50.00 fine.

(Code 1995, § 56-37; Ord. No. 1998-2, 4-13-1998)

Secs. 12-66--12-88. Reserved.

ARTICLE IV. FLOOD DAMAGE CONTROL

DIVISION 1. GENERALLY

Sec. 12-89. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. ~~Unless specifically defined in this section, words and phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.~~

Appeal means a request for a review of the village manager's interpretation of any provision of this article a or a request for a variance.

Applicant means the owner, agent or legal representative of property for which and by whom an application for a development permit is made.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equalled or exceeded in any given year.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Existing mobile home park or mobile home subdivision means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of the

PROOFS

ordinance from which this article is derived.

Expansion to an existing mobile home park or mobile home subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed, including the installation of utilities, either final site grading or pouring of concrete pads or the construction of streets.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood boundary-floodway map means the official map on which the Federal Insurance Administration has delineated the area of special flood hazard and the floodway.

Flood insurance rate map (FIRM) means an official map of a community on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study means the official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the flood hazard boundary-floodway map and the water surface elevation of the base flood.

Floodproofing means those construction standards identified in the Floodproofing Regulations, publication #EP-1165-2-314, U.S. Army Corps of Engineers publication.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Habitable floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

Mean sea level means the average height of the sea for all stages of the tide.

Mobile home means a structure, transportable in one or more sections, which is built on a permanent foundation when connected to the required utilities. The term "mobile home" does not include recreational vehicles or travel trailers.

New construction means structures for which the start of construction commenced on or after the effective date of the ordinance from which this article is derived.

New mobile home park or mobile home subdivision means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed, including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets, is completed on or after the effective date of the ordinance from which this article is derived.

Start of construction means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation, including the relocation of a structure. The term "permanent construction" does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does the term "start of construction" include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

Structure means a walled and roofed building that is principally aboveground, as well as a mobile home.

Substantial improvement means, for a structure built prior to the effective date of the ordinance from which this article is derived, any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial

PROOFS

improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term "substantial improvement" does not, however, include either:

(1) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions; or

(2) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Variance means a grant of relief to a person from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

(Code 1995, § 30-1)

~~**Sec. 30-2. Rules of construction.**~~

~~The following rules of construction apply to the text of this chapter:~~

~~(1) The particular shall control the general.~~

~~(2) In case of any difference of meaning and implication between the text of this chapter and any caption, preamble or illustration, the text shall control.~~

~~(3) The word ``shall'' is always mandatory and not discretionary. The word ``may'' is permissive.~~

~~(4) 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.~~

~~(5) The words ``building'' or ``structure'' include any part thereof.~~

~~(6) The phrase ``used for'' may include ``arranged for,'' ``designed for,'' ``intended for,'' ``maintained for'' or ``occupied for.''~~

~~(7) The word ``person'' includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.~~

~~(8) Unless the context clearly indicates the contrary, where 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:~~

~~a. ``And'' indicates that all the connected items, conditions, provisions or events shall apply.~~

~~b. ``Or'' indicates that the connected items, conditions, provisions or events may apply singly or in any combination.~~

~~c. ``Either … or'' indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.~~

~~(Code 1995, § 30-2)~~

Sec. 12-90. Statutory authorization.

This article is adopted to secure the public health, welfare and safety under the combined authority of prevailing state and federal law. ~~Act No. 167 of the Public Acts of Michigan of 1968 (Floodplain Control Act) (MCL 323.1 et seq., MSA 3.521 et seq;hk;.);\hk;, as amended; an amendment to Act No. 245 of the Public Acts of Michigan of 1929 (Water Resource Commission Act) (MCL 323.1 et seq., MSA 3.521 et seq;hk;.);\hk;. The National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973.~~

(Code 1995, § 30-3)

Sec. 12-91. Findings of fact.

(a) The flood hazard areas of the village are subject to periodic inundation which could result in potential loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which would adversely affect the public health, safety and general welfare.

PROOFS

(b) These potential flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise protected from flood damages.

(Code 1995, § 30-4)

Sec. 12-92. Statement of purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or in flood heights or velocities.

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters.

(4) Control filling, grading, dredging and other development which may increase erosion or flood damage.

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Code 1995, § 30-5)

Sec. 12-93. Objectives.

The objectives of this article are to:

(1) Protect human life and health.

(2) Minimize expenditure of public money for costly flood control projects.

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(4) Minimize prolonged business interruptions.

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains.

(6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas.

(7) Provide a means whereby potential home buyers are notified that property is in a flood area.

(Code 1995, § 30-6)

Sec. 12-94. Lands to which article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the village.

(Code 1995, § 30-7)

Sec. 12-95. Basis for establishing areas of special flood hazard.

(a) The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report, with accompanying flood insurance rate maps and flood boundary and floodway maps and any revision thereto are hereby adopted by reference and declared to be a part of this article.

(b) Flood hazard areas additional to those areas described in the flood insurance study may exist in the village. The location of these areas shall be designated by the village manager upon determination by the village manager.

(Code 1995, § 30-8)

PROOFS

Sec. 12-96. Establishment of development permit.

A development permit shall be required in conformance with the provisions of this article. Application for such permit shall be on forms furnished by the village manager. The applicant shall supply all information on the form.

(Code 1995, § 30-9)

Sec. 12-97. Compliance.

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.

(Code 1995, § 30-10)

Sec. 12-98. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Code 1995, § 30-11)

Sec. 12-99. Interpretation.

In the interpretation and application of this article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the village council; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Code 1995, § 30-12)

Sec. 12-100. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the village or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made under this article.

(Code 1995, § 30-13)

Sec. 12-101. Fees.

(a) ~~In addition to the engineering fees as provided in subsection (b) of this section,~~ All applicants for development permit shall pay such inspection and application fees as provided for in the building code of the village.

(b) In addition to the regular application and inspection fees as provided in subsection (a) of this section, the person making the application for development permit for an area within a special flood hazard area shall pay to the village treasurer the actual cost and the reasonable fee of the village manager for checking, investigating and conducting the other matters as required of the engineer by this chapter. No building or development permit shall be issued prior to the payment of these costs and fees.

(Code 1995, § 30-14)

Sec. 12-102. Standards for construction in special flood hazard areas.

Floodproofing standards for construction in special flood hazard area are designated as Floodproofing Regulations, publication #EP-1165-2-314, U.S. Army Corps of Engineers publication.

(Code 1995, § 30-37 (b)(4))

PROOFS

Secs. 12-103--12-132. Reserved.

DIVISION 2. FLOOD HAZARD REDUCTION

Sec. 12-133. General standards for all areas of special flood hazard.

In all areas of special flood hazard, the following provisions are required:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(4) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(5) New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(7) Any alteration, repair, reconstruction or improvement to a structure on which the start of construction was begun after the effective date of the ordinance from which this article is derived shall meet the requirements for new construction as contained in this article.

(Code 1995, § 30-61)

Sec. 12-134. Specific standards for certain areas.

In all areas of special flood hazard where base flood elevation has been provided the following provisions are required:

(1) *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including the basement, elevated to or above base flood elevation.

(2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including the basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level, the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 12-156(a)(3).

(3) *Mobile homes.* Provisions governing mobile homes shall be as follows:

a. No mobile home shall be placed in a floodway or coastal high hazard area except in an existing mobile home park.

b. All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

1. Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side.

2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side.

PROOFS

3. All components of the anchoring system be capable of carrying a force of 4,800 pounds.

4. Any additions to the mobile home be similarly anchored.

c. For new mobile home parks and subdivisions; for expansions to existing mobile home parks and subdivisions; for existing mobile home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or subdivision is required:

1. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level.

2. Adequate surface drainage and access for a hauler are provided.

3. In the instance of elevation on pilings:

(i) Lots are large enough to permit steps;

(ii) Piling foundations are placed in stable soil no more than ten feet apart; and

(iii) Reinforcement is provided for pilings more than six feet above the ground level.

(4) *Floodways.* Located within areas of special flood hazard established in section 12-95 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectile and erosion potential, the following provisions shall apply:

a. Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.

b. If subsection (4)a of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

c. Prohibit the placement of any mobile home, except in an existing mobile home park.

(Code 1995, § 30-62)

Sec. 12-135. Standards for subdivision proposals.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(Code 1995, § 30-63)

Secs. 12-136--12-153. Reserved.

DIVISION 3. ADMINISTRATION

Sec. 12-154. Designation of village manager.

The village manager is hereby appointed to administer and implement the provisions of this article.

(Code 1995, § 30-36)

Sec. 12-155. Duties, responsibilities of village manager.

Duties of the village manager shall include, but not be limited to:

(1) Review all development permits to ensure that the permit requirements of this article have been satisfied.

(2) Advise permittee that additional federal or state permits may be required; and if specific federal or state permits are known, require that copies of such permits, or a letter of no authority, are provided and maintained on file with the development permit.

PROOFS

(3) Notify adjacent communities and the state flood control coordinator at the state development office prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. Require that maintenance is provided within the altered or relocated portions of such watercourse so that the flood-carrying capacity is not diminished.

(4) Maintain all records pertaining to the provisions of this article ~~shall be maintained~~ in the office of the village manager and shall be open for public inspection.

~~— Duties of the village manager shall also include, but not be limited to:~~

(5) Verify, through acceptance of the applicant's engineering certificate, the actual elevation, in relation to mean sea level, of the lowest floor, including the basement, of all new or substantially improved structures and retain as building department record. When base flood elevation data has not been provided in accordance with this section, ~~the village manager shall~~ obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer this chapter.

(6) Verify, through acceptance of the applicant's engineering certificate, the actual elevation, in relation to mean sea level, to which the new or substantially improved structures have been floodproofed and retain as building department record.

(7) When floodproofing is utilized for a particular nonresidential structure, ~~the village manager shall~~ obtain certification from a registered professional engineer or architect.

~~— Floodproofing standards for construction in special flood hazard area are designated as: Floodproofing Regulations, publication #EP 1165 2 314, U.S. Army Corps of Engineers publication.~~

(8) Where interpretation is needed as to the location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) ~~the village manager shall~~ make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(Code 1995, § 30-37)

Sec. 12-156. Permit procedures.

(a) Application for a development permit shall be made to the village manager on forms furnished by him and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, and the location of the foregoing. Specifically, the following information is required:

(1) Elevation, in relation to mean sea level, of the lowest floor, including the basement, of all structures.

(2) Elevation, in relation to mean sea level, to which any nonresidential structure has been floodproofed.

(3) ~~Provide~~ A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in section 12-134(2).

(4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

(5) Base flood elevation data where the proposed development is subject to MCL 333.12501 et seq. ~~Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.12501 et seq., MSA 14.15(12501) et seq.), as amended,~~ or is greater than five acres in size.

(6) Additional information which may be reasonably necessary to determine compliance with the provisions of this article.

(b) The village manager shall review all applications for building permits or development permits and shall determine if the area is potentially in a special flood hazard area. If the area is within a special flood hazard area, the village manager shall forward a copy of the application, together with such other information, plans, and specifications to the village manager.

PROOFS

(c) The village manager shall make a preliminary review of the proposed building site to determine if the proposed construction is within a special flood hazard area. If the preliminary review by the village manager determines that the construction is not within a special flood hazard area, the village manager shall be notified of this finding by the village manager in writing. The village manager will then proceed with a review and processing of the application in full.

(d) The village manager shall:

(1) Determine if area is potentially in special flood hazard area.

(2) Check to see if the project needs a permit from another agency as stated in section 12-155.

(3) Check the building plan for compliance with this article and all building codes.

(4) Check the application for completeness and make sure the site drawing has everything required by subsections (a)(1) through (6) of this section.

(5) If the applicant meets all the requirements, issue a permit. If not, he shall inform the applicant that the permit must be denied until the problem is corrected.

(6) Make a final inspection when the project is completed. If the project has been completed according to approved plans, he shall issue a certificate of occupancy. No certificate of occupancy shall be issued prior to the approval and final inspection of the village manager.

(e) The village manager shall:

(1) Obtain the base flood elevation from the flood profile in the flood insurance study.

(2) Obtain information on the ground elevation at the building site as referenced from subsection (a)(6) of this section.

(3) Compare base flood and building site elevation and determine if it is in or near special flood area based on the criteria in section 12-134 (1) and (2).

(4) Using his best judgment, determine if area is in or near flood area; and if so, send applicant to the state department of natural resources for a permit.

(5) Check for hazardous buoyant or polluting material prohibited by this article.

(6) Make an inspection before any filling or placement of obstruction is done.

(7) Make an inspection when the filling is completed or the first floor is ready to be begun.

(8) Make a final inspection when the project is completed. If project has been completed according to approved plans, the village manager shall approve.

(Code 1995, § 30-38)

Sec. 12-157. Variance procedures.

(a) Where the applicant seeks to substitute construction standards required and referenced by this article, the applicant may file with the board of appeals for relief.

(b) The zoning board of appeals as established by the village shall hear and decide appeals and requests for variances from the requirements of this article.

(c) The board of appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the village manager in the enforcement of this article.

(d) Any person aggrieved by the decision of the board of appeals, or any taxpayer, may appeal such decision to the circuit court or court of like jurisdiction, as provided by state law.

(e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state register of historic places without regard to the procedures set forth in the remainder of this section.

(f) In passing upon such applications, the board of appeals shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this article.

PROOFS

(g) Upon consideration of the factors listed in subsection (f) of this section and the purposes of this article, the board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(i) Conditions for variances are as follows:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(4) The village manager shall maintain the records of appeal actions and report any variances to the Federal Insurance Administration upon request.

(Code 1995, § 30-39)

Sec. 12-158. Evaluation criteria; stipulations.

(a) Evaluation criteria for variances is as follows:

(1) The danger that materials may be swept onto other lands to the injury of others.

(2) The danger to life and property due to flooding or erosion damage.

(3) The susceptibility of the proposed facility and its contents to ~~the~~ flood damage, and the effect of such damage on the individual owner.

(4) The importance of the services provided by the proposed facility to the community.

(5) The necessity to the facility of a waterfront location, where applicable.

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(7) The compatibility of the proposed use with existing and anticipated development.

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

(11) The cost of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems; and streets and bridges.

(b) A statement of approval by the village recreation organization shall be required on property under its jurisdiction.

(c) Generally, variances may be issued for new construction and substantial improvements to be erected on

PROOFS

a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the items in subsections (a)(1) through (11) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(Code 1995, § 30-40)

Secs. 30-41—30-60. Reserved.

PROOFS

Chapter 13

RESERVED

PROOFS

Chapter 14

FIRE PREVENTION AND PROTECTION

ARTICLE I. IN GENERAL

Secs. 14-1--14-18. Reserved.

ARTICLE II. FIRE DEPARTMENT

Sec. 14-19. Continued; name.

The fire department, as presently organized, is continued, and shall be known as the "Ontonagon Volunteer Fire Department".

(Comp. Ords. 1984, § 400.01; Code 1995, § 26-26)

Sec. 14-20. Membership; officers; compensation.

Members shall be selected in accordance with the bylaws of the fire department, and the members of the fire department shall elect their own officers, including the fire chief, as provided in the bylaws. The results of all such elections shall be promptly given to the village council, but the approval of the village council shall not be required. Members of the fire department shall be compensated from the village general fund in such amounts as shall be determined by resolution of the village council from time to time.

(Comp. Ords. 1984, § 400.02; Code 1995, § 26-27)

Sec. 14-21. Operation; bylaws; purchasing.

(a) The members of the fire department shall have exclusive responsibility for the operation and management of the fire department in accordance with this article and with such bylaws as they may adopt. All such bylaws shall be submitted to the village council at its next regular meeting following their adoption by the fire department, and the village council may either approve or disapprove them; provided that if the village council takes no action on the bylaws at the meeting at which they are presented to them, the bylaws shall be deemed approved by the village council and shall take immediate effect.

(b) All purchasing by the fire department shall be by written requisition which shall be approved by the village manager; provided that all purchases of more than $1,000.00 shall require the approval of the village council.

(Comp. Ords. 1984, § 400.03; Code 1995, § 26-28)

Sec. 14-22. Mutual assistance agreements.

The fire department may enter into mutual assistance agreements with other fire departments and supply such aid, assistance and equipment as may be required pursuant to the terms thereof, provided that each such agreement must first be approved by the village council.

(Comp. Ords. 1984, § 400.04; Code 1995, § 26-29)

~~**Sec. 26-30. Last call bonuses.**~~

~~Commencing July 1, 1991, the village shall pay a firefighter's last call bonus to each qualifying retiree of the fire department. The bonus shall be the sum of $2.00 for each month of active service time in the fire department by the qualifying retiree. The bonus shall be paid from the general fund of the village by warrant payable to the retiree, delivered by the treasurer of the fire department. The bonus shall be paid within 30 days of written certification to the village clerk by the fire chief that he has received the written resignation of a qualifying member of the fire department and showing the computation of the amount of bonus due. The fire department may establish a fund to provide additional bonus in its discretion. Commencing July 1, 1993, the sum shall increase to $2.50 for each month of service time. The amount for each month of service time shall be reevaluated by the village council every three years.~~

PROOFS

~~A member of the fire department will be considered a qualifying retiree for the purpose of entitlement to bonus if he:~~

~~Retires from the fire department after April 1, 1983;~~

~~Is at least 55 years of age as of the date of retirement;~~

~~Has completed not less than 15 years of active service with the department, not less than five years of which must be continuous service immediately preceding the date of retirement; provided, however, that the five-year continuous service requirement may be suspended by the fire department for good cause;~~

~~Is a member in good standing of the department at the time of retirement and is not resigning under duress of pending disciplinary proceedings; and~~

~~Has not previously received a retirement or disability bonus of any kind pursuant to this article, as it may be amended from time to time.~~

~~If an active member of the fire department dies who would otherwise be, at the date of death, qualified to receive the bonus provided in this section had he retired as of the date of death, the surviving spouse or one designated beneficiary, if any, of such member shall receive the bonus provided in this section.~~

~~Anything in this article to the contrary notwithstanding, if an active member of the fire department becomes disabled or dies due to injuries sustained in the line of duty, he or the surviving spouse, as the case may be, shall receive a sum of money as if the disabled or deceased member had been eligible for retirement as of the date of disability or death, computed at the rate of $2.00 per month for each month of active time by the particular member.~~

~~Honorary members of the fire department with at least 15 years of active service time as of April 1, 1983, shall be paid in the manner provided in this section, a lump sum of $100.00 as a bonus for such service.~~

~~(Comp. Ords. 1984, § 400.05; Code 1995, § 22-30; Ord. No. 1991-3, 7-8-1991)~~

Secs. 14-23--14-47. Reserved.

ARTICLE III. OUTDOOR AND OPEN BURNING

Sec. 14-48. Purpose.

This article is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the village due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

(Ord. No. 2007-01, § 26.III-1, 1-8-2007)

Sec. 14-49. Applicability; conflicts with zoning regulations.

(a) This article applies to all outdoor burning and refuse burning within the corporate limits of the village. This article does not apply to:

(1) Grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.

(2) Burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned includes refuse as defined in section 14-50.

(3) The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

(b) In the event of conflict between this article and village zoning regulations, the zoning regulations shall prevail.

(Ord. No. 2007-01, § 26.III-2, 1-8-2007)

Sec. 14-50. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

PROOFS

Burn barrel means any non-combustible container not specifically designed for burning wood, coal or other material that is commonly used as a source of heating fuel, or specifically designed for cooking.

Campfire means a small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse.

Clean wood means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

Confidential papers means printed material containing personal identification or financial information that the owner wishes to destroy.

~~3.5. "fire chief" means the Chief of the village Fire Department or other person authorized by the fire chief.~~

Open burning means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.

Outdoor burning means open burning or burning in an outdoor wood-fired or pellet-fired furnace.

Outdoor furnace means a wood-fired or pellet-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

Refuse means any waste material except clean wood.

(Ord. No. 2007-01, § 26.III-3, 1-8-2007)

Sec. 14-51. Open burning, outdoor burning and refuse burning prohibited.

Open burning, outdoor burning and refuse burning are prohibited in the village unless the burning is specifically permitted by this article.

(Ord. No. 2007-01, § 26.III-4, 1-8-2007)

Sec. 14-52. Materials that may not be burned.

(a) Unless a specific written approval has been obtained from the state department of natural resources, the following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device.

(1) ~~5.2.~~ Rubbish or garbage, including, but not limited to, food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.

(2) ~~5.3.~~ Waste oil or other oily wastes, unless within an appliance specifically manufactured for that purpose.

(3) ~~5.4.~~ Asphalt and products containing asphalt.

(4) ~~5.5.~~ Treated or painted wood, including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

(5) ~~5.6.~~ Any plastic material, including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

(6) ~~5.7.~~ Rubber, including tires and synthetic rubber-like products.

(b) The following materials may not be burned under any circumstances except by authorized village officials or employees at the direction of the village:

(1) Aluminum beer cans;

(2) Asphalt sealant;

(3) Asphalt shingles;

(4) Buildings and structures;

(5) Catalogues;

PROOFS

(6) Composite boards;

(7) Food waste and garbage;

(8) Insulated electrical wire;

(9) Magazines;

(10) Nylon carpet;

(11) Nylon upholstery fabric;

(12) Painted siding;

(13) Plastic food wrap;

(14) Plastic garbage bags;

(15) Plastic milk jugs;

(16) Plastic pipes;

(17) Plastic siding;

(18) Plastic soda bottles;

(19) Plastic toys;

(20) Plastic vapor barrier;

(21) Plastic weed barrier;

(22) Plywood;

(23) Polystyrene foam packaging;

(24) Polystyrene plates;

(25) Rubber hose;

(26) Tar paper;

(27) Tires;

(28) Treated lumber;

(29) Urethane foam pads;

(30) Waste oil;

(31) Water softener salt bags;

(32) Wooden furniture.

(Ord. No. 2007-01, § 26.III-5, 1-8-2007)

Sec. 14-53. Open burning of leaves, brush, clean wood and other vegetative debris.

Open burning of leaves, weeds, brush, stumps, clean wood other vegetative debris is allowed only in accordance with the following provisions:

(1) ~~6.1.~~ All allowed open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions are such as to minimize adverse effects such as offensive or noxious smoke and not create a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.

(2) ~~6.2.~~ Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the fire chief or the state department of natural resources has issued a burning ban applicable to the area.

(3) ~~6.3.~~ Open burning shall be conducted only on the property on which the materials were generated or at a facility approved by and in accordance with provisions established by the state department of natural

PROOFS

resources and the fire chief.

(4) ~~6.4.~~ Unless explicitly allowed elsewhere in this article, a commercial enterprise other than an agricultural or silvicultural operation may open burn only at a facility approved by and in accordance with provisions established by the state department of natural resources and the fire chief.

(5) ~~6.5.~~ Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this article.

(6) ~~6.6.~~ Fires set for forest, prairie or wildlife habitat management are allowed with the approval of the state department of natural resources.

(7) ~~6.7.~~ Outdoor campfires and small bonfires for cooking, ceremonies or recreation are allowed, provided that the fire is confined by a control device or structure such as a fire ring, or fire pit. Bonfires are allowed only if approved by and in accordance with provisions established by the fire chief.

(8) ~~6.8.~~ Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way is allowed if approved by the fire chief and if in accordance with other provisions of this article.

(9) ~~6~~.9. In emergency situations, such as natural disasters, burning that would otherwise be prohibited is allowed if specifically approved by the state department of natural resources.

(10) ~~6.10.~~ Open burning under this section shall be conducted only following issuance of and in accordance with a permit issued under section 14-58.

(11) ~~6.11~~ Open burning under this section shall only be conducted at a location at least 40 feet from the nearest building which is not on the same property.

(12) ~~6.12.~~ Open burning shall be constantly attended and supervised by a competent person of at least 18 years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

(13) ~~6.13.~~ No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or water body.

(14) ~~6.14.~~ Except for barbecue, gas and charcoal grills, no burning shall be undertaken near any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the fire chief.

(15) ~~6.15.~~ No open burning may be conducted on days when the state department of natural resources has declared a high risk of fire danger applicable to the village.

(Ord. No. 2007-01, § 26.III-6, 1-8-2007)

Sec. 14-54. Beach fires.

(a) Nothing contained in this article shall be construed so as to require a permit for the burning of charcoal or a similar substance in a grill or other cooking device designed for that purpose.

(b) Nothing contained in this article shall be construed so as to require a permit to build a fire on the shore of Lake Superior, provided that any such fire shall consist of only clean wood, and be located on sand and within 15 feet of the water's edge.

(c) Beach fires shall have a base of not more than three feet in diameter.

(d) Beach fires shall not be left unattended, and shall be completely extinguished with water prior to departure.

(e) The fire chief or his or her designee may suspend the operation of this section for a specified time based on the criteria for the issuance of permits set forth in section 14-59.

(Ord. No. 2007-01, § 26.III-7, 1-8-2007)

Sec. 14-55. Burn barrels.

No person shall use or maintain a burn barrel in the village.

PROOFS

(Ord. No. 2007-01, § 26.III-8, 1-8-2007)

Sec. 14-56. Outdoor furnaces.

An outdoor furnace may be installed and used in the village only in accordance with the following provisions:

(1) The outdoor furnace shall be a commercially manufactured unit approved by the US EPA (guidelines pending), and shall be installed and used only in accordance with manufacturer's recommendations.

(2) The outdoor furnace shall not used to burn any of the prohibited materials listed in section 14-52.

(3) No more than one outdoor furnace may be installed and used and must be located in the rear yard only of any parcel in any zoning district.

a. The outdoor furnace shall be installed and used only in parcels of sufficient size to meet the distance requirements of this article.

b. The outdoor furnace shall be located at least 15 feet from the nearest property line and at least 40 feet from the nearest habitable building which is not on the same property as the outdoor furnace.

c. Units located 75 feet or closer from any other structure must have a stack height at least two feet higher than the eave height of the nearest residential structure.

d. If located more than 75 feet but less than 100 feet from the nearest structure, the stack height shall be not less than 75 percent of the eave height of the nearest residential structure, plus two feet.

e. If located more than 100 feet but less than 150 feet from the nearest structure, the stack height shall be no less than 50 percent of the eave height of the nearest residential structure, plus two feet.

f. If located more than 150 feet but less than 200 feet from the nearest structure, the stack shall be no less than 25 percent of the eave height of the nearest residential structure, plus two feet.

g. No part of any outdoor heating unit structure should be permitted to locate closer than ten feet from any property line.

h. Every outdoor heating unit must have a spark arrestor securely installed on top and must be constantly maintained in good repair to the requirements of this article, without rust or other blighted condition.

i. The owner of the outdoor furnace shall obtain an annual permit from the village in accordance with section 14-59.

j. There shall be no grandfathering. Owners of existing outdoor furnaces shall have 24 months from the date of adoption of the ordinance from which this article is derived to come into compliance with this article.

(Ord. No. 2007-01, § 26.III-9, 1-8-2007)

Sec. 14-57. Fire department practice burns.

Notwithstanding sections 14-51 and 14-52, the fire department may burn a standing building if necessary for firefighting practice and if the practice burn complies with the requirements of the state department of natural resources.

(Ord. No. 2007-01, § 26.III-10, 1-8-2007)

Sec. 14-58. Exemption for burning certain papers.

(a) Notwithstanding subsection 14-53, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this article.

(b) Small quantities of confidential papers from a residence may be burned if necessary to prevent the theft of financial records, identification or other confidential information.

(c) Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.

PROOFS

(d) A fire set for burning of a small quantity of confidential papers shall be subject to and comply with sections 14-51 (1) through (3), (6), and (11) through (15).

(Ord. No. 2007-01, § 26.III-11, 1-8-2007)

Sec. 14-59. Burning permits.

(a) No person shall start or maintain any open burning without a burning permit issued by the village fire chief or his/her authorized designee.

(b) An outdoor campfire does not require a permit provided that the fire complies with all other applicable provisions of this article.

(c) Any person responsible for burning leaves, brush, clean wood or other vegetative debris under section 14-54 shall obtain a one-time burning permit before starting the fire.

(d) The owner or occupant of the property shall obtain an annual burning permit for each outdoor furnace before using the outdoor furnace. An annual permit expires on August 1 of each year. Permit applications shall be available at the village offices. Completed applications are to be returned to the village office to be considered for approval.

(e) When weather conditions warrant, the fire chief or the state department of natural resources may declare a burning moratorium on all open burning and temporarily suspend previously issued burning permits for open burning.

(f) A burning permit issued under this section shall require compliance with all applicable provisions of this article and any additional special restrictions deemed necessary to protect public health and safety.

(g) Any violation of the conditions of a burning permit shall be deemed a violation of this article. Any violation of this article or the burning permit shall void the permit.

(Ord. No. 2007-01, § 26.III-12, 1-8-2007)

Sec. 14-60. Liability.

A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

(Ord. No. 2007-01, § 26.III-13, 1-8-2007)

Sec. 14-61. Right of entry and inspection.

The fire chief, or any authorized officer, agent, employee or representative of the village who presents credentials, may inspect any property for the purpose of ascertaining compliance with the provisions of this article. ~~Note:~~ If the owner or occupant of the premises denies access to the property for this purpose, the permit is automatically null and void, and renders the property owner subject to penalties in accordance with section 1-12.

(Ord. No. 2007-01, § 26.III-14, 1-8-2007)

Sec. 14-62. Enforcement and penalties.

The fire chief and village manager or his or her designee are authorized to enforce the provisions of this article. The penalty for violation of any portion of this article shall be in accordance with section 1-12, plus the cost of prosecution.

(Ord. No. 2007-01, § 26.III-15, 1-8-2007)

~~APPENDIX A~~

~~Sample List of Materials Which Are NOT Legal To Burn~~

~~These household materials can NOT legally be burned on the same property where generated:~~

~~(The number listed after the materials below refers to the legal explanations of why the item may not be burned.)~~

~~Plastic Milk Jug 1,5 _Urethane Foam Pad 1,2 _Asphalt Sealant 1~~

PROOFS

~~Plastic Soda Bottles 1,2 _Treated Lumber 3 _Plastic Food Wrap 1~~

~~Magazines / Catalogues 5 _Plywood 6 _Insulated Electrical Wire 1~~

~~Plastic Pipe 1 _OSB / Composite Board 6 _Rubber Hose 1~~

~~Food Waste / Garbage 4 _Plastic Weed Barrier 1 _Tires 1~~

~~Wooden Furniture 3 Water Softener Salt BagPlastic siding 1 1,2~~

~~Plastic Garbage Bags 1 Aluminum Beer Cans 5 Waste Oil 4~~

~~Asphalt Shingles 1Nylon Carpet 1,2 Painted Siding 3~~

~~Polystyrene Plates 1,2 Plastic Vapor Barrier 1 Tar Paper 1~~

~~Plastic Toys 1 Nylon Upholstery Fabric 1,2 Old Building 7~~

~~Polystyrene Foam Packaging 1,2~~

~~Explanations & Alternatives:~~

~~1 All plastic, rubber and asphalt materials are prohibited from open burning under state law.~~

~~2 This synthetic material is Aplastic@ and may not be burned.~~

~~3 Wood that is painted or chemically treated may not be burned under state law.~~

~~4 These materials are specifically prohibited from open burning under state law.~~

~~5 These materials should be recycled. They cannot be burned.~~

~~6 These materials contain resins and glues making them unsuitable for burning. They are not Adry unpainted, untreated wood@ as referenced and exempted.~~

~~7 Individuals or businesses may not burn a building. The only exception is that a building may be burned only by a fire department for training purposes after notification to DNR and removal of illegal materials.~~

~~(Ord. No. 2007-01, app. A, 1-8-2007)~~

Secs. 14-63--14-82. Reserved.

ARTICLE IV. HAZARDOUS MATERIALS

Sec. 14-83. Purpose.

In order to protect the village from incurring extraordinary expenses resulting from the utilization of village resources to respond to an incident involving hazardous materials, the village council authorizes the imposition of charges to recover reasonable and actual costs incurred by the village in responding to calls for assistance in connection with a hazardous materials release.

(Code 1995, § 26-76; Ord. No. 1998-A, § 1, 1-12-1998)

Sec. 14-84. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hazardous materials includes, but is not limited to, a chemical that is a combustible liquid, a flammable gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable reactive or water reactive.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, dumping or disposing into the environment.

Responsible party means any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that is responsible for a release of a hazardous material, either actual or threatened, or is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials release.

(Code 1995, § 26-77; Ord. No. 1998-A, §§ 2—4, 1-12-1998)

PROOFS

Sec. 14-85. Charges imposed upon responsible party.

Where the village fire department responds to a call in connection with a hazardous materials incident, actual costs incurred by the village responding to such a call shall be imposed upon responsible parties, including:

(1) Vehicle and equipment costs. Charges for village vehicles and equipment shall be set, from time to time, by resolution of the village council.

(2) All personnel-related costs incurred by the village as a result of responding to the hazardous materials incident. Such costs may include, but are not limited to, wages, salaries and fringe benefits and insurance for full-time and part-time fire fighters; overtime pay and related fringe benefit costs for hourly employees; fire run fees paid to on-call fire fighters; and use of personal property. Such personnel-related charges shall commence after the first hour that the fire department has responded to the hazardous materials incident and shall continue until all village personnel have concluded hazardous materials incident-related responsibilities. Personnel wages for hazardous materials response shall be set from time to time by resolution of village council.

(3) Other expenses incurred by the village in responding to the hazardous materials incident, including but not limited to, rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, medical and hospitalization costs, and replacement costs related to disposable personal protective equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the hazardous materials incident.

(4) Charges to the village imposed by any local, state or federal government entities related to the hazardous materials incident.

(5) Costs incurred in accounting for all hazardous material incident-related expenditures, including billing and collection costs.

(Code 1995, § 26-78; Ord. No. 1998-A, § 5, 1-12-1998)

Sec. 14-86. Billing procedures.

Following the conclusion of a hazardous materials incident, the fire chief shall submit a detailed listing of all known expenses to the village treasurer, who shall prepare an invoice to the responsible party for payment. The treasurer's invoice shall demand full payment within 30 days of receipt of the bill. Any additional expenses that become known to the village fire chief following the transmittal of the bill to the responsible party shall be billed in the same manner on a subsequent bill to the responsible party. For any amounts due that remain unpaid after 30 days, the village shall impose a late charge of one percent per month, or fraction thereof.

(Code 1995, § 26-79; Ord. No. 1998-A, § 6, 1-12-1998)

Sec. 14-87. Other remedies.

The village may pursue any other remedy or may institute any appropriate action or proceeding in a court of competent jurisdiction to collect charges imposed under this article. The recovery imposed under this article does not limit liability or responsible parties under local ordinance or state or federal law, rule or regulation.

(Code 1995, § 26-80; Ord. No. 1998-A, § 7, 1-12-1998)

PROOFS

Chapter 15

RESERVED

PROOFS

Chapter 16

OFFENSES AND NUISANCES

ARTICLE I. IN GENERAL

Sec. 16-1. Statutory definitions.

When any words and phrases as used in this chapter are not defined, but are defined in the state penal code, any such definition therein shall be deemed to apply to such words and phrases as used in this chapter.

(Code 1995, § 42-1)

Sec. 16-2. Abolition of distinction between accessory and principal.

Every person concerned in the commission of an offense under this chapter, whether he directly commits the act constituting the offense or procures, counsels, aids or abets in its commission, may be prosecuted, indicted, tried and, on conviction, shall be punished as if he had directly committed such offense.

(Code 1995, § 42-2)

Sec. 16-3. Aiding and abetting violations.

When any act or omission to act is a violation of this chapter, including the amendments thereto, or of any rule or regulation adopted under this chapter, any person who causes, secures, aids, or abets such violation may be prosecuted, and on conviction thereof, shall be punished as if he had directly committed such violation.

(Code 1995, § 1-11)

Sec. 16-4. Begging.

It is unlawful for any person within the village to beg in a public place from passersby, either by words, gestures or by the exhibiting of a sign.

(Code 1995, § 42-3)

Sec. 16-5. Window peeping.

It is unlawful for any person to look, peer, or peep into, or be found loitering around, or within view of, any window not on his own property, with the intent of looking through such window in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy, without the occupant's express or implied consent.

(Code 1995, § 42-4)

~~**Sec. 42-5. Fortunetelling.**~~

~~It is unlawful for any person within the village to pretend, for money or gain, to tell fortunes, or to predict future events by cards, tokens, trances, the inspection of the hands or the conformation of the skull of any person, by mindreading, by consulting the movements of the heavenly bodies, or by other means.~~

~~It is unlawful for any person within the village to pretend by or through means of palmistry, phrenology, clairvoyancy, astrology or fortunetelling by cards or other devices for money or gain, to enable anyone to get or recover lost or stolen property, or to give success in business, enterprise, speculation or games of chance, or to make one person dispose of property, business or valuable thing in favor of another.~~

~~It is unlawful for any person within the village to publish by card, circular, sign, newspaper or any other means whatsoever, that he shall or will predict future events, and any person whose fortune may have been told, as aforesaid, shall be a competent witness against all persons charged with any violation of this section.~~

~~(Code 1995, § 42-5)~~

PROOFS

Sec. 16-6. Loitering near place of illegal occupation or business.

It is unlawful for any person within the village to knowingly loiter in or about any place where an illegal occupation or business is being conducted.

(Code 1995, § 42-6)

~~**Sec. 42-7. Conducting business in public.**~~

~~No person shall carry on or conduct any business in any park or public place of the village or any street or avenue thereof or use any area of any park or public place or street or avenue therefor or in connection with any business conducted by him, without written authorization of the village council.~~

~~(Code 1995, § 42-7)~~

Secs. 16-7--16-30. Reserved.

ARTICLE II. OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

~~**Sec. 42-31. Hindering officers and employees.**~~

~~**N**o person shall hinder, resist or oppose any village officer or employee, including police officers and firefighters, in the performance of their duties.~~

~~(Code 1995, § 42-31)~~

~~**Sec. 42-32. Resisting officer.**~~

~~**I**t is unlawful for any person to resist any police officer or other law enforcement agent while in the discharge or apparent discharge of his duty, or in any way interfere with or hinder him in the discharge of his duty.~~

~~(Code 1995, § 42-32)~~

Sec. 16-31. Impersonation of officers.

It is unlawful for any person to falsely assume or pretend to be an employee of the village, an employee of the county, an employee of the state, or an employee of any public utility for the purpose of gaining entry into any home or business located in the village.

(Code 1995, § 42-33)

~~**Sec. 42-34. Disobeying firefighters.**~~

~~It is unlawful for any person within the village to knowingly and willfully hinder, obstruct or interfere with any firefighter in the performance of his duties or who shall, while in the vicinity of any fire, willfully disobey and/or~~ disobey ~~disregard any order, rule or regulation of the officer commanding any fire department at such fire.~~

~~(Code 1995, § 42-34)~~

Sec. 16-32. False fire alarm.

Any person who shall knowingly and willfully commit any one or more of the following actions shall be guilty of a misdemeanor:

(1) Raise a false alarm of fire at any gathering or in any public place.

(2) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof, for the purpose of creating a false alarm of fire.

(3) Raise a false alarm of fire orally, by telephone or in person.

(Code 1995, § 42-35)

PROOFS

Secs. 16-33--16-52. Reserved.

ARTICLE III. OFFENSES AGAINST THE PERSON

Sec. 16-53. Assault and battery.

It is unlawful for any person within the village to attempt or offer, with force and violence, to do a corporal hurt to another, or assault or batter any other person.

(Code 1995, § 42-56)

Sec. 16-54. Harassment.

A person commits the offense of harassment if, with intent to harass, annoy or alarm another person, he:

(1) Follows a person in or about a public place; or

(2) Engages in a course of conduct or repeatedly commits acts that alarm or seriously annoy another person and that serve no legitimate purpose.

(Code 1995, § 42-57)

Sec. 16-55. Malicious annoyance by writing.

It is unlawful for any person within the village to knowingly send or deliver, or to make, for the purpose of being delivered or sent, or to part with the possession of any letter, postal card or writing containing any obscene language, with or without a name subscribed thereto, or signed with a fictitious name, or with any letter, mark or other designation with the intent thereby to cause annoyance to any person within the village, or with a view or intent to extort or gain any money or property of any description belonging to another.

(Code 1995, § 42-58)

~~**Sec. 42-59. Malicious use of telecommunications service or device.**~~

~~Any person is guilty of a misdemeanor who maliciously uses any service provided by a communications common carrier with intent to terrorize, frighten, intimidate, threaten, harass, molest or annoy any other person, or to disturb the peace and quiet of any other person by any of the following:~~

~~— Threatening physical harm or damage to any person or property in the course of a telephone conversation or message.~~

~~— Falsely and deliberately reporting by telephone or telegraph message through the use of a telecommunications service or device message that any person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime, or of an accident.~~

~~— Deliberately refusing or failing to disengage a connection between a telecommunications device and another telecommunications device or between a telecommunications device and other equipment provided for the transmission of messages through the use of a telecommunications service or device a telephone and another telephone or between a telephone and other equipment provided for the transmission of messages by telephone, thereby interfering with any communications service.~~

~~— Using any vulgar, indecent, obscene or offensive language or suggesting any lewd or lascivious act in the course of a conversation or message through the use of a telecommunications service or device telephone conversation.~~

~~— Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone call is answered.~~

~~— Making an unsolicited commercial telephone call that is received between the hours of 9 p.m. and 9 a.m. As used in this subsection, "an unsolicited commercial telephone call" means a call made by a person or recording device, on behalf of a person, corporation, or other entity, soliciting business or contributions.~~

~~— Deliberately engaging or causing to engage the use of a telecommunications service or device of another person in a repetitive manner that causes interruption in telecommunications service or prevents the person from utilizing the person's telecommunications service or device.~~

PROOFS

~~(Code 1995, § 42-59)~~

~~Sec. 42-60. Nonsupport of family.~~

~~**It** is unlawful for any person of sufficient ability within the village to refuse or neglect to support his family.~~

~~(Code 1995, § 42-60)~~

Secs. 16-56--16-83. Reserved.

ARTICLE IV. OFFENSES AGAINST PROPERTY

DIVISION 1. GENERALLY

Sec. 16-84. Littering.

(a) No person shall throw or deposit any trash, rubbish, garbage or filthy matter in any place within the corporate limits of the village, including the Ontonagon River or the ice thereon, except in a proper place or container designated or provided for the disposal of same.

(b) No owner or occupant of any premises within the village shall allow any trash, rubbish, garbage or filthy matter to remain upon any lot or premises owned or occupied by him within the corporate limits of the village.

(c) Any person convicted of violating the provisions of this section shall be punished as prescribed in section 1-12.

(Comp. Ords. 1984, §§ 902.01—902.03; Code 1995, § 22-26--22-28)

~~Sec. 42-81. Depositing rubbish in streets or public places.~~

~~It is unlawful for any person to throw, dump, place or deposit tin cans, bottles, ashes, or rubbish in any street or public place.~~

~~It is unlawful for any person to throw, dump, place or deposit tin cans, bottles, ashes, leaves, brush or rubbish on the shore of Lake Superior or in the waters of Lake Superior.~~

~~No person shall place, deposit, throw, or abandon any rubbish, refuse, papers, or rags in any park or public place of the village or in any street or alley thereof, except in such receptacles as may be provided therefor.~~

~~(Code 1995, § 42-81)~~

Sec. 16-85. Entering garden or orchard for unlawful purpose.

It is unlawful for any person to enter any enclosed or unenclosed vegetable garden or orchard located within the village without the consent of the owner, or tenant, or his agent, and there cut down, injure, damage, destroy, eat, or carry away any portion of such garden, including any growing thing, crop, tree, timber, grass, seed, soil, fertilizer, water supply, tool, implement, fence, or any other protective device or any other thing useful for the development, cultivation, maintenance and use of any such garden or orchard.

(Code 1995, § 42-82)

Secs. 16-86--16-113. Reserved.

DIVISION 2. THEFT

~~Sec. 42-96. Larceny of goods.~~

~~It is unlawful for any person within the village to steal or unlawfully take any money, goods, chattels or property of any other person, of the value of $~~1,000.00~~ $100.00 or less.~~

~~(Code 1995, § 42-96)~~

Sec. 16-114. Larceny from vacant buildings.

It is unlawful for any person within the village to steal or unlawfully remove or in any manner damage any fixture, attachment, or other property belonging to, connected with, or used in the construction of any vacant structure or building, whether built or in the process of construction; or to break into any vacant structure or building

PROOFS

with the intention of unlawfully removing, taking therefrom, or in any manner damaging any fixture, attachment or other property belonging to, connected with, or used in the construction of such vacant structure or building, whether built or in the process of construction.

(Code 1995, § 42-97)

Sec. 16-115. Larceny from public libraries.

It is unlawful for any person within the village to procure or take in any way from the public library in the village any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, with intent to convert the same to his own use.

(Code 1995, § 42-98)

~~**Sec. 42-99. Breaking and entering coinbox.**~~

~~It is unlawful for any person within the village to maliciously and willfully, by and with the aid and use of any key, instrument, device or explosive, blow or attempt to blow, or force or attempt to force an entrance into any coinbox, depository box, newspaper coinbox, or other receptacle established and maintained for the convenience of the public; or for any person not making payment for any articles of merchandise or service; for any person to extract or obtain or attempt to extract or obtain therefrom any such money or thing of value so deposited or contained therein.~~

~~(Code 1995, § 42-99)~~

Sec. 16-116. Breaking and entering outside showcase or enclosed counter.

It is unlawful for any person in the village to break and enter, or to attempt to break and enter, or enter without breaking, at any time, any outside showcase or other outside enclosed counter used for the display of goods, wares or merchandise, with intent to steal, or to commit the crime of larceny therein.

(Code 1995, § 42-100)

Sec. 16-117. False weights and measures.

Any person who shall offer or expose for sale, sell, or use or retain in his possession, a false weight or measure or weighing or measuring device in the buying or selling of any commodity or thing or for hire or reward; who shall dispose of any condemned weight, measure or weighing or measuring device contrary to law, or remove any tags placed thereon by the sealer of weights and measures; ~~any person~~ who shall sell or offer or expose for sale less than the quantity he represents, or sell or offer or expose for sale any such commodity in any manner contrary to law; or ~~any person~~ who shall sell or offer for sale or have in his possession for the purpose of selling any device or instrument to be used to, or calculated to, falsify any weight or measure, shall be guilty of a violation of this Code.

(Code 1995, § 42-101)

Sec. 16-118. Fraud.

It is unlawful for any person within the village to engage in any fraudulent scheme, device or trick to obtain money or other valuable thing, or to aid or abet, or in any manner to be concerned therein.

(Code 1995, § 42-102)

Secs. 16-119--16-149. Reserved.

DIVISION 3. DESTRUCTION OF PROPERTY

~~**Sec. 42-116. Malicious destruction of property generally.**~~

~~It is unlawful for any person within the village to willfully and maliciously destroy or injure the real or personal property of another, or the appurtenances thereof, where the damage done shall be~~ $1,000.00 ~~$100.00 or less.~~

~~(Code 1995, § 42-116)~~

~~**Sec. 42-117. Malicious destruction of public property.**~~

~~It is unlawful for any person within the village to maliciously destroy, damage, injure, mar or deface any~~

PROOFS

~~building, monument, sign, notice or structure or fence, tree, shrub, plant, park or public property of any kind which is owned, controlled, or managed by the state, county, village, any school district within the village, or by any other unit or agency of government whose operating budget is raised in whole or in part by public taxation, or to commit any act of vandalism on or in any such property.~~

~~(Code 1995, § 42-117)~~

~~Sec. 42-118. Tampering with utility appurtenances.~~

~~**I**t is unlawful to tamper with, injure, deface, destroy, or remove any sign, notice, marker, fire alarm box, fire hydrant, topographical survey instrument, water meter, traffic cone, barricade, water stopbox, or any other personal property erected or placed by the village, or to make unauthorized taps into the water lines or any unauthorized use of fire hydrants.~~

~~(Code 1995, § 42-118)~~

Sec. 16-150. Tampering with motor vehicle.

Any person shall be guilty of a violation of this Code who shall:

(1) Intentionally and without authority from the owner, start or cause to be started the motor of any motor vehicle, or maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which it was left by the owner or driver of such motor vehicle;

(2) Intentionally cut, mark, scratch or damage the chassis, running gear, body, sides, top, covering or upholstering of any motor vehicle, the property of another, or intentionally cut, mash, mark, destroy or damage such motor vehicle, or any of the accessories, equipment, appurtenances or attachments thereof, or any spare or extra parts thereon being or thereto attached, without the permission of the owner thereof; or

(3) Intentionally release the brake upon any standing motor vehicle, with intent to injure such machine and cause the motor vehicle to be removed without the consent of the owner, provided that this section shall not apply in the case of moving or starting of motor vehicles by village enforcement personnel ~~the police~~ under authority of local ordinance or by members of fire departments in case of emergency in the vicinity of a fire.

(Code 1995, § 42-119)

Secs. 16-151--16-168. Reserved.

DIVISION 4. TRESPASS

Sec. 16-169. Upon lands or premises of another.

(a) It is unlawful in the village for any person to:

(1) Enter the lands or premises of another without lawful authority after having been forbidden to do so by the owner or occupant or the agent of the owner or occupant.

(2) Remain without lawful authority on the land or premises of another after being notified to depart by the owner or occupant or the agent of the owner or occupant.

(3) Enter or remain without lawful authority on fenced or posted farm property of another person without the consent of the owner or his or her lessee or agent.

(b) A request to leave the premises is not a necessary element for a violation of this section. This section does not apply to a person who is in the process of attempting, by the most direct route, to contact the owner or his or her lessee or agent to request consent.

~~Any person who shall willfully enter upon the lands or premises of another without lawful authority, after having been forbidden so to do, or after such lands or premises have been previously posted with a conspicuous notice forbidding any trespass thereon by the owner or occupant, or agent or servant of the owner or occupant, or any person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, or agent or servant of either, who, without lawful authority, neglects or refuses to~~

PROOFS

~~depart therefrom, shall be guilty of a misdemeanor.~~

(Code 1995, § 42-131)

Sec. 16-170. Unauthorized entrance upon private parking area.

(a) Any person who enters upon or loiters upon any private parking area, either in a vehicle or on foot, without the express or implied permission of the owner, lessee, occupant or agent, shall be guilty of a misdemeanor.

(b) Before the ordinance from which this section is derived shall be effective in any parking area, suitable signs must be first posted which would apprise the ordinarily observant person of the restricted use of the parking area. For the purpose of this section, implied permission shall be deemed granted to any person for the use designated by such signs. Implied permission shall not be deemed granted to any person found upon any private parking area after business hours of the owner, lessee, occupant or agent of the parking area.

(c) The posting of signs upon a parking area pursuant to this section shall constitute authority by the owner, lessee, occupant or agent of the property for ~~the police department~~ village officials to enforce this section.

(d) Complaint for violation of this section may be made by the owner, lessee or occupant of the parking area, or the agent thereof, or by village enforcement officials~~ the police department, and the police department shall enforce this section~~.

(Code 1995, § 42-132)

Secs. 16-171--16-193. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC PEACE

~~Sec. 22-52. Unnecessary noise.~~

~~No person shall make, cause or allow any loud, irritating or unnecessary noise which shall unreasonably disturb the peace and tranquility of any inhabitant of the village, provided that this section shall in no way restrict or infringe upon the rights granted by the First and 14th Amendments to the Constitution of the United States. Any person convicted of violating the provisions of this article shall be punished as provided in section 1-10.~~

~~(Comp. Ords. 1984, §§ 900.01, 900.02; Code 1995, §§ 22-51, 22-52; Ord. No. 1990-1, § 2, 2-13-1990)~~

Sec. 16-194. Breach of peace.

Any person who shall make or assist in making any noise, disturbance, trouble or improper diversion, or any rout or riot, by which the peace and good order of the village are disturbed, shall be guilty of a breach of the peace, and disorderly conduct.

(Code 1995, § 42-156)

Sec. 16-195. Permitting gathering of disorderly persons.

It is unlawful for any person within the village to permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous, or disorderly persons.

(Code 1995, § 42-157)

Sec. 16-196. Jostling.

It is unlawful for any person within the village to be found jostling or roughly crowding people unnecessarily in a public place.

(Code 1995, § 42-158)

Sec. 16-197. Fighting.

It is unlawful for any person within the village to engage in any disturbance, fight or quarrel in a public place.

(Code 1995, § 42-159)

Sec. 16-198. Disturbing gatherings and meetings.

It is unlawful for any person within the village to willfully interrupt or disturb on any day of the week any

PROOFS

assembly of people met for the worship of God within the place of such meeting or out of it, or to make or excite any disturbance or contention in any tavern, dancehall, beer garden, store or grocery, manufacturing establishment or any other business place or in any street, lane, alley, highway, public building, ground or park or at any election or other public meeting in the village where any persons are peaceably and lawfully assembled.

(Code 1995, § 42-160)

~~**Sec. 42-161. Committing riot.**~~

~~**I**t is unlawful and constitutes the crime of riot for five or more persons within the village acting in concert to wrongfully engage in violent conduct and thereby intentionally or recklessly cause or create a serious risk of causing public terror or alarm.~~

~~(Code 1995, § 42-161)~~

~~**Sec. 42-162. Incitement to riot.**~~

~~**I**t is unlawful and constitutes incitement to riot for a person within the village intending to cause or to aid or abet the institution or maintenance of a riot, to do an act or engage in conduct that urges other persons to commit acts of unlawful force or violence, the unlawful burning or destroying of property or the unlawful interference with a police officer, peace officer, firefighter or a member of the state national guard or any unit of the armed services officially assigned to riot duty in the lawful performance of his duty.~~

~~(Code 1995, § 42-162)~~

~~**Sec. 42-163. Unlawful assembly.**~~

~~**I**t is unlawful and constitutes an unlawful assembly for a person within the village to assemble or act in concert with four or more persons for the purpose of engaging in conduct constituting the crime of riot or to be present at an assembly that either has or develops such a purpose and to remain there with intent to advance such purpose.~~

~~(Code 1995, § 42-163)~~

Secs. 16-199--16-219. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS

DIVISION 1. GENERALLY

Sec. 16-220. Consumption of intoxicating liquor in public.

It is unlawful for any person within the village to consume intoxicating liquor of any kind in any street, alley, park, public building or other land owned by the village, unless such consumption is authorized under a valid permit issued by the village or its authorized agent.

(Code 1995, § 42-186)

Sec. 16-221. Possession of open container of intoxicating liquor in public.

It is unlawful for any person within the village to possess intoxicating liquor in any kind of container which is open or uncapped, or on which the seal is broken, in any street, alley, park, public building or other land owned by the village, unless such possession is authorized under a valid permit issued by the village or its authorized agent.

(Code 1995, § 42-187)

Sec. 16-222. Indecent exposure.

It is unlawful for any person within the village to knowingly make any open or indecent exposure of his person or of the person of another.

(Code 1995, § 42-188)

Sec. 16-223. Indecent or obscene conduct.

It is unlawful for any person within the village to engage in any indecent or obscene conduct in any public place.

PROOFS

(Code 1995, § 42-189)

Sec. 16-224. Public nudity prohibited.

(a) *Generally.* No person shall engage in public nudity within the village. No person shall aid, abet, sponsor, promote or provide a place to conduct public nudity within the village.

(b) *Definition.* Public nudity means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. The term "public nudity" does not include any of the following:

(1) A woman's breastfeeding of a baby, whether or not the nipple or areola is exposed during or incidental to the feeding.

(2) Materials as defined in ~~section 2 of Act No. 343 of the Public Acts of 1984, being~~ MCL 752.362.

(3) Sexually explicit visual material as defined in section 3 of ~~Act No. 33 of the Public Acts of 1978, being~~ MCL 722.673.

(c) *Penalties.* Any person who shall violate the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding $500.00, or imprisonment not exceeding 90 days, or both, in the discretion of the court, together with the costs of prosecution and court costs.

(Code 1995, § 42-190; Ord. No. 1996-1, 11-2-1996)

~~**Sec. 42-204. Leasing house used for prostitution or gambling.**~~

~~**I**t is unlawful for any person to let any dwelling house, knowing that the lessee intends to use it as a house of ill-fame or place of resort for the purpose of prostitution and lewdness, or for the purpose of gambling for money or other property, or to knowingly permit such lessee to use the same for such purpose, or to receive any rent for any dwelling, house, room, or apartment which is used as a house of ill-fame or place of resort for prostitutes, or for the purpose of prostitution and lewdness, or for the purpose of gambling for money or other property, having reasonable cause to believe such house, room, or apartment is used for any such purpose.~~

~~It is unlawful for any person within the village to lease to another any house, room or other premises, in whole or in part, for any of the uses or purposes set forth in sections 42-202 and 42-203 or to knowingly permit any house, room or other premises to be used or occupied for such purposes.~~

~~(Code 1995, § 42-204)~~

Secs. 16-225--16-241. Reserved.

DIVISION 2. PROSTITUTION

Sec. 16-242. Generally.

(a) It is unlawful for any person within the village to commit or offer or agree to commit a lewd act or an act of prostitution or moral perversion.

(b) It is unlawful for any person within the village to secure or offer another for the purpose of committing a lewd act or an act of prostitution or moral perversion.

(c) It is unlawful for any person within the village to be in or near any place frequented by the public or any public place for the purpose of inducing, enticing or procuring another to commit a lewd act or an act of prostitution or moral perversion.

(d) It is unlawful for any person within the village to knowingly transport any person to any place for the purpose of committing a lewd act or an act of prostitution or moral perversion.

(e) It is unlawful for any person within the village to knowingly receive or offer to or agree to receive any person into any place or building for the purpose of performing a lewd act or an act of prostitution or moral perversion or to knowingly permit any person to remain in any place or building for any such purpose.

PROOFS

(f) It is unlawful for any person within the village to direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion.

(Code 1995, § 42-201)

~~**Sec. 42-202. Houses of ill fame—keeping; maintaining.**~~

~~**I**t is unlawful for any person within the village to keep or maintain a house of ill fame or assignation or place for the practice of prostitution or lewdness.~~

~~(Code 1995, § 42-202)~~

Sec. 16-243. Patronizing house of ill fame.

(a) It is unlawful for any person within the village to patronize, frequent, be found in or be an inmate of any house of ill fame or assignation or place for the practice of prostitution or lewdness.

(b) It is unlawful for any person to accept the solicitation of or solicit a prostitute for the practice of fornication, prostitution or lewdness.

(Code 1995, § 42-203)

~~**Sec. 42-205. Soliciting and accosting.**~~

~~It is unlawful for any person within the village, male or female, 16 17 years of age or older, to accost, solicit or invite another in any public place or in or from any building or vehicle by word, gesture or any other means to commit prostitution or to do any other lewd or immoral act. This section shall not apply to a law enforcement officer while in the performance of his duties as an enforcement officer.~~

~~(Code 1995, § 42-205)~~

Secs. 16-244--16-264. Reserved.

DIVISION 3. GAMBLING*

Sec. 16-265. Keeping or occupying building for gambling.

It is unlawful for any person, or his agent or employee, within the village, to directly or indirectly keep or occupy, or assist in keeping or occupying any common gambling house, or any building or room therein, or place within the village where gaming is permitted or suffered, or to suffer or permit on any premises owned, occupied or controlled by him, any apparatus used for gaming or gambling, or to use such apparatus for gaming or gambling in any place within the village.

(Code 1995, § 42-216)

Sec. 16-266. Gambling and frequenting.

It is unlawful for any person to deal in, play or engage in gaming such as faro, roulette, dice, cards, or other device or game of chance, hazard or skill, either as bookmaker, dealer, keeper, player or otherwise for the purpose of gambling for money or other valuable thing or to knowingly attend or be found frequenting any place where gambling is permitted or allowed or is taking place.

(Code 1995, § 42-217)

Sec. 16-267. Ropers, steerers, doorman or capper; frequenting gambling rooms.

It is unlawful for any person to engage in the work or occupation of a roper, steerer, doorman, or capper so-called for any gambling room, gaming house, or place where gaming is carried on, or for any gambling, game of chance, trick or device, or for any place where gambling or games of chance may be permitted or allowed or are being carried on. It is unlawful for persons to knowingly frequent, attend, or be found present in any of such places.

(Code 1995, § 42-218)

Sec. 16-268. Keeping gaming room for hire, gain or reward.

It is unlawful for any person within the village to keep or maintain for hire, gain or reward, a gaming room or gambling table or any game of skill or chance, or partly of skill and partly of chance, used for gaming, or to

PROOFS

knowingly suffer a gaming room or gaming table, or any such game to be kept, maintained or played on any premises within the village occupied or controlled by him, or for any person to aid, assist or abet in the keeping or maintaining of any such gaming room, gaming table or game within the village.

(Code 1995, § 42-219)

Sec. 16-269. Keeping gambling place and equipment.

It is unlawful for any person, or his agent or employee, within the village, to directly or indirectly keep, maintain, operate or occupy any building or room, or any part thereof, or any place with apparatus, books, or any device for registering bets, or buying or selling pools upon the result of a game, competition, political competition, appointment, or election, or any purported event of like character; to register bets, buy or sell pools, or to be concerned in buying or selling pools; or to knowingly permit any grounds or premises owned, occupied, or controlled by him to be used for any of the purposes aforesaid.

(Code 1995, § 42-220)

Sec. 16-270. Policy or pool tickets, slips or checks and memoranda; confiscation of articles of gaming.

It is unlawful within the village for any person to be in possession of any policy or pool tickets, slips or checks, memoranda, or any combination thereof, bet slips, numbers slip or slips, or of any article associated and/or connected with commercial gambling. Any and all such articles may be confiscated and destroyed by ~~the police department,~~ village enforcement officials or used in evidence in any prosecution for violation of this Code.

(Code 1995, § 42-221)

Secs. 16-271--16-298. Reserved.

ARTICLE VII. OFFENSES AGAINST PUBLIC SAFETY

DIVISION 1. GENERALLY

~~**Sec. 42-241. Skateboards, roller skates, roller blades, bicycles, motorized vehicles and similar devices.**~~

~~**Sec. 42-242. Removal of locking devices from abandoned airtight containers.**~~

~~It is unlawful for any person to leave in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container of a kind and size sufficient to permit the entrapment and suffocation of a child therein, without first removing the snaplock or other locking device from the lid or cover thereof outside of any building or dwelling, or in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, trunk, or any other container of any kind which has an airtight door or lock which may not be released for opening from the inside of the icebox, refrigerator, trunk or other container, without first removing the locks or doors therefrom.~~

~~(Code 1995, § 42-242)~~

Sec. 16-299. Throwing objects at vehicles.

It is unlawful for any person within the village to throw any stone, brick, or any other object at any ~~motorbus, automobile or other~~ motor vehicle.

(Code 1995, § 42-243)

Sec. 16-300. Sale or use of fireworks prohibited unless permit granted by council.

It is unlawful for any person to offer for sale, expose for sale or sell at retail, give, furnish, use, possess, explode or cause to explode any blank cartridge, toy pistol, toy cannon, toy cane or toy gun in which explosives are used, (except a toy pistol, toy cannon, toy cane or toy gun of a type in which paper caps containing one-quarter grain, or less, of explosive compound are used, and which are so constructed that the hand cannot come in contact with the cap when in place for the explosion or any production of combustion resulting therefrom); a type of balloon which requires fire underneath to propel such balloon, firecrackers, torpedoes, skyrockets, Roman candles, dago bombs, sparklers, except sparklers containing no more than 0.125 pound of burning portion per sparklers, or other fireworks containing any explosive or inflammable compound, or any tablets or other devices commonly used and

PROOFS

sold as fireworks; provided, however, that the council may, upon application in writing, grant a permit for the public display of fireworks by any organization or group of individuals approved by the council.

(Code 1995, § 42-244)

Sec. 16-301. Hunting within village.

It is unlawful for any person within the village to hunt wild game or in any manner carry any gun, weapon or firearm within the village for the purpose of hunting any wild game or fowl at any time.

(Code 1995, § 42-262)

Secs. 16-292--16-333. Reserved.

~~DIVISION 2. WEAPONS~~

~~**Sec. 42-256. Firearm defined.**~~

~~**T**he word ``firearm,'' except as otherwise specifically defined in this division, shall be construed to include any weapon from which a dangerous projectile may be propelled by using explosives, gas or air as a means of propulsion.~~

~~(Code 1995, § 42-256)~~

~~**Sec. 42-257. Persons exempt from division.**~~

~~**P**olice officers, peace officers and persons in the military service, in pursuit of official duty, and persons duly authorized by federal or state law to carry firearms, are exempt from the provisions of this division.~~

~~(Code 1995, § 42-257)~~

~~**Sec. 42-258. Aiming firearm.**~~

~~**I**t is unlawful for any person within the village to intentionally, without malice, point or aim any firearm at or toward any other person.~~

~~(Code 1995, § 42-258)~~

~~**Sec. 42-259. Aiming and discharging firearm.**~~

~~**I**t is unlawful for any person within the village to discharge without injury to another person any firearm, while intentionally, without malice, aiming at or toward any person.~~

~~(Code 1995, § 42-259)~~

~~**Sec. 42-260. Injury by discharge of firearm.**~~

~~**I**t is unlawful for any person within the village to maim or injure any other person by the discharge of any firearm pointed or aimed unintentionally, without malice, at any such person.~~

~~(Code 1995, § 42-260)~~

~~**Sec. 42-261. Possession or control of firearm while intoxicated.**~~

~~**I**t is unlawful for any person within the village, while under the influence of an alcoholic liquor or any exhilarating or stupefying drug, to carry, have in possession or control, or use in any manner, or discharge, any firearm.~~

~~(Code 1995, § 42-261)~~

~~**Sec. 42-264. Confiscation of weapons.**~~

~~**A**ll weapons, guns, pistols, firearms, knives, dirks, razors, stilettos, or any other sharp-edged or pointed instruments or weapons carried, possessed or used contrary to this division are declared forfeited to the village.~~

~~(Code 1995, § 42-264)~~

~~**Sec. 42-265. Transportation and possession.**~~

~~**I**t is unlawful for any person to transport or to have in possession in or upon any vehicle a firearm unless such~~

PROOFS

firearm is unloaded in both barrel and magazine and carried in the luggage compartment of the vehicle. It is unlawful to carry a firearm on any public street or in any public place unless it is unloaded and in a case.

(Code 1995, § 42-265)

Sec. 42-266. Sale or purchase.

It is unlawful for any person under 18 years of age to purchase, carry or transport a firearm on any public street or in any public place. It is unlawful for any person to sell a firearm to any person under 18 years of age.

(Code 1995, § 42-266)

Sec. 42-267. Toy pistols, slingshots, catapults and similar instruments.

It is unlawful for any person to sell or offer for sale, use, operate or discharge any BB gun, air rifle, toy pistol, slingshot, catapult or any other toy shooting apparatus gun or implement that might result in damage or destruction of life or property in the limits of the village.

(Code 1995, § 42-267)

Secs. 16-316--16-333. Reserved.

DIVISION 3. JUNK

Sec. 42-274. Short title.

This division shall be known and cited as the "Ontonagon Village Junk and Junk Vehicle Ordinance."

(Code 1995, § 42-274; Ord. No. 1998-1, § I, 4-13-1998)

Sec. 42-275. Purpose.

The purpose of this division is to establish a village control program designed to reduce unregulated junk, including abandoned motor vehicles, wreckage and parts thereof, and junk machinery accumulation throughout the village to the extent permissible by state law and nothing in this division shall be construed to abrogate or effect the authority of the state under Act No. 219 of the Public Acts of 1966, being MCL 252.201 et seq; MSA 9.391(11) et seq. or under Sections 248 to 249 of the Michigan Motor Vehicle Code, being MCL 257.248 - 257.249, MSA 9.1947, 9.1948. It is the purpose of this division to supplement state law for control of junk yards and the regulation of junk.

(Code 1995, § 42-275; Ord. No. 1998-1, § II, 4-13-1998)

Sec. 42-276. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Junk means waste, used or second-hand materials including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles.

Junk automobile or car means any motor vehicle that is not in operating condition and eligible for use in accordance with the requirements of the Michigan Vehicle Code, MCL 257.1 et seq. which is Act No. 300 of the Public Acts of 1949 as amended. Those minimum requirements will include but are not limited to four wheels with inflated tires, a working battery, and engine in running condition, and a gear train capable of moving at any time.

Junk equipment means totally inoperable or irreparable or unused equipment including vehicle accessories, semi tractor trailers and other machinery and machinery parts.

Junk yard means an open area where waste, used or second-hand materials bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A "junk yard" includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

In the event of special or peculiar hardship due to unforeseen circumstances by reason of the application of the provisions of this division, the village manager may grant a four-week stay in any proceeding brought for

PROOFS

violation of this division, provided that the manager shall have discretion to consider unreasonable or adverse effect to owners or occupants of adjoining property in considering application for such stay to the end that the spirit and purpose of this division may be substantially carried out.

Private premises means any lot or parcel of land owned or occupied by any person, firm or corporation whether or not improved with any dwelling, house, building or other structure, whether inhabited or temporarily or continuously uninhabited or vacant.

(Code 1995, § 42-276; Ord. No. 1998-1, § II, 4-13-1998)

Sec. 42-277. Nuisance.

Any parking, storage, accumulation, placement or operation in violation of the provisions of this division are declared to be public nuisance which may be enjoined pursuant to governing law or for which the violator may be subjected to a suit for civil damages, as well as fines and penalties herein provided.

(Code 1995, § 42-277; Ord. No. 1998-1, § III, 4-13-1998)

Sec. 42-278. Prohibited acts; exceptions.

Except to the extent permitted under state law or village ordinance, an owner, tenant or manager of private property, or whether the past registered owner of (any motor) vehicle or transferee on a bill of sale covering such vehicle, shall not permit the parading, storage or accumulation thereof upon any public right-of-way, public property or private premise within the village, of any junk, including junk motor vehicles, wreckage or parts thereof, unless the same are wholly contained within a fully enclosed building or a completely walled enclosure, or are otherwise screened by natural objects, planting, fences or other appropriate means so as not to be visible to public view, except for the following:

(1) Motor vehicles in operating condition eligible for use in accordance with the requirements of the Michigan Vehicle Code, MCL 257.1 et seq. being Act No. 300 of the Public Acts of 1939, as amended;

(2) Motor vehicles in operating condition held as stock in trade by a regularly licensed dealership of new or used motor vehicles or equipment use in the operation of such dealership;

(3) Motor vehicles or parts thereof located in junkyards or the places of business or wreckers duly licensed by state or village authority, pursuant to governing state law;

(4) Motor vehicles temporarily inoperable due to minor mechanical failure, but which are not in any manner dismantled, and have substantially all main component parts attached, may remain upon private property for not to exceed an aggregate total of 90 days.

(Code 1995, § 42-278; Ord. No. 1998-1, § IV, 4-13-1998)

Sec. 42-279. Construction.

As to any junk salvage yards, garages, body or paint shops operating within the village, which shall be licensed pursuant to governing state law or village provisions, this division shall be in addition to and not in conflict with other laws and ordinances respecting junk and junk vehicles.

(Code 1995, § 42-279; Ord. No. 1998-1, § V, 4-13-1998)

Sec. 42-280. Civil infraction.

(a) Any person, firm or corporation violating this division shall be subject to a civil infraction and a fine of not more than $100.00. Each day that the violation goes unabated shall be considered a new violation subject to an ongoing $100.00 fine.

(b) In addition to the imposition of the foregoing fines, penalties and other remedies, the county sheriff's department or such other officers as the village council may designate, may cause any junk motor vehicle or equipment found in violation hereof to be removed from the premises, impounded and destroyed or sold for junk at the discretion of said officer, and the cost thereof assessed against the owners or occupants of such vehicle or junk, or the premises on which same is located.

(c) Any sums realized on the sale of the same may be retained by the village to reimburse it for the cost

PROOFS

~~incurred in such removal and sale. Any balance of such sums remaining after such reimbursement shall be returnable to the owner of such vehicle or other junk and objects that are covered under this division.~~

~~(Code 1995, § 42-280; Ord. No. 1998-1, § VII, 4-13-1998)~~

~~Sec. #. Village manager may grant stay of enforcement.~~

~~**I**n the event of special or peculiar hardship due to unforeseen circumstances by reason of the application of the provisions of this division, the village manager may grant a four-week stay in any proceeding brought for violation of this division, provided that the manager shall have discretion to consider unreasonable or adverse effect to owners or occupants of adjoining property in considering application for such stay to the end that the spirit and purpose of this division may be substantially carried out.~~

~~(Code 1995, § 42-276; Ord. No. 1998-1, § II, 4-13-1998)~~

DIVISION 2. JUNK AND JUNK VEHICLES

Sec. 16-334. Intent.~~ & title.~~

It is determined by the village council that the public peace, health, safety and welfare of the citizens of the village is threatened by virtue of outdoor parking, storage and abandonment of junk, including junk motor vehicles, wreckage and parts of such vehicles, junk equipment, and other litter, refuse and debris throughout the village. It is further determined that such accumulation constitutes a nuisance and that it is essential to protect the public peace, health, safety and welfare of the people, that village regulation of junk, including junk automobiles and junk equipment, is provided within the framework of governing law.

~~This ordinance shall be known and cited as the Ontonagon Village Junk and Junk Vehicle Ordinance.~~

(Ord. No. 2016-01, § 1, 1-11-2016)

Sec. 16-335. Purpose.

The purpose of this division is to establish a village control program designed to reduce unregulated junk, including abandoned motor vehicles, wreckage and parts thereof, and junk machinery accumulation throughout the village to the extent permissible by state law. ~~Nothing in this article shall be construed to abrogate or effect the authority of the state under 1966 PA 219, being MCIA 252.201 et seq; MSA 9.391 (11) et seq. or under sections 248 to 249 of the Michigan Motor Vehicle Code, being MCLA 257.248-257.249: MSA 9. 1947-9, 1948.~~ It is the purpose of this division to supplement state law for control of junk yards and the regulation of junk, as hereinabove set forth.

(Ord. No. 2016-01, § 2, 1-11-2016)

Sec. 16-336. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Contractor equipment means any heavy equipment, dump trucks, log trucks and pups, cranes, backhoes, loaders, graders, bulldozers, skid-steers, feller-bunchers, skidders, man lifts, bucket trucks or any other commercial grade machinery or equipment typically used by loggers, building and excavating contractors. The term "contractor equipment" does not include similar equipment used for or intended for generally accepted agricultural practices.

Junk means waste, used, discarded or second-hand materials including but not limited to scrap iron and other metals, appliances, lumber, building materials, machinery parts, paper, rags, tires, bottles and other debris.

Junk equipment means inoperable, unrepairable or unused equipment including vehicle parts or accessories, semi-tractor trailers, construction equipment, machinery, machinery parts, ATV, UTVs, snowmobiles, motorcycles, campers, boats, boat engines, bicycles, lawnmowers, or any other equipment and parts thereof.

Junk motor vehicle or *junk vehicle* means any motor vehicle that is not licensed, insured and in operating condition.

Junk yard means an open area where waste, used or second-hand materials are lawfully bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to, scrap iron and other

PROOFS

metals, paper, rags, rubber tires and bottles. The term "junk yard" includes automobile wrecking yards for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings. The accumulation in excess of 200 square feet of junk equipment, junk or debris shall be deemed a junk yard.

Private premises means any lot or parcel of land owned or occupied by any person, firm or corporation whether or not improved with any dwelling, house, building or other structure, whether inhabited or temporarily or continuously uninhabited or vacant.

Residential property means any lot or parcel of land used or permitted to be used as a permanent place for a dwelling.

~~Village - Shall mean the village.~~

(Ord. No. 2016-01, § 3, 1-11-2016)

Sec. 16-337. Nuisances.

Any parking, storage, accumulation, placement of junk, junk motor vehicles or junk equipment on private premises, the parking and storage of contractor equipment on residential properties or the operation of an unlawful junk yard in violation of the provisions of this division are hereby declared to be public nuisance which may be enjoined pursuant to governing law or for which the violator may be subjected to a suit for civil damages, as well as fines and penalties herein provided.

(Ord. No. 2016-01, § 4, 1-11-2016)

Sec. 16-338. Prima facie evidence.

The ownership, occupation or use of land by any person, firm or corporation upon which junk, junk motor vehicles or junk equipment are accumulated, stored, or placed in excess of 30 days shall be prima facie evidence that such person, firm or corporation is in violation of this division.

(Ord. No. 2016-01, § 5, 1-11-2016)

Sec. 16-339. Regulations.

(a) Except to the extent permitted under state law or village ordinance, an owner, tenant or manager of private property, or the past registered owner of any motor vehicle or transferee on a bill of sale covering such vehicle shall not permit the parading, storage or accumulation thereof upon any public right-of-way, public property or private premise within the village, of any junk motor vehicles, junk equipment, debris, wreckage or parts thereof, unless the same are wholly contained within a fully enclosed building, except for the following:

(1) Motor vehicles in operating condition held as stock in trade by a regularly license dealership of new or used motor vehicles or equipment use in the operation of such dealership;

(2) Motor vehicles or parts thereof located in lawful junk yards or the places of business or wreckers duly licensed by state or village authority, pursuant to governing state law;

(3) Motor vehicles temporarily inoperable due to minor mechanical failure, but which are not in any manner dismantled, and have substantially all main component parts attached, may remain upon private property for not to exceed an aggregate total of 30 days;

(4) Motor vehicles for sale and / or unlicensed in operating condition may be retained for not more than 12 months.

(b) No owner, tenant, person, firm or corporation shall permit the accumulation and storage of junk, junk equipment, or debris on residential property or private premises within the village.

(c) On any commercial or industrial property where accumulation of any junk, junk equipment or debris maybe necessary to the operation of that particular business, any such materials shall be disposed of on a regular basis, be wholly contained within an enclosed building or enclosed by a fence and hidden from the customers and public view.

(d) The parking, or storage of contractor equipment at a residential property or on any property where residential uses are permitted is prohibited, except during legitimate timber harvest or construction activities on the

PROOFS

property or stored within an enclosed building.

(e) As to any lawful junk or salvage yards, repair garages, auto body or paint shops operating within the Village, which shall be licensed pursuant to governing state law or the provisions of a village ordinance shall be in addition to and not in conflict with other laws and ordinances respecting junk and junk vehicles.

(f) In event of special or peculiar hardship due to unforeseen circumstances by reason of the application of the provisions of this division, enforcement officer may grant up to a 30-day stay in any proceeding brought for violation of this division, provided that the enforcement officer shall have discretion to consider unreasonable or adverse effect to owners or occupants of adjoining property in considering application for such stay to the end that the spirit and purpose of this division may be substantially carried out.

(Ord. No. 2016-01, § 6, 1-11-2016)

Sec. 16-340. Civil infractions; enforcement.

(a) Any person, firm or corporation violating any of the provisions of this division shall be subject to a civil infraction and a fine of not more than $100.00. Each day that said violation goes unabated shall be considered a new violation subject to an ongoing $100.00 fine.

(b) The forgoing penalties shall not prohibit the village from seeking injunctive relief against a violator in a court of competent jurisdiction or other appropriate relief as may be provided by law.

(c) The village council may designate the county sheriff's department and/or other such officers of the village as enforcement officers to investigate and issue citations for the violation of this division.

(Ord. No. 2016-01, § 7, 1-11-2016)

Secs. 16-341--16-368. Reserved.

ARTICLE VIII. OFFENSES ON SCHOOL GROUNDS

Sec. 16-369. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Principal means any principal of any elementary or secondary school or the chief administrative officer of any elementary or secondary school or college.

School means any pre-elementary, elementary (grades K— through 6) or secondary (grades 7— through 12) school, or any college, or combination thereof.

(Code 1995, § 42-291)

Sec. 16-370. Admission restricted.

No person who is not a regularly enrolled student or parent or guardian thereof, or a school official, teacher, or other public or school employee, shall enter or trespass upon or loiter in or upon any public, private or parochial school building or school property in the village for any reason whatever, unless such person has received written permission from the principal or other person designated by the principal to be in or upon or to remain in or upon such public, private or parochial school building or school property; provided, however, that such written permission need not be secured by persons engaging in or attending a school or recreation board authorized activity or by persons using school playground or playground equipment after school hours or when school is not in session, unless such entry or use shall have been otherwise prohibited by a rule or regulation of the school board, school principal or other person, board or committee with the authority to prohibit such use or entry.

(Code 1995, § 42-292)

Sec. 16-371. Disturbing schools.

No person shall willfully or maliciously make or assist in making any noise, disturbance or improper diversion by which the peace, quietude, or good order of any public, private or parochial school is disturbed.

(Code 1995, § 42-293)

PROOFS

Sec. 16-372. Duty of person creating disturbance to leave premises.

Any person, whether lawfully or unlawfully in or upon any public, private or parochial school building or school property, who is found to be creating a disturbance in or upon any such school building or property shall leave immediately when so directed by the principal or by any other persons designated by the principal.

(Code 1995, § 42-294)

Sec. 16-373. Destruction of school property.

No person shall damage, destroy or deface any public, private or parochial school building or the grounds, outbuildings, fences, trees or other appurtenances or fixtures belonging thereto.

(Code 1995, § 42-295)

Sec. 16-374. Extortion.

No person shall by violence, threats of violence or other form of coercion force or attempt to force any public, private or parochial school student or other person to give or to lend any money or other thing of value to any person at any time.

(Code 1995, § 42-296)

Sec. 16-375. Unauthorized borrowing of things of value from students.

No person shall borrow or attempt to borrow any money or thing of value from any student in or upon any public, private or parochial school building or school property in the village or during any time when such student is engaging in, going to or returning from any regularly scheduled session or activity of any such school, without first obtaining the written approval of the principal of such school or other person designated by the principal to issue such written approval; provided, however, that this section shall not apply to college students who borrow money or things of value from other college students or adults.

(Code 1995, § 42-297)

Secs. 16-376--16-393. Reserved.

ARTICLE IX. OFFENSES INVOLVING MINORS

DIVISION 1. GENERALLY

Sec. 16-394. Possession of knives or other sharp-edged or pointed instruments by minors.

It is unlawful for any minor under 18 years of age to have in his possession or control, except within his own domicile, or to carry or use in any manner any knife with a blade in excess of three inches, dagger, dirk, razor, stiletto or any other sharp-edged or pointed instrument or weapon used for inflicting injury upon another; provided, however, that such person shall not be in violation of this section:

(1) If his possession of such knife with a blade in excess of three inches, dagger, dirk, razor, stiletto or any other sharp-edged or pointed instrument is necessary for his employment, trade or occupation;

(2) If he is engaged in or is proceeding to or returning from a place of hunting, trapping or fishing and, whenever required, is also carrying a currently valid license issued to him by the state department of conservation;

(3) If such person is a duly enrolled member of the Boy Scouts of America or a similar organization or society and such possession is necessary to participate in the activities of such organization or society; or

(4) If the knife with a blade in excess of three inches, dagger, dirk, razor, stiletto or any other sharp-edged pointed instrument is required under circumstances that tend to establish that its possession is for a lawful purpose.

(Code 1995, § 42-263)

PROOFS

Sec. 16-395. Contributing to neglect or delinquency of children.

Any person who shall by any act, or by any word, encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division of the probate court, whether or not such child shall in fact be adjudicated a ward of the probate court, shall be guilty of a violation of this Code.

(Code 1995, § 42-321)

Sec. 16-396. Parental neglect.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Criminal act means an act which violates the statutes of the state or the ordinances of the village and shall include a traffic violation.

Habitual offender means one who commits two or more criminal acts, or commits four or more moving traffic violations, within a 12-month period.

Minor means any juvenile under the age of 17 years residing with his parent.

Parent means the mother, father, legal guardian and any other person having the care or custody of a minor, or such other adult with whom a minor may be found residing.

(a) Prohibition. It is unlawful for the parent of any minor to fail to exercise reasonable parental control, which results in the minor committing any criminal act, or to allow or encourage any minor to commit any criminal act or become delinquent in accordance with the probate code as it pertains to juveniles.

(b) Notification of arrest. Whenever a minor shall be arrested or detained for the commission of any criminal act within the village, the parent of such minor shall be immediately notified by ~~the police department~~ village enforcement officials advising the parent of such arrest or detention, the reason therefor, and their responsibility under this article. A record of such notifications shall be kept by ~~the police department~~ a designated village official.

(Code 1995, § 42-322)

Secs. 16-397--16-420. Reserved.

DIVISION 2. CURFEW*

*__State law reference__—Curfew for minors, MCL 722.751 et seq.

Sec. 16-421. Minors under 16 years of age.

It is unlawful for any minor under the age of 16 years to loiter, idle, congregate, or otherwise be in or on any public street, highway, alley, park or any public place, between the hours of 10:00 p.m. and 6:00 a.m., immediately following, except where the minor is accompanied by a parent or guardian or some adult above 21 years of age delegated by the parent or guardian to accompany such minor, or where the presence of the minor in the place or places is connected with and required by some legitimate work, trade, profession, or occupation in which the minor is upon an emergency errand or other legitimate business directed by his/her parent or guardian.

(Code 1995, § 42-346; Ord. No. 2001-02, 9-24-2001)

~~**Sec. 42-347. Minors under 12. Prohibited from engaging in certain employment.**~~

~~No minor under the age of 12 years shall be permitted, caused or suffered to be engaged or employed as a bootblack, or in the selling of magazines, periodicals, newspapers, goods, wares or merchandise, of any kind or nature upon the public streets or in any public place between the hours of 10:00 p.m. and 6:00 a.m., or to accompany any person so engaged or employed.~~

~~(Code 1995, § 42-347)~~

Sec. 16-422. Parental responsibility.

The parent or guardian of a minor subject to the provisions of this division shall be held responsible for the enforcement of this division with regard to the child or children in his or her care.

PROOFS

(Code 1995, § 42-348)

Sec. 16-423. Presumption against parents.

Any person assisting, aiding, abetting, or encouraging any minor under the age of 16 years to violate the provisions of section 16-422 shall be guilty of a violation. When any minor is found in violation of section 16-422, a presumption shall arise that the parent or legal guardian having the care and custody of the minor assisted, aided, abetted and encouraged such minor in so violating that section.

(Code 1995, § 42-349)

Sec. 16-424. Parental responsibility.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Criminal acts means those acts which violate the statutes of the state or the ordinances of the village and shall include traffic violations.

Habitual offender means one who commits two or more criminal acts or a combination of four or more criminal acts or moving traffic violations within a 12-month period.

Minor means any juvenile under the age of 17 years residing with a parent.

Parent means mother, father, legal guardian, and any other person having the care or custody of a minor or such other adult with whom a minor may be found residing.

(b) *Prohibition.* It is unlawful for the parent of any minor to fail to exercise reasonable parental control which results in the minor committing any criminal act or the allowing or encouraging of any minor to commit any criminal act or become delinquent in accordance with the state probate code as it pertains to juveniles.

(c) *Notification of parent of minor's arrest.* Whenever a minor shall be arrested or detained for the commission of any criminal act within the village, the parent of such minor shall be immediately notified by ~~the police department~~ village enforcement official, advising the parent of such arrest or detention, the reason therefor and their responsibility under this section. A record of such notification shall be kept by ~~the police department~~ a designated village official.

(Code 1995, § 42-371)

Sec. 16-425. Open house parties.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall~~, for the purposes of this section,~~ have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Control means presence and the right to exercise restraint or dominion over premises.

Open house party means a social gathering at a residence which includes persons in addition to the owner, or those with rights of possession or their immediate family members.

Residence means a home, apartment, condominium or other dwelling unit and includes the curtilage of such dwelling unit.

Underaged person means a person under 21 years of age.

(b) *Prohibited.* No person 17 years of age or older having control of any residence shall allow an open house party to take place at such residence if any alcoholic liquor or controlled substance is possessed or consumed at such residence by any underaged person where ~~the person having control of the residence~~ he or she knew or reasonably should have known that an alcoholic liquor or controlled substance was in the possession of or being consumed by an underaged person at such residence, and where the person having control of the residence failed to prevent or stop such possession or consumption of the alcoholic liquor or controlled substance at such residence.

(c) *Exception.* The provisions of this section shall not apply to legally protected religious observances.

(Code 1995, § 42-372)

PROOFS

Chapter 17

RESERVED

PROOFS

Chapter 18

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. IN GENERAL

Sec. 18-1. Streets and sidewalks; damage.

It is unlawful for any person to damage, deface, or tear up any public street, alley, snowmobile trail or sidewalk within the village without first having obtained the written permission of the village manager.

(Comp. Ords. 1984, § 201.01; Code 1995, § 46-2; Ord. No. 1992-1, § 2, 2-10-1992)

Sec. 18-2. Obstruction prohibited generally.

Except as provided in section 18-4, it is unlawful for any person to block, obstruct, or otherwise hinder the use of any public street, alley, snowmobile trail or sidewalk within the village.

(Comp. Ords. 1984, § 201.02; Code 1995, § 46-3; Ord. No. 1992-1, § 2, 2-10-1992)

Sec. 18-3. Obstruction of right-of-way.

(a) It is unlawful for any person to leave any automobile or any other vehicle or apparatus standing or parked upon the right-of-way of any street or alley within the village between the hours of 2:30 a.m. and 7:00 a.m. on any day from October 15 through the following April 15, unless granted a permit to do so by the village clerk.

(b) The restricted timeframe of parking restrictions along with the restrictive dates may be changed from time to time per resolution of the village council.

(Comp. Ords. 1984, § 201.02A; Code 1995, § 46-4; Ord. No. 1992-1, § 2, 2-10-1992; Ord. No. 2023-01, 12-20-2023)

Sec. 18-4. Exception for temporary obstructions.

Nothing contained in this article shall prohibit the temporary obstruction of any public street, alley or sidewalk by any commercial vehicle being loaded or unloaded, provided that the extent and duration of such obstruction shall in no event exceed the least possible space and time required to promptly accomplish such loading and unloading.

(Comp. Ords. 1984, § 201.03; Code 1995, § 46-5; Ord. No. 1992-1, § 2, 2-10-1992)

Sec. 18-5. Removal and impoundment of obstructions.

Notwithstanding other penalties, any vehicle or other obstruction found in violation of this article may be removed by the village and no liability shall attach to the village by reason of such removal. No property so removed shall be returned to the owner until payment has been made to the village of the actual costs incurred by the village occasioned by such removal.

(Comp. Ords. 1984, § 201.04A; Code 1995, § 46-6; Ord. No. 1992-1, § 2, 2-10-1992; Ord. No. 2023-01, 12-20-2023)

Sec. 18-6. Penalty for violation.

Violation of this article constitutes an infraction punishable as provided in section 1-12.

(Comp. Ords. 1984, § 201.04; Code 1995, § 46-1; Ord. No. 1992-1, § 2, 2-10-1992; Ord. No. 2008-02, § 46-1, 6-10-2008)

Secs. 18-7--18-30. Reserved.

ARTICLE II. SIDEWALK CONSTRUCTION AND MAINTENANCE

Sec. 18-31. Grade; authority to build and maintain.

(a) The village council shall have control of all sidewalks in the public streets and alleys of the village, and may prescribe the grade thereof, and change the same when deemed necessary.

(b) The council shall have authority to build, maintain and keep in repair sidewalks and crosswalks in the

PROOFS

public streets and alleys, and to charge the expense of constructing and maintaining such sidewalks upon the lots and premises adjacent to and abutting upon such walks, in the manner provided in section 18-33 if the charge is not otherwise paid as provided by the village council.

(Comp. Ords. 1984, § 202.01; Code 1995, § 46-32)

Sec. 18-32. Property owner's duties and responsibilities.

(a) *Building and maintaining sidewalks.* The village council shall have authority to require the owners and occupants of lots and premises to build, rebuild and maintain sidewalks in the public streets adjacent to and abutting upon such lots and premises and to keep them in repair at all times, and to construct and lay the same upon such lines and grades, and of such width, materials, and manner of construction, and within such time as the village council shall by resolution prescribe, the expense thereof to be paid by such owner or occupant, provided that the village council may, by a two-thirds vote of all the trustees, determine to pay such part of the expense of building or rebuilding such walk as it may deem proper from the street funds of the village.

(b) *Removing snow and ice.* It is the duty of every owner and occupant of any lot or premises to promptly remove all snow and ice from the sidewalks in front of or adjacent to such lot or premises, and to keep the same free from obstructions, encroachments, incumbrances, filth and other nuisances.

(Comp. Ords. 1984, §§ 202.01, 202.02; Code 1995, §§ 46-32, 46-33)

Sec. 18-33. Failure of abutting owner; assessment and collection.

(a) If the owner or occupant of any lot or premises shall fail to construct or maintain any particular sidewalk as required by this article; ~~shall fail~~ to keep the sidewalk in repair; to remove the snow, ice and filth therefrom; to remove and keep the sidewalk free from obstructions, encroachments, incumbrances or other nuisances; or ~~shall fail~~ to perform any other duty required by the village council in respect to such sidewalks, within such time and such manner as the village council shall require, the village council may cause the same to be done, and such sidewalk to be constructed or repaired, at the expense of such owner or occupant.

(b) The village council may cause the amount of all expenses incurred thereto, together with a penalty of ten percent in addition thereto, to be reported to the board of special assessors, to be levied by them as a special tax or assessment upon the lot or premises adjacent to and abutting upon such sidewalk, which special assessment shall be subject to review after proper notice has been given as in all other cases of special assessments provided for by law. Such tax, when confirmed, shall be a lien upon such lot or premises the same as other special assessments, and the village council shall order the assessor of the village to spread the amount, together with such penalty, upon his roll as a special assessment upon such lot or premises.

(c) The same shall be collected in the same manner as other village taxes, or the village may collect such amount, together with the penalty, from the owner or occupant of such premises in an action at law, together with costs of suit.

(Comp. Ords. 1984, § 202.03; Code 1995, § 46-34)

Sec. 18-34. Things on, over, under sidewalks.

No person shall place any sign, awning, awning post or other thing upon or over any sidewalk, nor shall any opening in the sidewalks, or vault, structure or excavation under the sidewalk be made, without first obtaining the permission of the village council.

(Comp. Ords. 1984, § 202.04; Code 1995, § 46-35)

Sec. 18-35. Penalty for violation.

Violation of this article constitutes an infraction punishable as provided in section 1-12.

(Comp. Ords. 1984, § 202.05; Code 1995, § 46-31; Ord. No. 2008-02, § 46-31, 6-10-2008)

PROOFS

Chapter 19

RESERVED

PROOFS

Chapter 20

TRAFFIC AND VEHICLES

ARTICLE I. IN GENERAL

Sec. 20-1. Uniform traffic code adopted by reference subject to amendments.

(a) Pursuant to MCL 257.951, the Uniform Traffic Code promulgated by the director of the department of state police pursuant to MCL 257.951 is adopted by reference and incorporated in this chapter subject to the amendments provided in this section.

(b) References in the adopted code to "governmental unit" shall mean the village.

(c) The village council acts as traffic engineer for the village for purposes of this chapter.

(d) The penalties provided in the Uniform Traffic Code are specifically adopted by reference in this section.

(e) The adopted traffic code is amended by the addition of the following state statute sections which are adopted in their entirety to the extent applicable within the village as though fully set forth in this section:

(1) MCL 257.252: Theft and recovery of stolen vehicles etc.

(2) MCL 257.252a: Abandoned vehicles etc.

(3) MCL 257.252b: Disposition of abandoned scrap vehicles etc.

(4) MCL 257.252d: Removal of vehicle etc.

(5) MCL 257.252e: Jurisdiction, venue, and remedies etc.

(6) MCL 257.252f: Hearing on vehicles taken into custody etc.

(7) MCL 257.252g: Public sale of abandoned vehicle etc.

(8) MCL 257.625: Operation of motor vehicle while under the influence etc.

(9) MCL 257.625a: Arrest without warrant etc.

(10) MCL 257.625b: Arraignment, pretrial conference and adjudication, etc.

(11) MCL 257.625c: Consent to chemical tests of blood, breath, or urine etc.

(12) MCL 257.625d: Refusal to submit to chemical test—report etc.

(13) MCL 257.625e: Refusal to submit—notice of hearing right etc.

(14) MCL 257.625f: Hearing on refusal to submit etc.

(15) MCL 257.625g: Test reveals intoxicating substance etc.

(16) MCL 257.710d: Child restraint systems etc.

(17) MCL 257.710e: Seatbelt use etc.

(18) MCL 257.682: Stopping for school buses etc.

(Code 1995, §§ 50-26, 50-27)

Sec. 20-2. Bicycles.

(a) *Registration required; procedure; fee.* Every bicycle operated within the village shall have securely fastened a license registration plate issued by the chief of police or his designee. Application for the license shall be made upon a blank form to be provided for that purpose and shall be accompanied by a fee as established in the village fee schedule ~~of $1.00~~.

(b) *Inspection.* The chief of police shall inspect each bicycle presented to him for registration, and he shall have the authority to refuse to register any bicycle which is in unsafe mechanical condition or which does not

PROOFS

comply with federal and state law.

(c) *Validity; transfer.* A license issued in accordance with this section shall remain valid for so long as the bicycle described upon the license application form is owned by the person to whom the license was issued. No license shall be transferred to another bicycle, and every license shall expire immediately upon the sale or transfer of the bicycle for which it was issued.

(d) *Penalty for violation.* Any person convicted of violating the provisions of this section shall be punished as provided in section 1-12.

(Comp. Ords. 1984, §§ 807.01—807.04; Code 1995, §§ 50-91—50-94)

Sec. 20-3. Use of skateboards and skates, vehicles, etc., restricted to certain areas.

(a) Findings. Persons operating bicycles, roller skates, roller blades, skateboards and motorized vehicles and similar devices can be a threat to their own safety as well as the safety of the public at large and the pedestrian and vehicular density is significant in the downtown area and on the public walkways.

~~— *Prohibited activities—Streets and alleys.* The riding, use or operation of roller skates, roller blades or skateboards is prohibited on streets or alleys in the downtown area as defined in subsection (d) of this section.~~

~~— *Same—Sidewalks.* The riding, use or operation of roller skates, roller blades, skateboards and bicycles is hereby prohibited on sidewalks in the downtown area as defined in subsection (d) of this section.~~

~~— *Boundaries.* The downtown area boundary is defined as follows: Michigan Street to the north, the railroad track to the south, Ontonagon Street to the west and North Steel Street to the east. In addition to this area, M-38, also known as the Greenland Road, between North Steel Street and Second Street is included.~~

~~— *Additional areas.* The riding, use or operation of roller skates, roller blades, skateboards, bicycles, and motorized vehicles is hereby prohibited on the Tousignant Island boardwalk, the East Pier public access walkway, the Riverfront Park boardwalk and the Marina boardwalk.~~

(b) The riding, use, or operation of roller skates, roller blades, skateboards, bicycles, and motorized vehicles is prohibited in the following areas:

(1) Streets, alleys, and sidewalks within the downtown area boundary, defined as Michigan Street to the north, the railroad track to the south, Ontonagon Street to the west and North Steel Street to the east.

(2) M-38, also known as the Greenland Road, between North Steel Street and Second Street, and its alleys and sidewalks.

(3) The Tousignant Island boardwalk.

(4) The East Pier public access walkway.

(5) The Riverfront Park boardwalk.

(6) The Marina boardwalk.

(c) Exemptions. This section shall not apply to wheelchairs or similar devices used by handicapped persons.

(d) Penalty. Any person convicted of violating any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than $25.00 nor more than $500.00, or by imprisonment not to exceed 30 days, or both, at the discretion of the court.

(Code 1995, § 42-241; Ord. No. 1994-1, 5-23-1994)

Sec. 20-4. Adoption of watercraft speed regulation.

(a) The village adopts the state department of environmental protection Regulation No. 66, Ontonagon County, Village of Ontonagon, WC-66-93-001 Ontonagon River: Slow—no wake speed. On the water of the Ontonagon River in the village, from the upstream limit of the E & LS Railroad Bridge to the lower limit of the M-64 Highway Bridge, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

(b) The boundaries of the lines described in this section shall be marked with signs and with buoys. All buoys must be placed as provided in a permit issued by the state department of environmental protection and be in

PROOFS

conformance with the state uniform waterway marking system.

(Code 1995, § 58-1; Ord. No. 1993-1, § 1, 2-22-1993)

Secs. 20-5--20-26. Reserved.

ARTICLE II. STOPPING, STANDING AND PARKING

DIVISION 1. GENERALLY

Secs. 20-27--20-55. Reserved.

DIVISION 2. DISABLED MOTOR VEHICLES

Sec. 20-56. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Disabled motor vehicle means motor vehicles which are incapable of being self-propelled upon the public streets, or which do not meet the requirements for operation upon the public streets, provided that nothing in this section shall be construed as requiring any vehicle to have a current license.

Dwelling means any house, building, structure, tent, shelter, trailer or vehicle or portion thereof which is occupied in whole or in part as the home, residence, living or sleeping place, or which is intended to be occupied by one or more human beings, either permanently or transiently.

Motor vehicle means any wheeled or tracked vehicles which are self-propelled or intended to be self-propelled.

(Comp. Ords. 1984, § 805.08; Code 1995, § 50-61; Ord. No. 1992-3, § 2, 4-27-1992)

Sec. 20-57. Findings.

The village has determined that the accumulation and storage of disabled motor vehicles on private and public property constitutes an unsightly condition, tending to reduce the value of private property, invite plundering, create fire hazards, constitute attractive nuisances as being a hazard to the health and safety of children, ~~tend to be~~ form a refuge for disease-spreading insects and vermin, promote and contribute to blight and deterioration, and allow hazardous waste exposure.

(Comp. Ords. 1984, § 805.01; Code 1995, § 50-63; Ord. No. 1992-3, § 1, 4-27-1992)

Sec. 20-58. Prohibited on streets.

Disabled motor vehicles shall not be permitted in the rights-of-way of the streets, alleys or highways within the village; provided, however, that this shall not apply to towing or similar transporting of such vehicles; and provided further that reasonable time, not to exceed 12 hours from the time of disability, shall be permitted for the removal or servicing of a disabled vehicle in an emergency caused by accident or sudden breakdown of the vehicle.

(Comp. Ords. 1984, § 805.02; Code 1995, § 50-64)

Sec. 20-59. Front yard.

Disabled motor vehicles or any parts of a motor vehicle shall not be permitted in the front yard of a parcel of land, upon which there is a structure used in whole or in part as a dwelling, unless the disabled motor vehicle or parts of a motor vehicle shall be kept in a wholly enclosed garage or other wholly enclosed structure.

(Comp. Ords. 1984, § 805.03; Code 1995, § 50-65)

Sec. 20-60. Side or rear yards.

One disabled motor vehicle may be permitted in a side or rear yard of a residential, commercial or industrial lot as an accessory use to the main use of the lot. Service and repair work may be performed on such vehicle and incidental parts thereto, tools and equipment may be stored and used. Nothing contained in this section shall be construed as authorizing the disassembling, teardown or scrapping of a motor vehicle to be scavenged or stripped for parts for use on another motor vehicle; provided, however, that a disabled vehicle shall not be permitted to

PROOFS

remain outside of a building for a period in excess of 30 days on any lot used for residential purposes or on that portion of any lot within three feet of an abutting lot used for residential purposes.

(Comp. Ords. 1984, § 805.04; Code 1995, § 50-66)

Sec. 20-61. Service and repair.

(a) *Noise restricted.* Service and repair of a disabled motor vehicle which is conducted entirely within the confines of an accessory garage shall be permitted, provided that the tearing down, stripping, or junking of a motor vehicle between the hours of 9:00 p.m. and 8:00 a.m. shall not be permitted when loud or unusual noise annoys, injures or endangers the comfort, repose, health or safety of the public.

(b) *Permitted under certain conditions.* Storage, repair and servicing of disabled motor vehicles not authorized in this division, and the tearing down, stripping or junking of motor vehicles shall be permitted, only where and when such use is specifically authorized, permitted or licensed under other ordinances of the village and in accordance therewith.

(Comp. Ords. 1984, §§ 805.05, 805.06; Code 1995, §§ 50-67, 50-68)

~~**Sec. 50-69. Enforcement.**~~

~~**I**t shall be the duty of the police department to enforce this division.~~

~~(Comp. Ords. 1984, § 805.07; Code 1995, § 50-69)~~

Sec. 20-62. Construction.

This division shall not be construed as repealing any division now in effect or hereafter made effective relating to rubbish, litter, garbage, refuse, trash or junk, but shall be construed as supplementary to such regulations as well as any state statute relating thereto.

(Comp. Ords. 1984, § 805.09; Code 1995, § 50-70)

Sec. 20-63. Nuisance declared.

The presence of a dismantled, partially dismantled or disabled motor vehicle or parts of a motor vehicle on any platted or unplatted parcel of land in violation of the terms of this division is declared to be a public nuisance.

(Comp. Ords. 1984, § 805.10; Code 1995, § 50-71)

Sec. 20-64. Penalty for violation.

Any person who shall violate or assist in the violation of any provision of this division shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-12.

(Comp. Ords. 1984, § 805.11; Code 1995, § 50-62)

Secs. 20-65--20-86. Reserved.

ARTICLE III. SNOWMOBILES

Sec. 20-87. Use on village streets; limitations.

Snowmobiles may be operated upon the streets of the village for the purpose of egress and ingress to and from areas outside the corporate limits of the village or to allow egress and ingress of a snowmobile from a home or lodging facility for the sole purpose of reaching a designated snowmobile trail by using the most direct route. Snowmobile use within the village is subject to the following restrictions:

(1) No snowmobiles shall be operated on US-45, M-38, or River Street within the village except to directly cross such highways and streets, having fully stopped before entering the roadway.

(2) Headlights and taillights shall be on at all times.

(3) Proper hand signals shall be given for stopping and turning.

(4) Snowmobiles shall stop at all intersections, and all pedestrians and all motor vehicles shall have the right-of-way.

PROOFS

(5) Speeds shall not exceed 15 miles per hour.

(6) Snowmobiles shall be operated in single file only.

(7) Snowmobiles shall keep to the extreme right of the roadway.

(8) Snowmobiles shall not be operated upon any sidewalk.

(9) Snowmobiles shall not be operated in a careless or negligent manner likely to endanger any person or property.

(Comp. Ords. 1984, §§ 804.01, 804.03; Code 1995, §§ 50-117, 50-118; Ord. No. 1994-2, § 1, 7-11-1994; Ord. No. 2013-01, 12-9-2013)

Sec. 20-88. Impoundment for violations.

(a) A law enforcement officer may impound any snowmobile used or operated in violation of section 20-87 for a period not to exceed 30 days, and the owner or operator of the snowmobile shall be responsible to pay for all costs involved in the storage and removal of the impounded snowmobile.

(b) If the operator of the impounded snowmobile is not the owner, the law enforcement officer shall notify the owner of such impoundment by telephone, letter or personal contact as soon as practical, but no later than 24 hours.

(c) The snowmobile used by any unqualified operator may be impounded by order of the police chief for a period not to exceed 30 days and, in addition, the unqualified operator shall be subject to penalties.

(Code 1995, § 50-119; Ord. No. 1994-2, § 2, 7-11-1994)

Sec. 20-89. Appearance tickets; prima facie evidence.

A law enforcement officer may issue appearance tickets for violations of this article, and in a proceeding for a violation of this article the registration number displayed on a snowmobile constitutes prima facie evidence that the owner of the snowmobile was the person operating the snowmobile at the time of the offense.

(Comp. Ords. 1984, § 804.04; Code 1995, § 50-120)

Sec. 20-90. Penalty for violation.

Violation of the provisions of this article shall be a misdemeanor, and any person, upon conviction, shall be punished as provided by section 1-12.

(Comp. Ords. 1984, § 804.05; Code 1995, § 50-116)

Secs. 20-91--20-108. Reserved.

ARTICLE IV. OFF-ROAD VEHICLES

Sec. 20-109. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ATV or *all-terrain vehicle* means a vehicle with 3 or more wheels that is designed for off-road use, has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 1,000cc gasoline engine or an engine of comparable size using other fuels. ~~a three-, four-, or six-wheeled vehicle designed for off-road use that has low pressure tires, has a seat or seats that conform to the manufacturer's capacity recommendations, and is powered by a gasoline engine, or an engine using other fuels or energy sources in combination.~~

~~*Village* means that area within the political/geographic boundaries of the Village of Ontonagon.~~

~~*Council* means the Ontonagon Village Council.~~

High risk erosion area shall include beaches, sand dunes, river banks, bogs, wetlands, or other areas so designated by chapter 4, subchapter 6, part 811 of the Natural Resources and Environmental Protection Act No. 451 of the Public Acts of Michigan of 1994 (MCL 324.81101 et seq.), as amended.

Operate means to ride in or on, and be in actual physical control of, the operation of an ORV.

PROOFS

Operator means a person who operates or is in actual physical control of the operation of an ORV.

ORV or *off-road vehicle* means a motor driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. The term "ORV" or "off-road vehicle" includes but is not limited to, a multi-track or multi-wheel drive vehicle, an all terrain vehicle, a motorcycle or related two-wheel, three-wheel, four-wheel, or six-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. The term "ORV" or "off-road vehicle" does not include a registered snowmobile, a farm vehicle being used for activities related to farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance of its facilities or on property over which it has an easement, a construction or logging vehicle used in the performance of its common function, or a registered aircraft.

Roadway means that portion of a street improved, designated, or ordinarily used for vehicular travel, not including the shoulder. If a street includes two or more separate roadways, the term "roadway" refers to a roadway separately, but not to all roadways collectively.

Shoulder means that portions of the street contiguous to the roadway, generally extending the contour of the roadway, not specifically designed for vehicular travel, but maintained for the temporary accommodation of disabled or stopped vehicles which are otherwise permitted on the roadway.

Street means the entire width between the boundary lines of a way publicly maintained when any part of the way is open to the use of the public for the purposes of vehicular travel.

(Code 1995, § 50-141; Ord. No. 2005-04, 4-11-2005)

Sec. 20-110. Designation of streets for ORV use.

(a) Except as limited or otherwise provided by this article, all streets within the village which are under the jurisdiction of the village are hereby designated to be access routes upon which ORVs may be operated except:

(1) Between December 1 through December 31, and January 1 through March 31, of each calendar year; and

(2) Those areas specified in section 50-44.

Such access routes do not include or involve state or federal highways.

(b) The village shall maintain a master map of all streets under the jurisdiction of the village, upon which shall be indicated those streets and parts of sections thereof upon which the operation of ORVs is permitted and prohibited pursuant to this article. The village shall make such master map available for interested groups or organizations to make copies for distribution to the general public, but shall have no obligation to make, or to assume any expense associated with the making of, such copies.

(c) The village shall update the master map once annually, between January 1 and March 31 of each year, to incorporate any changes in the designation of any streets, or parts or sections thereof, upon which the operation of ORVs is permitted or prohibited pursuant to this article. With respect to such updating:

(1) It shall be the responsibility of the village planning commission to advise in writing the village council, prior to January 1 of each year of any changes to be incorporated into the master map for that year, along with their reasons for said changes; however, the village council shall have the final power of determination as to which changes shall be incorporated; and

(2) If the village council determines that any changes in the designations of streets under the jurisdiction of the village council, or any parts of sections thereof, upon which the operation of ORVs is prohibited, no such changes shall be deemed effective until incorporated into an updated master map, and operators of ORVs shall be apprized of changes of such designations, in which event such changes shall become effective upon the posting of appropriate notices or signage.

(Code 1995, § 50-142; Ord. No. 2005-04, 4-11-2005)

PROOFS

Sec. 20-111. ORV operation restrictions.

(a) An ORV operated on any street which is under the jurisdiction of the village council, or any part or section thereof, where the operation is permitted pursuant to this article, shall at all times be operated:

(1) By persons age 16 years or older;

(2) For the sole purpose of gaining access to or from areas outside the village limits when ORV operation is permitted under this Code and state law;

(3) Within a lane consisting of the outermost five feet of the street; provided, however, that in situations where operation is not reasonably safe or not reasonably possible in that location due to obstructions, unsuitable terrain, or for other safety reasons, or in situations where such operation is prohibited by the provisions of this section, then such operation shall be within a lane consisting of that outer five feet of the improved roadway, including pavement, where an ORV may be operated safely and in compliance with this section, and which is furthest from the real or customary centerline of the roadway;

(4) In a single file, in the same direction as the flow of traffic upon the roadway, and maintaining a distance of at least 30 feet between ORVs; while underway;

(5) At a rate of speed which is reasonable and proper having due regard for conditions then and there existing, but in no event greater than 15 miles per hour in operating on the roadway or the shoulder of a street;

(6) At a rate of speed of not greater than ten miles per hour after dusk and before sunrise, at any location upon the highway;

(7) Yielding the right-of-way to all motor vehicle traffic, pedestrians, equine, and non-motorized vehicles within the street;

(8) In a manner that will not cause damage to the street, which prohibits actions such as fishtailing and spinning of tires which disperses gravel and creates ruts and other damage and similar activities;

(9) In compliance with any and all other statutes, rules, regulations, and ordinances applicable to ORVs, including but not limited to this article and MCL 324.81101—324.81151 ~~chapter 4, subchapter 6, part 811 of the Natural Resources and Environmental Protection Act No. 451 of the Public Acts of Michigan of 1994 (MCL 324.8110-1 et seq.), as amended~~.

(b) An ORV may be operated on the roadway of any street under the jurisdiction of the village council, whether or not such street has been designated as an access route pursuant to this article, if such operation is in compliance with MCL 324.81122 ~~Natural Resources and Environmental Protection Act No. 451 of the Public Acts of Michigan of 1994 (MCL 324.81122) and the applicable subsections thereof, as amended~~.

(c) An ORV may not be operated:

(1) On any part of a street occupied by ditches including the front and back slopes thereof;

(2) Within village owned parks, high risk erosion areas, as defined, or industrial zones within the village;

(3) Upon, along, or within the federal or state highways, within the village, unless authorized by federal, state, or local municipal laws, rules, regulations, or ordinances;

(4) On those shoulders specifically designated as non-motorized facilities; or

(5) Between the hours of 12:00 midnight to 6:00 a.m.

(Code 1995, § 50-143; Ord. No. 2005-04, 4-11-2005)

Sec. 20-112. Applicability.

This article shall be applicable to all streets under the jurisdiction of the village council within the village except such streets as designated below and except for such streets, and parts or sections thereof:

(1) Parker Avenue between Airport Road and Greenland Road (M-38).

(2) South Seventh Street between Parker Avenue and Greenland Road (M-38).

(Code 1995, § 50-144; Ord. No. 2005-04, 4-11-2005)

PROOFS

Sec. 20-113. Violations and penalties.

(a) Any person who violates any provision of this article shall be guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $500.00, or both.

(b) In addition to the penalties described in this section, if the violation for which an operator of an ORV has been convicted, has caused damage to real or personal property, the operator so convicted, as well as the registered owner, provided said ORV was being used with the consent and knowledge of the owner, may also be ordered by the court to pay restitution for the full amount of such damage.

(Code 1995, § 50-145; Ord. No. 2005-04, 4-11-2005)

Secs. 20-114--20-139. Reserved.

ARTICLE V. TOURIST-ORIENTED DIRECTIONAL SIGNS

Sec. 20-140. Intent.

It is hereby determined that the village council of the village, may permit tourist-oriented directional signs as defined by MCL 247.401 within its jurisdictional boundaries as provide by and pursuant to MCL 247.403(7).

(Ord. No. 2017-02, § 1, 7-10-2017)

Sec. 20-141. Purpose.

The operator of a tourist-oriented activity who wishes to participate in a directional sign program under Public Act 299 of 1996, as amended, and is applying for a sign that would reside within the boundaries of the village in accordance with the provisions of Section 2 of Public Act 299 of 1996 (MCL 474.402) shall submit the application for review by the village council or its designee.

(Ord. No. 2017-02, § 2, 7-10-2017)

Sec. 20-142. Planning commission.

The village council hereby designates the village planning commission with the authority to approve or reject the placement of any tourist oriented directional signs within the jurisdictional boundaries under the provisions of this article.

(Ord. No. 2017-02, § 3, 7-10-2017)

Sec. 20-143. Regulations.

(a) Any person desiring to have a tourist-oriented directional sign installed within the village limits shall make an application to the planning commission for approval.

(b) Any person violating any provision of this article, or who installs or causes to be installed a tourist-oriented directional sign without approval of both the state department of transportation and the village planning commission, shall be guilty of a municipal civil infraction.

(Ord. No. 2017-02, § 4, 7-10-2017)

Sec. 20-144. Civil infractions and enforcement.

(a) Any person, firm or corporation violating any of the provisions of this article shall be subject to a civil infraction and a fine of not more than $100.00. Each day that said violation goes unabated shall be considered a new violation subject to an ongoing $100.00 fine.

(b) The forgoing penalties shall not prohibit the village from seeking injunctive relief against a violator in a court of competent jurisdiction or other appropriate relief as may be provided by law.

(c) The village council designates the village manager as the enforcement officer, responsible for investigating and issuing citations for the violation of this article. The village manager may delegate the duties of the enforcement officer to the county sheriff's department or other officers of the village.

(Ord. No. 2017-02, § 8, 7-10-2017)

~~The Uniform Traffic Code for Cities, Townships and Villages promulgated by the director of state police and~~

PROOFS

published in the 1979 edition of the Michigan Administrative Code and amendments as published in the Quarterly Supplement No. 5 to the 1979 edition of the Michigan Administrative Code, in accordance with Act No. 62 of the Public Acts of Michigan of 1956 (MCL 257.951 et seq., MSA 9.2651 et seq;hk;.);\hk;, as amended, is hereby adopted by reference. References to ``governmental unit'' therein shall mean the Village of Ontonagon.

The following sections and subsections of the Uniform Traffic Code adopted in this article are amended as set forth and additional sections and subsections are added as indicated. Section numbers shall refer to the like-numbered sections in the Uniform Traffic Code.

Sec. 2.5. Reports of stolen and recovered vehicles.

A police agency, upon receiving reliable information that any vehicle registered under this act has been stolen, shall immediately report the theft through the law enforcement information network. Upon receiving information that a vehicle previously reported as stolen has been recovered, the police agency shall immediately report the fact of the recovery through the law enforcement information network.

Sec. 2.5.a. Abandoned vehicle procedures.

__ As used in this section, abandoned vehicle means a vehicle which has remained on public or private property for a period of 48 hours after a police agency or other governmental agency designated by the police agency has affixed a written notice to the vehicle.

__ If a vehicle has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:

__ Determine if the vehicle has been reported stolen.

__ Affix a written notice to the vehicle. The written notice shall contain the following information:

__ The date and time the notice was affixed.

__ The name and address of the police agency taking the action.

__ The name and badge number of the police officer affixing the notice.

__ The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

__ The year, make, and vehicle identification number of the vehicle, if available.

__ If the vehicle is not removed within 48 hours after the date the notice was affixed, the vehicle is deemed abandoned and the police agency may have the vehicle taken into custody.

__ A police agency which has a vehicle taken into custody shall do all of the following:

__ Recheck to determine if the vehicle has been reported stolen.

__ Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.

__ Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

__ The year, make, and vehicle identification number of the vehicle if available.

__ The location from which the vehicle was taken into custody.

__ The date on which the vehicle was taken into custody.

__ The name and address of the police agency which had the vehicle taken into custody.

__ The business address of the custodian of the vehicle.

__ The procedure to redeem the vehicle.

__ The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness

PROOFS

of the towing fees and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

__ A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

__ The registered owner may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

__ If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

__ If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.

__ Not less than 20 days after the disposition of the hearing described in subsection (5) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency shall offer the vehicle for sale at a public sale pursuant to section 2.5g.

__ If the ownership of a vehicle which has been deemed abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5.b. Abandoned scrap vehicle procedures.

__ As used in this section:

__ *Registered abandoned scrap vehicle* means a vehicle which meets all of the following requirements:

__ Is on public or private property.

__ Is seven or more years old.

__ Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 683 of Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.683, MSA 9.2383), as amended, would exceed the fair market value of that vehicle.

__ Is currently registered in the state or displays current year registration plates from another state.

__ Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.

__ *Unregistered abandoned scrap vehicle* means a vehicle which meets all of the following requirements:

__ Is on public or private property.

__ Is seven or more years old.

__ Is apparently inoperable or is extensively damaged to the extent that the cost of repairing the vehicle so that it is operational and safe, as required by section 683 of Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.683, MSA 9.2383), as amended, would exceed the fair market value of that vehicle.

PROOFS

~~(i) Is not currently registered in this state and does not display current year registration plates from another state.~~

~~(ii) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.~~

~~(c) A police agency may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:~~

~~(i) Determine if the vehicle has been reported stolen.~~

~~(ii) Take two photographs of the vehicle.~~

~~(iii) Make a report to substantiate the vehicle as an unregistered abandoned scrap vehicle. The report shall contain the following information:~~

~~(A) The year, make, and vehicle identification number if available.~~

~~(B) The date of abandonment.~~

~~(C) The location of abandonment.~~

~~(D) A detailed listing of the damage or the missing equipment.~~

~~(E) The reporting officer's name and title.~~

~~(F) The location where the vehicle is being held.~~

~~(iv) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.~~

~~(d) Within 24 hours, excluding Saturday, Sunday, and legal holidays, after taking the vehicle into custody, the police agency shall complete a release form and release the vehicle to the towing service or a used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit that release form to the secretary of state and apply for a certificate of the title or a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.~~

~~(e) The release form described in subsection (3) shall be furnished by the secretary of state and shall include a certification executed by the applicable police agency when the abandoned scrap vehicle is released. The certification shall state that the police agency has complied with all the requirements of subsection (2)(b) and (c).~~

~~(f) The secretary of state shall retain the records relating to an abandoned scrap vehicle for not less than two years. The two photographs taken pursuant to subsection (2)(b) shall be retained by the police agency for not less than two years. After the certificate of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.~~

~~(g) A police agency may have a registered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:~~

~~(i) Determine if the vehicle has been stolen.~~

~~(ii) Take two photographs of the vehicle.~~

~~(iii) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:~~

~~(A) The year, make, and vehicle identification number if available.~~

~~(B) The date of abandonment.~~

~~(C) The location of abandonment.~~

~~(D) A detailed listing of the damage or the missing equipment.~~

~~(E) The reporting officer's name and title.~~

~~(F) The location where the vehicle is being held.~~

~~(iv) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement~~

PROOFS

information network.

(b) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle if available.

(ii) The location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name and address of the police agency which had the vehicle taken into custody.

(v) The business address of the custodian of the vehicle.

(vi) The procedure to redeem the vehicle.

(vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the termination of all rights of the owner and the secured party to the vehicle.

(c) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount as determined by the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(d) If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(e) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(f) Not less than 20 days after the disposition of the hearing described in subsection (7), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (6)(e), the police agency shall follow the procedures established in subsections (3) to (5).

Sec. 2.5.c. Vehicle removed from private property.

(1) When a vehicle is removed from private property at the direction of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle shall immediately notify the police agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

(2) Upon receipt of the notification described in subsection (1), the police agency shall immediately do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Enter the vehicle into the law enforcement information network.

(3) The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian

PROOFS

shall notify the police agency of the disposition of the vehicle.

__ If the vehicle described in subsection (1) is not claimed by the owner within seven days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 2.5a(4)(c) to (9) shall apply.

Sec. 2.5.d. Vehicle removed by police.

__ A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the registered owner of the vehicle in any of the following circumstances:

__ If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.

__ If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.

__ If a vehicle is parked in a posted tow-away zone.

__ If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.

__ If the vehicle must be seized to preserve evidence of a crime, or when there is reasonable cause to believe that the vehicle was used in the commission of a crime.

__ If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or manmade disaster, or other emergency.

__ If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.

__ If the vehicle is stopped, standing, or parked in a space designated for handicapper parking and is not permitted by law to be stopped, standing, or parked in a space designated for handicapper parking.

__ A police agency which authorizes the removal of a vehicle under subsection (1) shall do all of the following:

__ Check to determine if the vehicle has been reported stolen.

__ Within 24 hours after removing the vehicle, enter the vehicle into the law enforcement information network if the vehicle has not been redeemed. This subsection does not apply to a vehicle that is removed from the scene of a motor vehicle traffic accident.

__ If the vehicle has not been redeemed within ten days after moving the vehicle, send to the registered owner and the secured party as shown by the records of the secretary of state, by first class mail or personal service, a notice that the vehicle has been removed; however, if the police agency informs the owner or operator of the vehicle of the removal and the location of the vehicle within 24 hours after the removal, and if the vehicle has not been redeemed within 30 days and upon complaint from the towing service, the police agency shall send the notice within 30 days after the removal. The notice shall be by a form furnished by the secretary of state. The notice form shall contain the following information:

__ The year, make, and vehicle identification number of the vehicle.

__ The location from which the vehicle was taken into custody.

__ The date on which the vehicle was taken into custody.

__ The name and address of the police agency which had the vehicle taken into custody.

__ The location where the vehicle is being held.

__ The procedure to redeem the vehicle.

__ The procedure to contest the fact that the vehicle was properly removed or the reasonableness of the towing and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which

PROOFS

requests a hearing on the police agency's action.

(c) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale or to both the vehicle and the proceeds.

(3) The registered owner may contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount equal to the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly removed, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(4) If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(5) If the owner does not redeem the vehicle or request a hearing within 20 days, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle prior to the date of the sale.

(6) Not less than 20 days after the disposition of the hearing described in subsection (3), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (2)(c), the police agency shall offer the vehicle for sale at a public sale unless the vehicle is redeemed. The public sale shall be held pursuant to section 2.5g.

(7) If the ownership of a vehicle which has been removed under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5.e. Abandoned vehicle, jurisdiction of court.

(1) The following courts shall have jurisdiction to determine if a police agency has acted properly in processing a vehicle under section 2.5a, 2.5b(6) to (10), 2.5c, or 2.5d:

(a) The district court.

(b) A municipal court.

(c) The common pleas court of the City of Detroit.

(2) The court specified in the notice prescribed in section 2.5a(4)(c), 2.5b(6), 2.5c(4), or 2.5d(2)(c) shall be the court which has territorial jurisdiction at the location from where the vehicle was removed or deemed abandoned. Venue in the district court shall be governed by section 8312 of Act No. 236 of the Public Acts of Michigan of 1961 (MCL 600.8312, MSA 27A.8312), as amended.

(3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under section 2.5a, 2.5b, 2.5c, or 2.5d shall be used to pay the towing and storage fees.

Sec. 2.5.f. Abandoned vehicle, duties of court.

(1) Upon receipt of a petition prescribed in section 2.5a, 2.5b, 2.5c, or 2.5d, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:

(a) Schedule a hearing within 30 days for the purpose of determining whether the police agency acted properly.

(b) Notify the owner and the police agency of the time and place of the hearing.

(2) At the hearing specified in subsection (1), the police agency shall have the burden of showing by a

PROOFS

preponderance of the evidence that it has complied with the requirements of this article in processing the abandoned vehicle or vehicle removed pursuant to section 2.5d.

__ After the hearing the court shall make a decision which shall include one or more of the following:

__ A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 2.5d, and an order providing a period of 20 days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within 20 days, the police agency shall dispose of the vehicle pursuant to section 2.5b or 2.5g.

__ A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed pursuant to section 2.5d. After making such a finding, the court shall issue an order directing that the vehicle immediately be released to the owner, and that the police agency is responsible for the accrued towing and storage charges.

__ A finding that the towing and daily storage fees were reasonable.

__ A finding that the towing and daily storage fees were unreasonable and issue an order directing an appropriate reduction.

Sec. 2.5.g. Abandoned vehicle, public sale.

__ A public sale for a vehicle which has been deemed abandoned under section 2.5a or 2.5c or removed under section 2.5d shall be conducted in the following manner:

__ It shall be under the control of the police agency or agent of the police agency.

__ It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency.

__ Except as provided by sections 2.5a(9) and 2.5d(7), it shall be held not less than five days after public notice of the sale has been published.

__ The public notice shall be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date, and location of the sale.

__ The money received from the public sale of the vehicle shall be applied in the following order of priority:

__ Towing and storage charges.

__ Expenses incurred by the police agency.

__ To the secured party, if any, in the amount of the debt outstanding on the vehicle.

__ Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government that the police agency represents.

__ If there are no bidders on the vehicle, the police agency may do one of the following:

__ Turn the vehicle over to the towing firm to satisfy charges against the vehicle.

__ Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:

__ Paying the towing and storage charges.

__ Applying for title to the vehicle.

__ Hold another public sale pursuant to subsection (1).

__ A person who acquires ownership of a vehicle under subsection (1) or (3), which vehicle has been designated as a distressed vehicle, shall make application for a salvage certificate of title within 15 days after obtaining the vehicle.

__ Upon disposition of the vehicle, the police agency shall cancel the entry into the law enforcement

PROOFS

information network.

Sec. 2.25. Traffic engineer.

The village council shall act as the traffic engineer.

Sec. 5.15. Operating while under the influence, operating while impaired, penalties.

(a) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles within this village, if either of the following applies:

(1) The person is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance.

(2) The person has a blood alcohol content of 0.10 percent or more by weight of alcohol.

(b) The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this village by a person who is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or who has a blood alcohol content of 0.10 percent or more by weight of alcohol.

(c) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles within this village when, due to the consumption of an intoxicating liquor, a controlled substance, or a combination of an intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

(d) If a person is convicted of violating subsection (1), the following shall apply:

(1) Except as otherwise provided in subsection (b) the person is guilty of a misdemeanor, and may be punished by one or more of the following:

(i) Service to the community for a period of not more than 45 days.

(ii) Imprisonment for not more than 90 days.

(iii) A fine of not less than $100.00 or more than $500.00.

(2) If the violation occurs within seven years of a prior conviction, the person shall be sentenced to both a fine of not less than $200.00 or more than $1,000.00 and either of the following:

(i) Performing service to the community for a period of not less than ten days or more than 90 days and may be imprisoned for not more than one year.

(ii) Imprisonment for not less than 48 consecutive hours or more than one year, and may be sentenced to service to the community for a period of not more than 90 days.

(3) A term of imprisonment imposed under subsection (b)(ii) shall not be suspended.

(4) A person sentenced to perform service to the community under this subsection shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(5) As used in this subsection, ``prior conviction'' means a conviction for a violation of MCL 257.625(1), (4), or (5), MSA 9.2325(1), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), a local ordinance substantially corresponding to MCL 257.625(1), MSA 9.2325(1), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or a law of another state substantially corresponding to MCL 257.625(1), (4), or (5), MSA 9.2325(1), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2).

(e) In addition to imposing the sanctions prescribed under subsection (4), the court may, pursuant to the code of criminal procedure, Act No. 175 of the Public Acts of Michigan of 1927 (MCL 760.1 et seq., MSA 28.841 et seq);\hk; as amended, order the person to pay the costs of the prosecution.

PROOFS

~~__ The court shall impose license sanctions pursuant to section 5.15b.~~

~~__ A person who is convicted of violating subsection (2) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than $100.00 or more than $500.00, or both.~~

~~__ If a person is convicted of violating subsection (3), the following shall apply:~~

~~__ Except as otherwise provided in subsections (b) and (c), the person is guilty of a misdemeanor punishable by one or more of the following:~~

~~__ Service to the community for a period of not more than 45 days.~~

~~__ Imprisonment for not more than 90 days.~~

~~__ A fine of not more than $300.00.~~

~~__ If the violation occurs within seven years of a prior conviction, the person shall be sentenced to both a fine of not less than $200.00 or more than $1,000.00, and either of the following:~~

~~__ Performing service to the community for a period of not less than ten days or more than 90 days and may be sentenced to imprisonment for not more than one year.~~

~~__ Imprisonment for not more than one year and may be sentenced to community service for not more than 90 days.~~

~~__ If the violation occurs within ten years of two or more prior convictions, the person shall be sentenced to both a fine of not less than $200.00 or more than $1,000.00, and either of the following:~~

~~__ Performing service to the community for a period of not less than ten days or more than 90 days and may be sentenced to imprisonment for not more than one year.~~

~~__ Imprisonment for not more than one year and may be sentenced to community service for not more than 90 days.~~

~~__ As used in subsections (b) and (c), ``prior conviction'' means a conviction for a violation of MCL 257.625(1), (3), (4), or (5), MSA 9.2325(1), (3), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), or a local ordinance substantially corresponding to MCL 257.625(1), MSA 9.2325(1), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), or a law of another state substantially corresponding to MCL 257.625(1), (3), (4), or (5), MSA 9.2325(1), (3), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2).~~

~~__ In addition to imposing the sanctions prescribed in subsection (a), (b), or (c), the court may, pursuant to the code of criminal procedure, Act No. 175 of the Public Acts of Michigan of 1927 (MCL 760.1 et seq., MSA 28.841 et seq); order the person to pay the costs of the prosecution.~~

~~__ The court shall order the secretary of state to impose license sanctions pursuant to section 5.15b.~~

~~__ A person sentenced to perform service to the community under this subsection shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.~~

~~__ If the village attorney intends to seek an enhanced sentence under subsection (4)(b) or (8)(b) or (c) based upon the defendant having one or more prior convictions, the village attorney shall include on the complaint and information filed in district court or probate court a statement listing the defendant's prior convictions.~~

~~__ A prior conviction shall be established at sentencing by one or more of the following:~~

~~__ An abstract of conviction.~~

~~__ A copy of the defendant's driving record.~~

~~__ An admission by the defendant.~~

~~__ A person who is convicted of an attempted violation of subsection (1) or (3) shall be punished as if the~~

PROOFS

offense had been completed.

__ When assessing points and taking licensing action under this article, the secretary of state and the court shall treat a conviction of an attempted violation of subsection (1) or (3) the same as if the offense had been completed.

Sec. 5.15.a. Arrest, preliminary chemical breath analysis, chemical test.

__ A peace officer, without a warrant, may arrest a person when the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator of a vehicle involved in the accident in this village while in violation of section 5.15(1) or (3).

__ A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, in this village, and that the person by the consumption of intoxicating liquor may have affected his ability to operate a vehicle, may require the person to submit to a preliminary chemical breath analysis. The following provisions shall apply with respect to a preliminary chemical breath analysis:

__ A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

__ The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 5.15c(1) or in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subsection does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

__ A person who submits to a preliminary chemical breath analysis shall remain subject to the requirements of sections 5.15c, 5.15d, 5.15e, and 5.15f for the purposes of chemical tests described in those sections.

__ A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.

__ The following provisions apply with respect to chemical tests and analysis of a person's blood, urine, or breath, other than preliminary chemical breath analysis.

__ The amount of alcohol or presence of a controlled substance or both in a driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.

__ A person arrested for a crime described in section 5.15c(1) shall be advised of all of the following:

__ That if he takes a chemical test of his blood, urine, or breath administered at the request of a peace officer, he has the right to demand that a person of his own choosing administer one of the chemical tests; that the results of the test are admissible in a judicial proceeding as provided under this article and shall be considered with other competent evidence in determining the innocence or guilt of the defendant; and that he is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his own request.

__ That if he refuses the request of a peace officer to take a test described in subsection (i), a test shall not be given without a court order, but the peace officer may seek to obtain such a court order.

__ That his refusal of the request of a peace officer to take a test described in subsection (i) shall result in the suspension of his operator's or chauffeur's license or operating privilege, and in the addition of six points to his driver record.

__ A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures shall not attach to a qualified person who withdraws or analyzes blood or assists in the withdrawal or analysis in

PROOFS

accordance with this subsection unless the withdrawal or analysis is performed in a negligent manner.

(c) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 5.15c(1). A person who takes a chemical test administered at the request of a peace officer, as provided in this section, shall be given a reasonable opportunity to have a person of his own choosing administer one of the chemical tests described in this subsection within a reasonable time after his detention, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by a person of his own choosing, the person charged shall be responsible for obtaining a chemical analysis of the test sample.

(d) If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample shall be admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a village attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.

(e) If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident, and that agency shall forward the results to the department of state police.

(f) The department of state police shall promulgate uniform rules for the administration of chemical tests for the purposes of this section.

(3) The provisions of subsection (3) relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether or not a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had a blood alcohol content of 0.10 percent or more by weight of alcohol.

(4) If a chemical test described in subsection (3) is administered, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The village attorney shall furnish the results at least two days before the day of the trial. The results of the test shall be offered as evidence by the village attorney in that trial. Failure to fully comply with the request shall bar the admission of the results into evidence by the village attorney.

(5) Except in a prosecution relating solely to a violation of section 5.15(1)(b), the amount of alcohol in the driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath shall give rise to the following presumptions:

(a) If there was at the time 0.07 percent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor, and that the defendant was not under the influence of intoxicating liquor.

(b) If there was at the time in excess of 0.07 percent but less than 0.10 percent by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 5.15(3) due to the consumption of intoxicating liquor.

(c) If there was at the time 0.10 percent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(6) A person's refusal to submit to a chemical test as provided in subsection (3) shall be admissible in a criminal prosecution for a crime described in section 5.15c(1) only for the purpose of showing that a test was offered to the defendant, but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed

PROOFS

accordingly.

Sec. 5.15.b. Arraignment, pretrial conference advising accused, licensing sanction.

(1) A person arrested for a misdemeanor violation of section 5.15(1) or (3), shall be arraigned on the citation, complaint, or warrant not more than 14 days after the date of arrest or, if an arrest warrant is reissued, not more than 14 days after the reissued arrest warrant is served.

(2) The court shall schedule a pretrial conference between the village attorney, the defendant, and the defendant's attorney in each case in which the defendant is charged with a misdemeanor violation of section 5.15(1) or (3). The pretrial conference shall be held not more than 35 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 35 days after the date the reissued arrest warrant is served, unless the court has only one judge who sits in more than one location in that district, in which case the pretrial conference shall be held not more than 42 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 42 days after the date the reissued arrest warrant is served. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than one adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days. The court shall, except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, finally adjudicate, by a plea of guilty or nolo contendere, or the entry of a verdict, or by other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 5.15(1) or (3) within 77 days after the person is arrested for the violation or, if an arrest warrant is reissued, not more than 77 days after the date the reissued arrest warrant is served.

(3) Before accepting a plea of guilty or nolo contendere under section 5.15, the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation, and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state pursuant to section 204a of Act No. 300 of the Public Acts of 1949 (MCL 257.204a, MSA 9.1904(1)).

(4) Before imposing sentence, other than court-ordered license sanctions, for a violation of section 5.15(1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete one or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(5) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 5.15(1) or (3), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the state driving record of the person, except those convictions which, upon motion by the defendant, are determined by the court to be constitutionally invalid, and shall impose the following licensing sanctions.

(6) For a conviction under section 5.15(1):

(a) If the court finds that the person has no prior convictions within seven years for a violation of MCL 257.625(1), (3), (4), or (5), MSA 9.2325(1), (3), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), a local ordinance substantially corresponding to MCL 257.625(1) or (3), MSA 9.2325(1) or (3), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), or a law of another state substantially corresponding to MCL 257.625(1), (3), (4), or (5), MSA 9.2325(1), (3), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than six months or more than two years. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension, except that a restricted license shall not be issued during the first 30 days of the period of suspension.

PROOFS

- If the court finds that the person has one prior conviction within seven years for a violation of MCL 257.625(3), MSA 9.2325(3), or former MCL 257.625b, MSA 9.2325(2), a local ordinance substantially corresponding to MCL 257.625(3), MSA 9.2325(3), or former MCL 257.625b, MSA 9.2325(2), or a law of another state substantially corresponding to MCL 257.625(3), MSA 9.2325(3), or former MCL 257.625b, MSA 9.2325(2), the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than six months or more than two years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the period of suspension, except that a restricted license shall not be issued during the first 60 days of the period of suspension.
- If the court finds that the person has one or more prior convictions within seven years for a violation of MCL 257.625(1), (4), or (5), MSA 9.2325(1), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), a local ordinance substantially corresponding to MCL 257.625(1), MSA 9.2325(1), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or a law of another state substantially corresponding to MCL 257.625(1), (4), or (5), MSA 9.2325(1), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or that the person has two or more prior convictions within ten years for a violation of MCL 257.625(1), (3), (4), or (5), MSA 9.2325(1), (3), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), a local ordinance substantially corresponding to MCL 257.625(1) or (3), MSA 9.2325(1) or (3), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), or a law of another state substantially corresponding to MCL 257.625(1), (3), (4), or (5), MSA 9.2325(1), (3), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

- For a conviction under section 5.15(3):
  - If the court finds that the convicted person has no prior conviction within seven years for a violation of MCL 257.625(1), (3), (4), or (5), MSA 9.2325(1), (3), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), a local ordinance substantially corresponding to MCL 257.625(1) or (3), MSA 9.2325(1) or (3), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), or a law of another state substantially corresponding to MCL 257.625(1), (3), (4), or (5), MSA 9.2325(1), (3), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 90 days or more than one year. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension.
  - If the court finds that the person has one prior conviction within seven years for a violation of MCL 257.625(1), (3), (4), or (5), MSA 9.2325(1), (3), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), a local ordinance substantially corresponding to MCL 257.625(1) or (3), MSA 9.2325(1) or (3), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), or a law of another state substantially corresponding to MCL 257.625(1), (3), (4), or (5), MSA 9.2325(1), (3), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than six months or more than two years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension period, except that a restricted license shall not be issued during the first 60 days of the period of suspension.
  - If the court finds that the person has two or more prior conviction within ten years for a violation of MCL 257.625(1), (3), (4), or (5), MSA 9.2325(1), (3), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), a local ordinance

PROOFS

substantially corresponding to MCL 257.625(1) or (3), MSA 9.2325(1) or (3), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), or a law of another state substantially corresponding to MCL 257.625(1), (3), (4), or (5), MSA 9.2325(1), (3), (4), or (5), or former MCL 257.625(1) or (2), MSA 9.2325(1) or (2), or former MCL 257.625b, MSA 9.2325(2), the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

__ A restricted license issued pursuant to an order under subsection (5) shall permit the person to whom it is issued to do one or more of the following:

__ Drive to and from the person's residence and work location.

__ Drive in the course of the person's employment or occupation.

__ Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the court.

__ Drive to and from the person's residence and the court probation department, or a court ordered community service program, or both.

__ Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.

__ The court may order that the restricted license issued pursuant to subsection (5) include the requirement that the person shall not operate a motor vehicle unless the vehicle is equipped with a functioning ignition interlock device. The device shall be set to render the motor vehicle inoperable if the device detects a blood alcohol content of 0.02 percent or more by weight of alcohol in the person who offers a breath sample. The court may order installation of an ignition interlock device on any motor vehicle that the person owns or operates, the costs of which shall be borne by the person whose license is restricted.

__ The court shall not order the secretary of state under subsection (5) to issue a restricted license that would permit a person to operate a truck or truck tractor, including a trailer, that hauls hazardous materials.

__ The court shall not order the secretary of state to issue a restricted license unless the person states under oath, and the court finds pursuant to testimony taken in open court or pursuant to statements contained in a sworn affidavit on a form prescribed by the state court administrator, that the person is unable to take public transportation to and from his work location, place of alcohol or drug education treatment, court ordered community service program or educational institution, and does not have any family members or other individuals able to provide transportation.

__ The court order issued under subsection (5) and the restricted license shall indicate the permitted destination of the person, the approved route if specified by the court, and permitted times of travel.

__ As used in this section, work location means, as applicable, either the specific place of employment, or the territory regularly visited by the person in pursuance of the person's occupation, or both.

__ Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 5.15(1) or (3), the person shall surrender to the court his operator's or chauffeur's license or permit. The court shall immediately destroy the license or permit and forward an abstract of conviction with court ordered license sanctions to the secretary of state. Upon receipt of, and pursuant to, the abstract of conviction with court ordered license sanctions, the secretary of state shall suspend or revoke the person's license and, if ordered by the court and the person is otherwise eligible for a license, issue to the person a restricted license stating the limited driving privileges indicated on the abstract. If the judgment and sentence is appealed to circuit court, the court may, ex parte, order the secretary of state to stay the suspension, revocation, or restricted license issued pursuant to this section pending the outcome of the appeal.

Sec. 5.15.c. Consent to chemical test.

__ A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this village

PROOFS

~~is considered to have given consent to chemical tests of his blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his blood, in all of the following circumstances:~~

~~(1) If the person is arrested for a violation of section 5.15(1) or (3).~~

~~(2) If the person is arrested for felonious driving, negligent homicide, manslaughter, or murder resulting from the operation of a motor vehicle, and the peace officer had reasonable grounds to believe that the person was operating the vehicle while impaired by or under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance or while having a blood alcohol content of 0.10 percent or more by weight of alcohol.~~

~~(b) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.~~

~~(c) The tests shall be administered as provided in section 5.15a(3).~~

~~Sec. 5.15.d. Refusal to submit to chemical test.~~

~~(a) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section 5.15a(3), a test shall not be given without a court order, but the officer may seek to obtain the court order.~~

~~(b) A written report shall immediately be forwarded to the secretary of state by the peace officer. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1), and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.~~

~~Sec. 5.15.e. Notice of report.~~

~~(a) Upon receipt of the report made pursuant to section 5.15d, the secretary of state shall immediately notify the person in writing, mailed to his last known address, that the report has been received and that within 14 days of the date of the notice the person may request a hearing as provided in section 5.15f.~~

~~(b) The notice shall specifically state that failure to request a hearing within 14 days will result in the suspension of the person's license or permit to drive. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel would be permitted to represent the person at the hearing.~~

~~Sec. 5.15.f. Hearing, record, review.~~

~~(a) If a person who refuses to submit to a chemical test pursuant to section 5.15d does not request a hearing within 14 days of the date of notice pursuant to section 5.15e, the secretary of state shall suspend or deny the person's operator's or chauffeur's license or permit to drive, or nonresident operating privilege, for a period of six months, or for a second or subsequent refusal within a period of seven years, for one year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall deny to the person the issuance of a license or permit for a period of six months, or for a second or subsequent refusal within a period of seven years, for one year.~~

~~(b) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322 of Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.322, MSA 9.2022), as amended. A person shall not order a hearing officer to make a particular finding on any issue enumerated under subsections (a) to (d). Not less than five days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 5.15d, and if the village attorney requests receipt of the notice, to the village attorney of the village where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than one adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest and shall, except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, be finally adjudicated within 77 days after the date of arrest. The hearing shall cover only the following issues:~~

PROOFS

(1) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1).

(2) Whether the person was placed under arrest for a crime described in section 5.15c(1).

(3) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.

(4) Whether the person was advised of the rights under section 5.15a(3).

(d) The hearing officer shall make a record of proceedings held pursuant to subsection (2). The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of Michigan of 1969 (MCL 24.286, MSA 3.560(186)), as amended. Upon notification of the filing of a petition for judicial review pursuant to section 323 of Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.323, MSA 9.2023), as amended, the hearing officer shall transmit to the court in which the petition was filed, not less than ten days before the matter is set for review, the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to determine whether or not the court will order the issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(e) After a hearing, if the person who requested the hearing does not prevail, the secretary of state shall suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the person for a period of six months, or for a second or subsequent refusal within seven years, for one year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall deny to the person the issuance of a license or permit for a period of six months, or for a second or subsequent refusal within seven years, for one year. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323 of Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.323, MSA 9.2023), as amended. If after the hearing the person who requested the hearing prevails, the peace officer who filed the report under section 5.15(d) may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 323 of Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.323, MSA 9.2023), as amended.

(f) When it has been finally determined that a nonresident's privilege to operate a vehicle in the state has been suspended or denied, the department shall give notice in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of each state in which he has a license to operate a motor vehicle.

Sec. 5.15.g. Duty of officer upon refusal.

(1) If a person refuses a chemical test offered pursuant to section 5.15a(3), or submits to the chemical test and the test reveals a blood alcohol content of 0.10 percent or more by weight of alcohol, the peace officer who requested the person to submit to the test shall do all of the following:

(a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle, and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person that is valid until the criminal charges against the person are dismissed, or until the person pleads guilty or nolo contendere to, or is found guilty of, those charges. The temporary license or permit shall be on a form provided by the secretary of state.

(b) Except as provided in subsection (2), immediately do all of the following:

(i) Forward a copy of the written report of the person's refusal to submit to a chemical test to the secretary of state.

(ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.

(iii) Except as provided in subsection (2), destroy the person's driver's license or permit.

PROOFS

~~(3) If a person submits to a chemical test offered pursuant to section 5.15a(3) that requires the withdrawal of blood and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) pending receipt of the test report. If, upon receipt, the report reveals a blood alcohol content of 0.10 percent or more by weight of alcohol, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b). If, upon receipt, the report reveals a blood alcohol content of less than 0.10 percent by weight of alcohol, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results, and immediately return the person's license or permit by first class mail to the address given at the time of arrest.~~

~~Sec. 5.82. Mandatory child restraints.~~

~~(1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of Michigan of 1969 (MCL 24.201 et seq., MSA 3.560(101) et seq);\hk; as amended, or federal regulation, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:~~

~~(a) Any child less than one year of age in a child restraint system which meets the standards prescribed in 49 CFR 571.213, except as provided in subsection (6).~~

~~(b) Any child one year of age or more but less than four years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213, except as provided in subsection (6).~~

~~(c) Any child one year of age or more but less than four years of age, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213, unless the child is secured by a safety belt provided in the motor vehicle, except as provided in subsection (6).~~

~~(2) This section does not apply to any child being nursed.~~

~~(3) This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts under federal laws or regulations.~~

~~(4) A person who violates this section is responsible for a civil infraction.~~

~~(5) Points shall not be assessed for a violation of this section.~~

~~(6) The secretary of state may exempt by rules promulgated pursuant to Act No. 306 of the Public Acts of Michigan of 1969 (MCL 24.201 et seq., MSA 3.560(101) et seq);\hk; as amended, a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under subsection (1) is impractical because of physical unfitness, a medical problem, or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection.~~

~~Sec. 5.83. Safety belt required; enforcement.~~

~~(1) This section shall not apply to a driver or passenger of:~~

~~(a) A motor vehicle manufactured before January 1, 1965.~~

~~(b) A bus.~~

~~(c) A motorcycle.~~

~~(d) A moped.~~

~~(e) A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons.~~

~~(f) A motor vehicle which is not required to be equipped with safety belts under federal law.~~

~~(g) A commercial or United States postal service vehicle which makes frequent stops for the purpose of pickup or delivery of goods or services.~~

~~(h) A motor vehicle operated by a rural carrier of the United States postal service while serving his rural postal route.~~

~~(2) This section shall not apply to a passenger of a school bus.~~

PROOFS

~~(a) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than four years of age shall be protected as required in section 5.82.~~

~~(b) Each driver of a motor vehicle transporting a child four years of age or more but less than 16 years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt.~~

~~(c) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of this article.~~

~~(d) Failure to wear a safety belt in violation of this section may be considered evidence of negligence and may reduce the recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. However, such negligence shall not reduce the recovery for damages by more than five percent.~~

~~(e) A person who violates this section is responsible for a civil infraction.~~

~~(f) Points shall not be assessed for a violation of this section.~~

~~(g) This section does not apply if the motor vehicle is transporting more children than there are safety belts available for use and if all safety belts available in the motor vehicle are being utilized in compliance with this section.~~

~~Sec. 5.97. School buses.~~

~~(a) The driver of a vehicle that overtakes or meets a school bus which has stopped and which is displaying two alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than 20 feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. The driver of the school bus, before resuming motion, shall deactivate flashing lights, shall permit stopped traffic to proceed, and shall, when resuming motion, proceed in a manner that will allow congested traffic to disburse by keeping the bus as near to the right side of the road as can be done with safety.~~

~~(b) Passengers who cross the road upon being discharged from a school bus shall cross in front of the stopped school bus.~~

~~(c) Signs, giving notice of this section, must be posted on or at the entrance to the area, or part of the area, affected by this section. The signs must be appropriate or sufficiently legible as to be seen by an ordinarily observant person.~~

~~(d) The driver of a vehicle who fails to stop for a school bus as requested by subsections (1) to (3) of this section, or who passes a school bus in violation of subsections (1) to (3) of this section shall be guilty of a misdemeanor.~~

~~(e) The driver of a vehicle on a highway that has been divided into two roadways by leaving an intervening space, by a physical barrier, or by clearly indicated dividing sections constructed so as to impede vehicular traffic need to stop upon meeting a school bus which has stopped across the dividing space, barrier or section.~~

~~(f) A school bus that transports pupils inside the village shall, in addition to any other equipment and distinctive marking required by law, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable. The lamps shall be capable of displaying to the front two alternating flashing red lights located at the same level and to the rear two alternating flashing red lights located at the same level. The lights shall have sufficient intensity to be visible from a distance of not less than 500 feet in normal sunlight and shall be actuated by the driver of the school bus when, and only when, the vehicle is stopped and for a distance of not less than 200 feet in advance of a stop for the purpose of receiving or discharging school children.~~

~~(g) In a proceeding for a violation of subsection (1) of this section, proof that the particular vehicle described in the citation, complaint or warrant was in violation of subsection (1) of this section, together with proof that the defendant named in the citation, complaint or warrant was at the time of the violation the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.~~

~~(Code 1995, §§ 50-26, 50-27)~~

PROOFS

PROOFS

Chapter 21

RESERVED

PROOFS

Chapter 22

UTILITIES

ARTICLE I. IN GENERAL

Sec. 22-1. Penalty for violation.

Violations of this chapter are punishable as provided in section 1-12. Each day or fraction of a day in which such violation is committed or suffered to continue shall be deemed a separate offense. The penalties provided in this section shall not be in derogation of the right of the village to restitution for any expense, loss or damage to the village caused by the violation of any of the provisions of this chapter.

(Code 1995, § 54-127; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-127, 4-11-2011)

~~**Sec. 54-27. Penalty for violation.**~~

~~**A**ny person upon conviction for violation of any provision of this article shall be fined as prescribed in section 1-10 of the Code of Ordinances of the village. Each day or fraction of a day in which such violation is committed or suffered to continue shall be deemed a separate offense. The penalties provided in this section shall not be in derogation of the right of the village to restitution for any expense, loss or damage to the village caused by the violation of any of the provisions of this article.~~

~~(Comp. Ords. 1984, § 300.14; Code 1995, § 54-27; Ord. No. 2010-02, § 54-27, 12-14-2010)~~

Secs. 22-2--22-20. Reserved.

ARTICLE II. WATER UTILITY

Sec. 22-21. Operation of system on public utility rate basis.

It is determined to be desirable and necessary for the public health, safety, and welfare of the village that the village water system is operated by such village on a public utility rate basis in accordance with the provisions of MCL 141.101 et seq. ~~Public Act No. 94 of 1933 (MCL 141.01 et seq.), as amended.~~

(Code 1995, § 54-100; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-100, 4-11-2011)

Sec. 22-22. Charges; rate sufficiency.

It is declared necessary for the protection of the health, welfare and convenience of the citizens of the village to levy and collect charges upon the premises served by the municipal water system. The proceeds of such charges are to be used for the benefit and maintenance of the system, for the retirement of bond indebtedness incurred therefore, for operation and maintenance, and for the construction of replacement water facilities. The rates hereby adopted by resolution of the village council are estimated to be sufficient to provide for the payment of the system's expenses and shall be revised as may be necessary to produce sufficient amounts.

(Code 1995, § 54-102; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-101, 4-11-2011)

Sec. 22-23. Charges; separate agreements.

The village council shall, from time to time, set the rates for water service by resolution. The rates and charges established by resolution do not preclude or prevent the village from entering into separate agreements that would be in the best interests of the village.

(Code 1995, § 54-103; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-102, 4-11-2011)

Sec. 22-24. Definitions.

The following words, terms and phrases used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Classes of users means the division of water utility customers into classes by similar process or size of water

PROOFS

service lateral as follows:

(1) The term "residential user" means any home or dwelling unit including mobile homes, condominiums or multifamily dwellings commonly utilizing a one-inch service lateral.

(2) The term "commercial user" means any retail or wholesale business engaged in selling merchandise or a service.

(3) The term "institutional user" means any educational, religious or social organization such as a school, church, nursing home, hospital or other institutional user.

(4) The term "governmental user" means any federal, state, local government office or government service facility.

(5) The term "industrial user" means any nongovernmental user of a publicly owned water supply system with a service lateral size two-inch or larger.

~~council means the village council of the village.~~

Customer or *user* means a consumer of water from the village water system, or the owner of premises to which water is readily available through a continuous physical connection from the village water system to the premises. ~~or~~ In the case where a meter pit exists, the term "customer" or "user" means a consumer of water from the village water system, or the owner of premises to which water is readily available through a continuous physical connection from the village water system, through the meter pit, and onto the premises. A customer or user, as defined, exists whether or not the service lateral turned is off or on and whether or not water is actually drawn from the main. Customer, as defined, will be subject to rates and charges as determined herein.

Long term debt fee means the charge levied on all users of the water supply system for the cost of operation and maintenance, including replacement, of such system; and it means the cost of any bonded indebtedness of which debt repayment is to be made from the revenues of such system.

Main means any pipe, other than a service lateral, used for conveying or distributing water.

Operation and maintenance costs mean all costs, direct and indirect, other than debt service that are necessary to ensure water treatment and distribution on a continuing basis, that conform with all related federal, state and local requirements and that ensure optimal long term facility management. (These operation and maintenance costs include depreciation and replacement costs.)

Owner means any person or legal entity holding title of record to any premises supplied or to be supplied with village water or the duly authorized agent of such person or legal entity.

Premises means a single, continuous parcel of land of record upon which is located a structure used for residential, commercial or industrial purposes, together with any accessory buildings or, in the case of vacant land, used for temporary (less than six months) occupation by a camper, motor home or trailer.

Replacement means necessary expenditures made during the service life of the water system to replace equipment and plant appurtenances required to maintain the intended performance of the water system.

~~Shall is mandatory; may is permissive.~~

Significant industry means any industry which draws greater than ten percent of the design flow or design loading of the water treatment plant.

Water service lateral or *water service pipe* means the pipe tapped into the curb stop and extending from such point onto the premises of the abutting property.

(Code 1995, § 54-126; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-126, 4-11-2011)

Sec. 22-25. Control of public water mains.

The water mains of the village water system are under the exclusive control of the council, and no person other than authorized village agents or employees shall disturb, tap, change, obstruct or interfere with them in any way.

(Code 1995, § 54-128; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-128, 4-11-2011)

PROOFS

Sec. 22-26. Extensions of public water mains; application; conditions of installation.

The requirements of this article shall govern additions to the municipal water system of the village by extension of its mains and appurtenances.

(1) *Proposal for extension*. A proposal to extend a municipal water system may be initiated by the village council or by written petition signed by a developer/proprietor, or property owner and filed with the village manager. The petition shall be reviewed by the village manager for completeness. The village manager shall inform the petitioner whether or not the content of the petition is appropriate for action by the village council. The village manager shall make recommendations to the village council with regard to the project when sufficient project data is received.

(2) *Project description and costs*. The petition shall describe the project in full and shall set forth all anticipated development costs, including engineering, labor, material, construction, acquisition, financing charges, legal fees, advertisement expenses and all other costs related to the project.

(3) *Other requirements*. All projects proposed under this article shall comply with other existing village ordinances and state and federal statutory and regulatory requirements.

(4) *Project materials*. All materials to be used in the construction of municipal improvements must first be approved by the village manager in consultation with a qualified engineer.

(5) *Location of mains*. All extensions of the municipal water system shall be located in the public street right-of-way, on other municipal property or within easements granted for that purpose.

(6) *Water mains*. All mains added to the village water supply system shall be constructed pursuant to the construction standards and established rules and regulations of the village.

(7) *Payment of project costs*. The developer/proprietor or property owner requesting extension of mains shall pay all costs required to extend from the present locations to service the exterior and interior of lots or buildings in the property development. Costs shall include all fees for plan preparation and engineering plan review. All installation inspections will be provided by the village. The costs shall be paid by the developer/proprietor or property owner.

(8) *Plans and fees*. The developer/proprietor shall furnish the village manager detailed construction plans and shall pay for plan review, construction inspection and other fees related to construction of the project in an amount determined by resolution of the village council on a case-by-case basis. Payment shall be in the form of cash, cashier's check or certified check payable to the village water service. Payment shall be furnished when the detailed plans are filed. The developer/proprietor shall prepare and furnish the village with a complete set of certified as-built plans on mylar after the project is complete. The certified plans shall become permanent utility records of the village and shall be at no cost to the village.

(9) *Security for performance*. Prior to the commencement of work on the project, the developer/proprietor shall furnish security to the village for the satisfactory completion of the municipal improvements described in this article. Security shall be in the form of performance and payment bonds, bank letters of credit or cash. Security shall be in amounts considered adequate by the village to complete the project.

(10) *Qualified contractors*. Only qualified contractors skilled in the particular municipal improvement involved may be engaged to work on municipal utility systems. All contractors are required to furnish proof of insurance to the village in such amounts and for such coverage's as are acceptable to the village. The village reserves the right to approve or disapprove all persons and firms working on municipal systems.

(11) *Guarantee*. The developer/proprietor or the construction contractor shall give the village a written guarantee of the work included within the project, for a period of two years from and after the date of its acceptance by the village. The guarantee shall include labor and materials and shall provide for the correction of any defect in the system caused by faulty work and/or materials. Correction shall be made within 30 days of notification by the village.

(12) *Acceptance of municipal improvements*. Acceptance by the village of dedicated extensions to the municipal water system shall occur when the village manager, in consultation with a qualified engineer,

PROOFS

certifies that the improvements meet all municipal requirements and that payment of all project costs have been made.

(Comp. Ords. 1984, § 300.03; Code 1995, §~~§ 54-29~~ 54-129; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-129, 4-11-2011)

Sec. 22-27. Application for service; fees and costs; water service laterals, and connections.

(a) *No unauthorized use*. No unauthorized person shall uncover, make any connection with, use, alter or disturb any public water mains or appurtenances thereof.

(b) *Written application filed*. The owner of such premises shall file a written application with the village manager on forms provided by the village showing the location of the premises and the nature of the service desired.

(c) *Fees and costs*. An application for connection with public water mains shall be accompanied by a connection fee. The fee is set from time to time by resolution of the village council.

(d) *Installation*. In consideration for such payment, the village will install water service lateral from the water main to a point not more than seven feet outside applicant's property line, all within the village right-of-way. A curb stop and valve shall also be installed and maintained by the village at the terminus of such service lateral. The property owner shall be responsible for installing and maintaining, at the property owner's expense, all service lateral and connections from the curb stop to and upon applicant's premises, in a manner consistent with the terms of section 22-28.

(Code 1995, § 54-130; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-130, 4-11-2011)

Sec. 22-28. Water service laterals; placement and specifications; maintenance.

(a) *Installation*. All water service laterals on either public or private property shall be laid on a solid bottom not less than four feet, six inches below the established grade, subject to approval of the village manager or his or her designee. Water service pipe laid in the same trench with sewer service pipe shall be at least 18 inches from the sewer pipe and, if the sewer is laid at a greater depth, shall be shelved into the back to a solid bottom. All water service pipes shall be not less than one-inch diameter copper type K, extending from the main to the meter. Old water service pipe of any other material requiring repair shall be replaced by one inch diameter copper type K. However, the village manager may require, for either new or replaced service pipe the installation of a larger size and/or installation of a meter pit if it is deemed necessary. The stop or curb box shall be so placed that the cover is not below grade and must be set on a firm foundation to prevent settling. A separate stop and waste cock or waste valve shall be placed on the water service pipe just inside the building wall and before the meter so that the water may be turned off and drained from the pipe if necessary.

(b) *Maintenance of service lines*. Maintenance of service lines by the property owner shall include, but not be limited to, thawing frozen lines. The council or village manager may direct that water service to the premises be discontinued if, after due notice, the owner fails to properly maintain his service lateral. Water service that is discontinued under this section will be reported immediately to the Western Upper Peninsula health department.

(c) *Repairs to private laterals*. If village personnel are called out to repair a leak in the area between the curb stop and the water main, and it is subsequently determined that the leak is in the property owner's water service lateral, the property owner will be billed for all costs incurred for the repair of the leak. All costs billed under this section shall be collected in accordance with section 22-34.

(Code 1995, § 54-131; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-131, 4-11-2011)

Sec. 22-29. Meter pits.

In the event that the village manager or his or her designee determines that a meter pit will be required, the property owner shall be responsible for the purchase, installation and maintenance of the meter pit. All meter pits shall be installed at six feet below grade, with an insulated cap. Pre-manufactured pits shall be installed per the manufacturer's recommendation. All other pits and their methods of installation must be approved by the village manager or his or her designee prior to installation. All pits must be inspected and approved by village personnel prior to being put into use.

(Code 1995, § 54-132; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-132, 4-11-2011)

PROOFS

Sec. 22-30. Application for disconnection of service; removal of laterals and connections.

(a) *No unauthorized use*. No unauthorized person shall uncover, make any connection with, use, alter or disturb any public water mains or appurtenances thereof.

(b) *Written application filed*. The owner of such premises shall file a written application with the village manager on forms provided by the village showing the location of the premises and the nature of the service desired. An application for disconnection from public water mains shall be accompanied by a disconnection inspection fee. The fee is set from time to time by resolution of the village council.

(c) *Fees and costs*. The property owner shall be responsible for hiring a qualified contractor and paying all fees and costs in relation to the disconnection of the service lateral. Disconnection shall be made a minimum of three feet after the shut off (or after the meter pit) by removing a three-foot section of service lateral within the owner's property and by capping both cut ends of the service lateral, so that water is not readily available to the premises. The disconnection must be inspected/verified by village personnel before any change is made in billing status. Disconnections made under this section shall be subject to a benefit charge as described in section 22-34.

(Code 1995, § 54-133; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-133, 4-11-2011)

Sec. 22-31. Required use of the public water system.

(a) *Connection to system*. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the village and abutting on any street, alley or right-of-way in which there is located a public water main of the village is required to be attached to such water main. The owner is required, at his expense, to install suitable plumbing facilities therein. The owner is required to connect such facilities directly with the proper public water main. These requirements shall be accomplished within 93 days after the date of written notice by the village to do so, provided that such public water main is within 200 feet of the property line.

(b) *Opening water service*. When new water service laterals are put into any premises, the curb stop shall be left closed and will be opened by an authorized employee of the village only when the meter and all other apparatus have been installed and upon request of the owner or his agent. No person other than an authorized employee of the village is to interfere in any way with the water service pipe owned or installed by the village. No unauthorized person is permitted to turn water on or off at the curb stop except for the purpose of testing his or her work, in which case the curb stop shall be left in the same condition and position as when he or she found it. Any person called upon to shut off water and drainpipes on any premises shall do so inside the building only.

(c) *Multiple services prohibited*. No person shall take or use village water from premises other than his or her own premises or which he or she occupies. No person shall sell or give away village water from his own premises for any purpose without written permission of the council. When such permission is granted, the property owner shall be responsible for collecting any monies due him or her for water service. No connection may be made through which water may pass from one structure to another located on a separate and distinctly described lot or parcel of property without written permission of the council, even though ownership of both parcels may be the same person or entity.

(d) *Waste of water*. Waste of water due to carelessness or by defective plumbing of fixtures on a premise is prohibited. In addition to the penalties prescribed for violation of the terms of this article, the council may order water service discontinued for disregard of or reputed violation of this provision.

(e) *Discontinuance and restoration of water service; fee*. Except as otherwise provided in this article, only authorized village employees may open or close water service at the curb stop. If for any reason water service is so discontinued, the party responsible for receiving and paying for water service shall be charged a water turn off fee as established from time to time by resolution of the village council. Prior to restoration of water service by the village, an additional water turn on fee, as established from time to time by resolution of the village council, shall be paid to the village. Customers requesting that water be turned on or off at the curb stop must give a minimum of 24 hours' notice Monday through Thursday to the village.

(f) *Access to private premises*. Any officer, inspector or other authorized employee of the village shall have scheduled access at all responsible hours to any private premises supplied with village water to inspect and examine the entire water supply and plumbing system of such premises. The owner of the private premises, or his/her

PROOFS

representative, shall be on the premises during the inspection period. The owner or his/her representative present during the inspection shall be 18 years of age or older. No person shall refuse scheduled inspection to admit the duly authorized inspectors and employees of the village to any premises for a scheduled inspection. If scheduled access is denied, the water shall be turned off until resolved.

(g) *Discharge to public sewer system*. It shall be unlawful to connect to any water source other than the municipal water system that would result in the discharge of fluids into the city sanitary sewer system without prior approval of the village manager.

(Code 1995, § 54-134; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-134, 4-11-2011)

Sec. 22-32. Private wells.

(a) *Non-availability of water*. Where village water service is not available under the provisions of this article, the building's potable water source may be furnished by a well, subject to provisions of this Code, local health department regulations and state and federal regulations.

(b) *Private well permit*. No person shall construct or install a private well without first applying to the county public health department for and obtaining a permit to construct and operate the well. A copy of this permit must be filed with the village manager.

(c) *Required abandonment of private wells*. At such time as the public water system becomes available to a property served by a private well, as provided by this article, a direct connection shall be made to the public water system in compliance with the provisions of this article. The private well shall be abandoned as specified by the public health department. If the property owner wishes to use the well for irrigation purposes only, arrangements must be made with the superintendent of public works to verify that such well is not within the areas restricted by the village and does not pose any hazard to the community welfare.

(Ord. No. 2011-01, § 54-135, 4-11-2011)

Sec. 22-33. Water meters.

(a) *Installation of water meters*. All premises using village water shall have installed a water meter connection and a remote radio meter reading transmitter directly to the water service lines to determine the amount of water used. Water meters must be installed in a horizontal position, with a quarter turn ball valve installed both before and after the meter so that the meter can be isolated from the plumbing system. A building that provides for more than one dwelling unit or commercial enterprise shall provide a separate water meter and remote radio meter reading transmitter for each dwelling unit or enterprise. All village water used must pass through the meter. A bypass or connection between the meter and the water main is prohibited.

(b) *Temporary meter during construction*. The village manager may require installation as provided in subsection (c) of this section of a meter for use of water service during construction of a structure on premises which does not otherwise have metered water service.

(c) *Installation; cost*. All residential water meters up to one inch in size shall be provided by the village and shall be installed by a qualified plumber at the property owner's expense in accessible locations satisfactory to the village manager or his or her designee. All meters provided by the village, including equipment for radio meter reading, remain the property of the village. Meters larger than one inch shall be provided by the owner and shall require written approval by the village manager prior to installation.

(d) *Damage, care and maintenance of meters and remote radio meter reading equipment*. No person except authorized village employees shall change the location of, alter or interfere with any meter or associated equipment in any way. Authorized employees of the village shall perform maintenance of water meters. The person in control of the premises shall immediately notify the village manager of any stoppage, damage or failure of a water meter. Any damage which a meter may sustain resulting from carelessness of the owner, agent or tenant who neglect to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water or steam backing from a boiler, shall be paid by the owner of the property to the village on presentation of a bill therefor. In cases where the bill is not paid, the water shall be shut off and shall not be turned on until all charges have been paid to the village.

(e) *Testing meters*. The accuracy of a meter on any premises will be tested by the village upon written request

PROOFS

of the owner or occupant thereof, who shall pay in advance a meter testing fee, which shall be established from time to time by resolution of the village council, to cover the cost of such test. If such test shows the meter to register over three percent more water than actually passes through the meter, the meter will be repaired or replaced and the testing fee will be refunded to the party paying same. The bill for use of water and sewer service for the current billing period only will be adjusted but shall in no case be less than the long-term debt fee.

(Code 1995, § 54-135; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-136, 4-11-2011)

Sec. 22-34. Rates; billing and collection for water service.

(a) *General rates, billing and collection*. Except as otherwise provided in this section, rates payable for water service and the methods of billing and collection shall be established as follows:

(1) The water charges to each customer of the village water system shall be set from time to time by resolution of the village council, and shall be reviewed, at a minimum, on an annual basis.

(2) It is the responsibility of the property owner to maintain their service line and plumbing. Adjustments to water bills will not ~~no longer~~ be granted.

(3) The rates fixed for water charges are estimated to be sufficient to provide for the payment of the expenses for administration and operation, maintenance of said system as are necessary to preserve the same in preserve the same in good repair and working order, interest and principal on all bonds as and when the same become due and payable, creation of the reserve therefore required by this article and such other expenditures and funds for said system as this article may require. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts. The village shall fix and maintain such rates for services furnished by the system as shall be sufficient to provide for the foregoing.

(4) All customers will be billed monthly. All bills must be paid by the 20th day of the succeeding month, and a penalty in an amount set from time to time by resolution of the council will be added to the amount of the bill if not paid by the 20th day of the succeeding month. Water shall be shut off if not paid within 30 days of the due date. Water shut off under this section shall not be turned on again until a delinquent turn-on charge, as set from time to time by resolution of the council, has been paid and all sums due and owing are paid in full. Failure to receive a bill does not waive the penalty.

(5) All water utility charges which, under the provisions of MCL 141.121, part ~~section 21~~ of the Revenue Bond Act, MCL 141.101 et seq., ~~being Public Act No 94 of 1933 (Michigan Compiled Laws 141.121), as amended~~, are made a lien on the premises to which furnished, are recognized to constitute such lien. The village treasurer shall, annually, on March 1, certify all unpaid charges for such services furnished to any premises which, on the last day of February preceding, have remained unpaid for a period of six months, to the village assessor, who shall place the same on the next tax roll of the village. Such charges, so assessed, shall be collected in the same manner as general village taxes.

(6) Rented or leased property. The renter or lease shall complete a renter's application for water and sewer service if a residential property is rented or leased to another person. The renter's application and a cash security deposit of not less than $150.00 for water and sewer service shall be filed with the village before water service is rendered. The $150.00 security deposit will be refunded when renter leaves premises provide all water debts are satisfied. All unpaid charges for water and sewer service furnished to any rented or leased premises (by property parcel number) shall become the responsibility of the property owner. ~~All customers will be billed each month. All bills shall be paid by the 20th day of the succeeding month. Payment made after the 20th day of the succeeding month shall include a penalty. The village council shall set from the penalty time to time. Failure to receive your bill does not waives the penalty. The village shall shut off the water and sewer if payment of the bill has not been made within 30 days of the due date. To restore water service following a shut off the customer shall pay the bill, the penalty and a delinquent charge. The village council shall set the delinquent charge from time to time. All unpaid charges for water and sewer service furnished to any premises (by property parcel number) shall become the responsibility of the property owner. Such charges, so assessed, shall become a lien on the property and shall be collected in the same manner as general Village taxes as detailed in Sec. 54-137 (5) of this article. The $150.00 security deposit will be refunded when renter leaves premises provide all water debts are satisfied.~~

PROOFS

(b) *Joint billing*. Each bill submitted for water and sewer service shall show the sum due and payable for both water service and sewer service combined, if applicable. The service components of such statement shall not be severable but shall be paid as one bill. All payments accepted on behalf of the village shall be applied to the earliest existing amount unpaid and to any penalty thereon. Any partial payment shall be applied first to any penalty imposed and then to amounts due for service prorated over the water and sewage treatment service components of the bill in proportion to the amounts of each such component.

(c) *Benefit charge*.

(1) A portion of the charge paid by customers or users each month for water service is a long-term debt fee, which finances improvements to the village water system. It may be applied to pay bonded indebtedness of the village incurred to improve the water system. Customers or users who commence to purchase water from the village after improvements are newly constructed on their premises or after a new water service connection is made or after they reoccupy existing construction will not have paid their fair share of the costs of capital improvements to the village water system. To remedy this discrepancy, a benefit charge shall be assessed on new construction, new water service connections and reoccupied existing construction (premises which have been disconnected from the system in accordance with section 22-30). This benefit charge shall be due and payable to the village prior to connection to the water system. The benefit charge shall apply to all new connections or reconnections. The benefit charge shall:

a. Provide for the recovery of capital improvement charges expended to date by the present users of the water system, for new construction, for new water service connections or for reoccupied existing construction.

b. Commence upon adoption of the ordinance from which this article is derived. All new water connections or reoccupied establishments after said adoption date shall be subject to the benefit charge.

c. Be paid in cash at the time of application for the building water connection or application for reconnection of existing service.

(2) ~~The basic benefit charge~~ as of ~~upon adoption of this ordinance shall be Three Hundred ($300.00) dollars. On April 1, 2005, the above benefit charge shall increase to $600.00. Thereafter, on April 1 of each succeeding year, it shall increase at the rate of $300.00 per year, until the basic benefit charge shall equal~~ Effective April 1, 2008, the basic benefit charge shall be $1,500.00. The village council may adjust the basic benefit charge from time to time so that the basic benefit properly and reasonably reflects the costs and debt service for capital improvements as they are made to the village water system. The village council shall by resolution set benefit charges as may be necessary to produce sufficient amounts. The application date for connection to the system (or reconnection of an existing service) shall be the date upon which the amount of the benefit charge shall be determined. Customers or users shall be liable for a fraction or multiple, as the case may be, of the basic benefit charge calculated by multiplying the basic benefit charge by the total of all equivalent factors applicable to the customer or user as set forth in Table I.

TABLE I. SCHEDULE OF BASIC BENEFIT CHARGE EQUIVALENTS

Use	*Basic Benefit Equivalent*
Apartments	1.0 per unit
Auto dealers	0.30 per service stall
Banks	0.50 per 1,000 square feet
Bars/taverns	0.166 per seat
Barber/beauty shops	1.0 per shop plus 0.10 per chair
Car wash-attendant operated	12.0 per lane

PROOFS

Car wash-coin operated	1.0 per stall
Churches	1.0 plus 0.10 per 1,000 square feet
Cleaners (dry)	1.5 per 1,000 square feet plus 2.0 per press
Clinics, medical or dental	1.0 per doctor
Clothing or shoe stores, men's or women's	0.50 per 1,000 square feet
Convalescent/nursing homes/assisted living	0.22 per bed
Grocery Store	1.0 per 1,000 square feet
Hotels/motels	0.25 per unit plus restaurant & bar at respective unit factors
Laundry, self-service	0.50 per washer
Mobil homes	1.0 per unit
Office building	0.50 per 1,000 square feet
Restaurant	0.125 per seat
Schools	0.67 per classroom
Service stations	0.40 per pump
Single-family residence	1.0 per residence
Snack bars/drive-in restaurants	0.10 per seat and/or stall
Stores, other than listed	0.50 per 1,000 square feet
Theatres	0.10 per seat
Two-family or multifamily residence	1.0 per residence
Warehouse	0.10 per 1,000 square feet

PROOFS

(d) *Undetermined service during construction*. The owner of premises upon which a building is being constructed where a temporary meter has not been installed but which receives water or sewer service during construction shall be charged the appropriate minimum rates for such service, as provided in the rate schedules, prorated on a monthly basis for the term of such use.

(e) *Special rates; no free service*. Special rates for miscellaneous or special services for which a rate has not been established shall be determined by the village council. No free service shall be furnished by such system for any establishment, person, firm corporation (public or private), public agency or instrumentality.

(Code 1995, § 54-136; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-137, 4-11-2011)

Sec. 22-35. Service provided to premises located outside the village; application; conditions; rates.

The cost to supply water to areas outside the village will be borne by the users in that area. Agreements with the respective townships will be established to provide sufficient income to cover the actual cost of the service and to recover the capital investment made by the village on that portion of the water system utilized by such users.

(1) No unauthorized person shall uncover, make any connection with, use, alter or disturb any public water mains or appurtenances thereof.

(2) Application. Upon application of the owner of premises located beyond the corporate limits of the village, as provided in this section, the village manager may determine in his or her sole discretion whether such premises may be provided with village water service or village water and sewer services. Village sewer services alone shall not be provided to such premises. All provisions of this article shall be applicable to provision and use of such service, except as otherwise provided in this section. All

previous actions of the council regarding such service is hereby repealed, invalidated and supplanted by the terms of this article.

(3) Written application filed. The owner of such premises shall file a written application with the village manager on forms provided by the village showing the location of this premises and the nature of the service desired. If the application receives the preliminary approval of the village manager, the applicant for himself, his heirs, successors and assigns, shall sign a statement to the effect that he shall abide by the provisions of this article; specifically, each of the provisions of this section, and any conditions to approval imposed by the council. The conditions shall be set forth in the statement. The applicant shall further make a deposit with the village to cover the actual costs of all labor and material. The deposit shall be based upon an estimate prepared by the village manager of the installation costs by the village of all service lines, curb stops, valves and other apparatus within the right-of-way of the village water system. The applicant shall further submit to the village proof that any easements required have been granted for the installation of all such service lines. Receipt of all of the foregoing documents and deposits shall be reported to the council for its final approval.

(4) Service lines and meters. In consideration for such deposit, the village will install water service pipe from the water main to a point not more than seven feet outside applicant's property line, all within the village right-of-way. A curb stop and valve will also be installed and maintained by the village at the terminus of such service pipe. The property owner shall be responsible for installing and maintaining, at the property owner's expense, all service lateral pipe and connections from the curb stop to and upon applicant's premises, in a manner consistent with the terms of section 22-28. Maintenance of lines by the property owner shall include, but not to be limited to, thawing frozen lines. The council or village manager may direct that water service to the premises be discontinued if, after due notice, the owner fails to properly maintain his service lateral. Water service that is discontinued under this section will be reported immediately to the Western Upper Peninsula health department. The applicant shall pay the full cost of such installation as provided in subsection (3) of this section. The applicant shall be solely responsible for installation of all service lines from the location of the meter and curb stop to and upon the applicant's premises.

(5) Rates and charges. Premises receiving village water service but not sewer service shall pay double the established rate for water service unless a different rate has been negotiated through an agreement with the respective township. Premises receiving both water and sewer service shall be charged the regular established village rate for such services, plus an annual payment in lieu of tax charge computed by multiplying the taxable valuation of the premises served by the village millage levied during each year of service. The annual charge shall be prorated where such services are received during only a portion of a year.

(Ord. No. 2011-01, § 54-139, 4-11-2011)

Sec. 22-36. Use and obstruction of fire hydrants.

(a) *No unauthorized use*. Except as otherwise provided in this section, fire hydrants shall be opened and used only by authorized personnel of the village or of the volunteer fire department. Any other person desiring to use fire hydrants of the village must apply for such use, specifying the hydrants to be used and the purpose thereof. If the council or village manager shall approve the proposed use, the applicable fee shall be deposited with the village manager prior to use of a hydrant. The applicable fee shall be set from time to time by resolution of the village council. The applicant must further notify the village manager both upon commencement and the termination of use. The village manager or his authorized agent shall immediately inspect the hydrant. Any necessary repairs to a hydrant will be charged to the applicant.

(b) *Obstruction of hydrants prohibited*. No person shall in any manner obstruct or prevent free access to any fire hydrant by placing or storing temporarily or otherwise any object, material, snow, debris or structure of any kind within a distance of 15 feet of the hydrant. Property owners adjacent to fire hydrants shall keep them free of snow, debris, obstructions, etc.

(Code 1995, § 54-138; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-141, 4-11-2011)

PROOF

Sec. 22-37. Complaints to council.

Any person claiming to be overcharged for water service or otherwise claiming to be aggrieved by any action taken pursuant to this article shall first make a complaint in writing to the village manager. The complainant shall provide timely notice to the village clerk for placement of the matter upon the agenda for the next regular village council meeting. The complainants shall make full presentation at such meeting for consideration by the council. Compliance with this procedure shall be a condition precedent to any other action upon the matter which may be available to the complainant.

(Code 1995, § 54-139; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-142, 4-11-2011)

Sec. 22-38. Limitation of liability for discontinuance of service.

If it should be necessary to discontinue water service to any section of the village or to any premises because of an accident or for making repairs or extensions, the village manager or his or her authorized agent shall endeavor to give timely notice to the consumers affected thereby. The timely notice shall, so far as practicable, attempt to prevent inconvenience or damage resulting from such discontinuance of service. Failure to give such notice shall not render the village liable for damages, which may result from such discontinuance of service. Discontinuance of service authorized by this article shall not render the village liable for any damages or inconveniences.

(Code 1995, § 54-140; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-143, 4-11-2011)

Sec. 22-39. Cross connections.

A cross connection with and to the public water supply system, such that water of questionable quality, wastes or other contaminants could enter the system, upon any premises is strictly prohibited. Inspections of any premises by authorized village personnel may be made for this purpose, as otherwise provided in this article. The village manager may immediately discontinue water supply to any premises where there is probable cause to believe such a prohibited cross connection exists, but the owner or occupant of such premises must be given prompt notice of such discontinuance of service.

(Code 1995, § 54-141; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-144, 4-11-2011)

Sec. 22-40. Water service termination procedure.

(a) Except when the immediate termination of water service is necessary, the provisions of this section shall govern all terminations of water service.

(b) In addition to the lien provided for in ~~sec. 26-34(e)~~ section 22-34(5), when any person shall fail or refuse to pay to the village any sums due for water utility service, or charges in connection therewith, for a period of 30 days from the due date, the village may shut off or discontinue any services as provided in subsection (c) of this section. Suit may be instituted by the village for the collection of such sums in any court of competent jurisdiction. No services shall again be rendered to the premises involved until the indebtedness is paid in full, together with all costs in connection therewith.

(c) Water shutoff shall be preceded by a termination of service notice, which shall be sent by first class mail with proof-of-mailing. The notice shall inform the customer that failure to pay the past due amount, including any penalties, within ten days will result in termination of service. This notice will also inform the customer that the customer may request a hearing before the village manager prior to any termination of service.

(d) If payment is not received or satisfactory arrangements have not been made within ten days after the termination of service notice is mailed to the customer, the supply of water shall be discontinued. No water service that has been discontinued for nonpayment shall be restored until all past due bills and a turn on charge and a deposit as specified by council resolution, have been paid.

(Code 1995, § 54-142; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-145, 4-11-2011)

~~**Sec. 54-146. Savings clause; severability.**~~

~~All Ordinances, resolutions or part thereof, in conflict with the provisions of this article are, to the extent of such conflict, repealed. If any section, paragraph, clause or provision of this article shall be held invalid, the invalidity of such section paragraph, clause or provision shall not affect any of the other provisions of this article.~~

PROOFS

~~(Code 1995, § 54-143; Ord. No. 2004-03, 9-14-2004; Ord. No. 2011-01, § 54-146, 4-11-2011)~~

Sec. 22-41. Water service pipes; placement and specifications.

All water service pipe on either public or private property shall be laid on a solid bottom not less than four feet, six inches below the established grade, subject to approval of the village manager. Water service pipe laid in the same trench with sewer service pipe shall be at least 18 inches from the sewer pipe and, if the sewer is laid at a greater depth, shall be shelved into the bank to a solid bottom. All water service pipe shall be not less than one inch diameter copper type K, or galvanized, extending from the main to the meter. Old iron water service pipe requiring repair shall be replaced by one inch diameter copper type K, or galvanized. However, the village manager may require for either new or replaced service pipe the installation of a larger size if it is deemed necessary. The stop or curb box shall be so placed that the cover is not below grade and must be set on a firm foundation to prevent settling. A separate stop and waste cock or waste valve shall be placed on the water service pipe just inside the building wall so that the water may be turned off and drained from the pipe in case of accident or in order to make repairs.

(Comp. Ords. 1984, § 300.05; Code 1995, § 54-31)

Sec. 22-42. Use of water service.

(a) *Opening water service.* When new water service pipes are put into any premises, the curbstop shall be left closed and will be opened by an authorized employee of the village only when the meter and all other apparatus has been installed and upon request of the owner or his agent. No person other than an authorized employee of the village is to interfere in any way with the water service pipe installed by the village, and no unauthorized person is permitted to turn water on or off at the curbstop except for the purpose of testing his work, in which case the curbstop shall be left in the same condition and position as when he found it. Any person called upon to shut off water and drainpipes in any premises shall do so inside the building only.

(b) *Multiple service prohibited.* No person shall take or use village water from premises other than his own or which are occupied by him, and no person shall sell or give away village water from his own premises for any purposes without written permission of the council. Where such permission is granted the property owner shall be responsible for collecting any monies due to him for water service. No connection may be made through which water may pass from one structure to another located on a separate and distinctly described lot or parcel of property without written permission of the council, even though ownership of both parcels may be the same.

(c) *Waste of water.* Excessive or unnecessary use or waste of water is prohibited, whether caused by carelessness or by defective plumbing or fixtures on the premises. In addition to the penalties prescribed for violation of the terms of this article, the council may order water service discontinued for disregard of or reputed violation of this provision.

(d) *Discontinuance and restoration of water service; fee.* Except as otherwise provided in this article, only authorized village employees may open or close water service at the curbstop. If for any reason water service is so discontinued, the party responsible for receiving and paying for water service shall be charged a fee as established in the village fee schedule ~~of $2.50~~. Prior to restoration of water service by the village, an additional fee as established in the village fee schedule ~~of $2.50~~ shall be paid to the village.

(e) *Access to private premises.* Any officer, inspector or other authorized employee of the village shall have free access at all reasonable hours to any private premises supplied with village water for the purpose of making an inspection thereof, including examination of the entire water supply and plumbing system of such premises. No person shall refuse to admit the duly authorized inspectors and employees of the village to any premises for such purpose.

(Comp. Ords. 1984, § 300.08; Code 1995, § 54-34)

Sec. 22-43. Customer dispute.

(a) At any time before the date of termination of water services for nonpayment or for a violation of this article, a customer may dispute the correctness of all or part of the amount shown or dispute the existences of the allegation in accordance with the provisions of this section. A customer shall not be entitled to dispute the correctness of all or part of the amount owed to the village if all or part of the amount were the subject of a previous dispute contested under this section.

PROOFS

(b) The procedure for a customer's dispute shall be as follows:

(1) Before the date of termination, the customer shall notify the department, orally or in writing, that he disputes all or part of the amount shown on a notice of termination, or the existence of a violation, stating as completely as possible the basis for the dispute.

(2) If the department of public works determines that the present dispute is untimely or that the customer previously disputed the correctness of all or part of the amount shown to be owed, the village shall mail to the customer a notice stating that the present dispute is untimely or invalid. The village shall then proceed as if the customer had not notified the village of the present dispute.

(3) If the village determines that the present dispute is timely and valid, the village, within three days after receipt of the customer's notice, shall arrange an informal meeting between the customer and an official of the village.

(4) Based on the village's records, the customer's allegations, and all of the relevant materials available to the official, the official shall resolve the dispute, attempting to do so in a manner satisfactory to both the village and the customer.

(5) Within five days of completion of the meeting, the official shall mail to the customer a copy of his decision resolving the dispute.

(6) If the decision is unsatisfactory to the customer, the customer, within five days of his receipt of the official's decision, may request, in writing, a formal hearing before a hearing examiner, to be appointed by the village manager.

(7) The formal hearing before the examiner shall be held within ten days of the village's receipt of a customer's written request.

(8) At the hearing, the village and the customer shall be entitled to present all evidence that is, in the hearing examiner's view, relevant and material to the dispute, and to examine and cross examine witnesses. A tape recording or, at the option of the village, a stenographic record of the hearing shall be taken.

(9) Based on the record established at the hearing, the examiner, within five days of the completion of the hearing, shall issue his written decision formally resolving the dispute. His decision shall be final and binding on the village and the customer.

(c) Utilization of this dispute procedure shall not relieve the customer of his obligation to timely and completely pay all other undisputed water and sewer service charges and the undisputed portions of the amounts which are the subject of the present dispute. Notwithstanding any provision of this article to the contrary, failure to timely and completely pay all such undisputed amounts shall subject a customer to termination of water service in accordance with the provisions of this article.

(d) Until the date of the hearing examiner's or the village official's decision, whichever is later, the village shall not terminate the water service of the customer and shall not issue a notice of termination to him solely for nonpayment of the disputed amount. If it is determined that the customer must pay some or all of the disputed amount, the village shall promptly mail to, or personally serve upon the customer, a notice of termination which shall contain the following:

(1) Amount to be paid;

(2) Date of the notice of termination;

(3) Date of termination, which shall be at least 13 days after the date of the notice of termination; and

(4) Notice that unless the village receives a complete payment of the amount shown prior to the date of termination, the water service shall be terminated.

(e) The village shall terminate water service for nonpayment of water and sewer charges only during the hours of 9:00 a.m. to 3:00 p.m., Monday through Thursday. No terminations shall be permitted on a legal holiday or on the day before a legal holiday.

(f) No termination shall be permitted on a day when the low temperature within the previous 24 hours, as

PROOFS

reported by the national weather service at its first order station nearest the residence, was below zero degrees Fahrenheit. If water service to a customer has been terminated and not reinstated by 3:30 p.m. on the day of termination, when the low temperature within the previous 24 hours, as reported by the national weather service at its first order station nearest the residence, was below 32 degrees Fahrenheit, the department shall notify the public safety department on the date of the termination of the following:

(1) Name of the customer.

(2) Address and location of the structure no longer receiving water service.

(3) The possible threat to the health and life of all persons residing at the structure, if residential in nature.

(4) Hardship appeal. Before the date of the termination of water services, any customer who believes that they have a substantial hardship which can include financial, physical or other hardships that would justify not terminating the water services on the date of termination as set forth in the notice of termination may file an application for hardship appeal with the water services termination board of review.

a. The water services termination board of review shall be comprised of three members who shall be the president and/or his designee, and two residents of the village who shall be appointed by the president and confirmed by the village council.

b. The water services termination board of review shall hold a hearing on each application for hardship appeal and shall notify in writing the customer of the date, time and location of the hearing and the customer shall be entitled to appear at the hearing and present evidence supporting his request.

c. The water services termination board of review shall have the authority to change the date of termination of water services or to order that water services continue to be provided to the customer for whatever period of time is deemed appropriate by the water services termination board of review, provided that it finds that the customer has a substantial hardship which can include financial, physical or other hardships which would justify not terminating water service to the customer on the date of termination, as provided in the notice of termination.

(Code 1995, § 54-43)

Sec. 22-44. --22-64. Reserved.

ARTICLE III. SEWER UTILITY

Sec. 22-65. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

BOD (biochemical oxygen demand) means the quantity of oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from solid, waster, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

Building sewer or *sewer service pipe* means the pipe conveying wastewater or sewage from the point of discharge or building drain on any premises to the public sewer.

Classes of users means the division of sanitary sewer works customers into classes by similar process or discharge flow characteristics, as follows:

(1) Residential user means an individual house, dwelling unit, mobile houses, condominiums or multifamily dwellings.

(2) Commercial user means any retail or wholesale business engaged in selling merchandise or a service.

(3) Institutional user means any educational, religious or social organization such as a school, church, nursing home, hospital or other institutional user.

PROOFS

(4) Governmental user means any federal, state or local government office or government service facility.

(5) Industrial user means any nongovernmental user of a publicly owned treatment works discharging in excess of 25,000 gallons per day of waste, or waste which contains pollutants which interfere with the treatment process and are toxic, incompatible, contaminated or otherwise reduce utility to sludge.

Combined sewer means a sewer receiving both surface runoff and sewage.

Compatible pollutant means biochemical oxygen demand, suspend solids, pH and fecal coliform bacteria, and any additional pollutants identified in the NPDES permit if the treatment works was designated to treat pollutants and, in fact, can remove such pollutants to a substantial degree. The term "substantial degree" generally means removals on the order of 80 percent or greater.

~~council means the village council of the village.~~

Garbage means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage and sale of produce.

Incompatible pollutant means pollutant that is not a compatible pollutant.

Industrial cost recovery means the recovery from each industrial user of a portion of the U.S. Environmental Protection Agency grant which is allocable to the treatment of industrial wastes.

Industrial waste means the liquid waste from industrial, manufacturing processes, trade or business as distinct from segregated domestic strength wastes or wastes from sanitary conveniences.

Infiltration means any water entering the sewer system from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. The term "infiltration" does not include, and is distinguished from, inflow.

Infiltration/inflow means the total quantity of water from both infiltration and inflow without distinguishing the source.

Inflow means any water entering the system through such sources as, but not limited to, building down spouts, footing or yard drains, cooling water discharges, seepage lines from springs, swampy areas and storm drain cross connections. The term "inflow" does not include, and is distinguished from, infiltration.

Long term debt fee means the charge levied on all users of the sewer supply system for the cost of operation, maintenance, replacement of such system and the cost of any bonded indebtedness of which debt repayment is to be made from the revenues of such system.

Main means any pipe, other than a service pipe, used for conveying or distributing water.

~~May means permissive. (see definition of Shall)~~

Major contributing industry means an industrial user that discharges:

(1) A flow of 50,000 gallons or more per average workday;

(2) A flow exceeding five percent of the total treatment plat flow;

(3) Toxic pollutants in toxic amounts as defined in the NPDES permit; or

(4) A flow with a significant impact on the treatment plant when considered alone or in combination with other industrial users.

Natural outlet means an outlet into a watercourse, pond, ditch, lake or other body of surface water to groundwater.

Normal strength sewage means a sanitary wastewater flow containing an average daily BOD of not more than 20 mg/L or an average daily suspended solid concentration of not more than 250 mg/L.

NPDES permit means the National Pollution Discharge Elimination System permit issued by the state department of environmental quality for the discharge of wastewater into the waters of the state.

Operation and maintenance costs mean all costs, direct and indirect, other than debt service, necessary to ensure wastewater treatment on a continuing basis, to conform with all related federal, state and local requirements,

PROOFS

and to ensure optimal long-term facility management. These costs include depreciation and replacement costs.

Owner means any person or legal entity holding title of record to any premises connected or to be connected with the village sewers, or the duly authorized agent of such person or legal entity.

pH means the logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

Premises mean a single, continuous parcel of land or record upon which is located a structure used for residential, commercial or industrial purposes, together with any accessory buildings.

Properly shredded garbage means the waste from preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights, if any, controlled by public authority.

Replacement means necessary expenditures made during the service life of the treatment works to replace equipment and plant appurtenances required to maintain the intended performance of the treatment work.

Sanitary sewer means a sewer which carries sewage and to which stormwater, surface water, and groundwater are not intentionally admitted.

Sewage means a combination of water-carried wastes from residences, business buildings, institutions, governmental and industrial establishments, together with such groundwater, surface water and stormwater as may be present.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

Sewage works means all facilities for collection, pumping, treating, and disposing of sewage.

Sewer means a pipe or conduit, open or closed, for carrying either wastewater or sewage, and any catchbasins, connections, and appurtenances thereto, excluding, however sewer service pipes.

Sewer service pipe or *building sewer* means the pipe conveying wastewater or sewage from the point of discharge or building drain on any premises to the public sewer.

~~Shall means mandatory; may is permissive. (see definition of permissive)~~

Significant industry means any industry which contributes greater than ten percent of the design flow design loading of the treatment works.

Slug means any discharge of water, sewer or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period duration longer than 15 minutes, more than five times the average 24-hour concentration of flows during normal operation, or five times the allowable limit for those substances with allowable limits in this article.

Storm drain or *storm sewer* means a sewer which carries stormwater and surface water and drainage, but excludes sewage and industrial waste, other than unpolluted cooling water.

Suspended solids means solids that either float on the surface or are in suspension in the water, sewage or liquids and which are removable by laboratory filtering and are not referred to as non-filterable residue in laboratory testing.

User charge means the charge levied on all users of the treatment works for the cost of operation repairs and maintenance, including replacement, of such treatment works and the cost of any bond debt of which debt repayments to be made from the revenues of such works.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

(Comp. Ords. 1984, § 300.01; Code 1995, § 54-26; Ord. No. 2010-02, § 54-26, 12-14-2010)

Sec. 22-66. Operation of system on public utility rate basis.

It is determined to be desirable and necessary for the public health, safety, and welfare of the village that the village sewer utility is operated by the village on a public utility rate basis in accordance with the provisions of

PROOFS

MCL 141.01 et seq. ~~Public Act No. 94 of 1933 (MCL 141.01 et seq.), as amended.~~

(Ord. No. 2010-02, § 54-01, 12-14-2010)

Sec. 22-67. Charges; rate sufficiency.

It is declared necessary for the protection of the health, welfare and convenience of the citizens of the village to levy and collect charges upon the premises served by the municipal sewer system. The proceeds of such charges are to be used for the benefit and maintenance of the system, for the retirement of bond indebtedness incurred therefor, for operation and maintenance, and for the construction of replacement sewer facilities. The rates hereby adopted by resolution of the village council are estimated to be sufficient to provide for the payment of the system's expenses and shall be revised as may be necessary to produce sufficient amounts.

(Ord. No. 2010-02, § 54-02, 12-14-2010)

Sec. 22-68. Charges; separate agreements.

The village council shall, from time to time, set the rates for sewer service by resolution. The rates and charges established by resolution do not preclude or prevent the village from entering into separate agreements that would be in the best interests of the village.

(Ord. No. 2010-02, § 54-03, 12-14-2010)

Sec. 22-69. Control of public sewers.

The sewers of the village are under the exclusive control of the council, and no person other than authorized Village agents or employees shall disturb, tap, change, obstruct, or interfere with them in any way.

(Comp. Ords. 1984, § 300.02; Code 1995, § 54-28; Ord. No. 2010-02, § 54-28, 12-14-2010)

Sec. 22-70. Extensions; application of private installations; conditions and fees for installation.

(a) Extensions of or change in the sewers shall be made only by direction of the village council. Written application for the extension of old or construction of new sewers shall be filed with the village manager. The village manager shall present the application to the council at its next regular meeting called for such purpose.

(b) Private installations. Any person or other legal entity installing sewers at their own expense shall first submit plans and specifications of such work with the application. No work shall be performed prior to approval of the application by the village. All work shall be performed consistent with the terms and conditions of the approval. The village manager, or his/her representative, shall inspect the work from time to time, and may require such tests as he/she deems necessary. Water may not be admitted to such sewers, except for purpose of testing, until the village manager shall have filed with the village clerk written acceptance of such installation on behalf of the village. All costs of inspection and testing by the village shall be paid by the applicant prior to such acceptance.

(c) Installation by village. Except as provided in subsection (a) of this section, each application of extension of sewer shall contain the applicant's agreement to pay 50 percent of the cost of such extension. Upon receipt of the application, the village manager shall determine the estimated cost on a front footage basis and report the same to the council. The council shall approve or disapprove the project and direct that the applicant be notified. If the village council approves such extension, the village manager shall advise the applicant of the date when 50 percent of the estimated cost shall be deposited in the office of the village clerk.

(1) Upon completion of the project, the actual cost of such extension shall be computed. If the actual cost exceeds the estimate, the applicant shall pay to the village, within ten days, 50 percent of the amount by which the actual construction cost exceeds the estimate. Therefore, the applicant is charged for 50 percent of the total construction cost of the extension project. If the actual construction cost is less than the estimate, the village manager shall return to the applicant the amount of the deposit which exceeds 50 percent of the actual construction cost.

(2) When the applicant is required to pay 50 percent of the construction cost for extension of the sewer for adjacent property not owned by the applicant, the village manager shall file and retain a report containing the actual construction cost of the extension determined on a front footage basis, the completion date of the project and the name and address of the applicant or his/her heirs or assigns as provided by applicant. The report shall be maintained and available for inspection by the public. When an owner applies for

PROOFS

sewer service connection to extended sewer, the applicant shall deposit with the village treasurer a sum equal to his/her proportionate share (on a front footage basis) of the actual cost of such extension. In this way, the applicant shall contribute the appropriate share of the original cost for sewer extension for adjacent property.

(3) The proportionate share of the owner of premises bounded on two sides by extended sewer shall be based upon the mean average distance. The applicant for service may file with the village manager a receipt showing payment of such proportionate share to the original applicant who contributed to the cost of the extension or the property heirs, successor or assigns. Alternately, the applicant for service may deposit the proportionate share of the extension cost with the village. In this case, the village manager shall within ten days notify the original participating applicant for extension (or his/her heirs or assigns) as shown in the report filed and maintained for this purpose.

(4) Such notice shall be sent by certified mail, return receipts requested. The notice shall relate that a deposit has been made and that the party notified may come to the village office to claim the monies at any time within six months of the date of the notice. If the party so notified fails to personally come to the village within six months of the date of the notice, such monies shall be considered forfeited to the sewer fund of the village.

(Comp. Ords. 1984, § 300.03; Code 1995, § 54-29; Ord. No. 2010-02, § 54-29, 12-14-2010)

Sec. 22-71. Application for service; installation, maintenance, and connections.

(a) No unauthorized person shall uncover, make any connection with, open into, use, alter or disturb any public sewer mains and/or appurtenances without first obtaining a written permit from the village manager.

(b) There shall be two classes of building sewer permits: service to residential and/or commercial, and service to establishments producing industrial wastes. In either case, the owner or his/her agent shall make application on a special form furnished by the village manager. The permit application shall be supplemented by any plan, specifications or other information considered pertinent in the judgment of the village manager. A permit and inspection fee for residential, commercial or industrial building sewer permit, which is set from time to time by resolution of the village council, shall be paid to the village treasurer at the time the application is filed.

(c) An application for connection with public sewer shall be accompanied by the applicable permit fee. The applicant shall be responsible for installing and maintaining, at the applicant's expense, all sewer service pipe and connections from the point of village installation to and upon applicant's premises, in a manner consistent with the terms of section 22-72. The village shall supply a sewer saddle at the main. If the owner of premises fails to properly maintain sewer service lines for which he/she is responsible such that unsatisfactory or unsanitary sewage conditions exist on any premises, the village council may order discontinuance of sewer service to the premises until conditions are corrected to the satisfaction of the village manager.

(d) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(e) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or cannot be constructed to the rear building through an adjoining alley, courtyard or driveway. In this situation, the building sewer from the front building may be extended to the rear building.

(f) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the village manager, to meet all requirements of this article.

(g) The size, slope, alignment, materials of construction of a building sewer, methods to be used in excavating, placing of the pipe jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the state. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and W P C F Manual of Practice No. 9 shall apply.

(h) Whenever possible, the building sewer shall be brought to the building at an elevation below the

PROOFS

basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, the sanitary sewage carried by such building's drain shall be lifted by an approved means and discharged to the building's sewer.

(i) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the village. The connection shall comply with procedures set forth in appropriate specifications. The connection shall be made gastight and watertight.

(j) Any deviation from the prescribed procedure and materials must be approved by the village manager before installation.

(k) The applicant for the building sewer permit shall notify the village manager when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the village manager or his representative.

(l) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the village manager.

(m) No connections will be allowed unless there is capacity available in downstream sewer, pump station, interceptors, force mains and treatment plant, including capacity for BOD and suspended solids in the treatment plant.

(Comp. Ords. 1984, § 300.04; Code 1995, § 54-30; Ord. No. 2010-02, § 54-30, 12-14-2010)

Sec. 22-72. Sewer service pipes; placement and specifications.

The type and quality of sanitary sewer pipe and fillings used shall conform to the current specifications of the village at the time the permit is issued, and/or shall be approved by the village manager. All such pipe shall be not less than four inches in nominal inside diameter. The minimum size shall be increased, however, when required by the village in any case where the quantity of water likely to be discharged through the sewer service pipe is larger than that from a normal single-family residence. All such pipe shall be laid with a fall from the building to the sewer with such fall, insofar as practical, to be uniform throughout the length of the sewer service pipe. The fall of four-inch pipe shall not be less than one-eighth inch per foot. All sewer service pipe shall be subject to inspection by the village manager or his duly authorized agent.

(Ord. No. 2010-02, § 54-32, 12-14-2010)

Sec. 22-73. Use of public sewers.

(a) *Water pollution*. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner upon property within the village, or in any area under the jurisdiction of the village, any human or animal excrement, garbage or other objectionable waste.

(b) *Stream pollution*. It shall be unlawful to discharge to any natural outlet within the village, or in any area under the jurisdiction of the village, any sewage to other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(c) *Sewer connection required*. The owner of a structure in which sanitary sewage originates and is located not more than 200 feet from the nearest point of the public sanitary sewer system, as it is now or may hereafter be established, is hereby required to connect such structure with the public sewer in accordance with the provisions of this article within 60 days after date of official notice to do so. Failure to do so will subject the owner of such structure to penalties provided in this article, or such connection may be compelled as provided in MCL 333.12754 ~~section 12754 of the public health code, Act No. 368 of Public Acts of Michigan 1978 (MCL 333.12754, MSA 14.15 (12754)), as amended~~. Upon connection with the public sewer any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(d) *Industrial sewage discharges*. Any industry or structure discharging industrial waste to the sanitary sewer, storm sewer or receiving stream shall file the materials listed below with the village manager:

(1) A written statement setting forth the nature of the enterprise, the source and amount of water used, the amount of water to be discharged and the present or expected bacterial, physical, chemical, radioactive

PROOFS

or other pertinent characteristics of the waste.

(2) A plan map of the building, the works or the complex. Each outfall to the surface waters, sanitary sewer, storm sewer, natural watercourse or groundwaters shall be noted and described. The waste stream identified.

(3) A sample test and reports detailing appropriate characteristics of wastes at the locations shall be filed on a schedule with the village manager and the appropriate state agencies, according to methods prescribed by the state department of public health.

(4) The appropriate qualifications and appropriate state certifications of the supervising persons and the control persons managing the waste treatment facilities, process facilities and waste problems.

(5) A report of the raw materials entering the process or support system, the intermediate materials, the final product and the waste byproducts (as these factors may affect waste control).

(6) Records and reports on the final disposal of specific liquids, solids, sludge, oils, radioactive materials, solvents or other wastes.

(7) A written request shall be submitted to the village manager for approval if any industrial process is to be altered to include or negate a process for waste or potential waste.

(e) *Private sewer systems*. Where connection to a public sanitary or combined sewer is not required under the provisions of this article or state law, the building sewer shall be connected to a private sewage disposal system complying with the regulations of the state department of public health.

(f) *Stormwater drains*. Stormwater drains may be utilized as follows:

(1) No person shall discharge or cause to discharge any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

(2) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers, or to a natural outlet approved by the appropriate state agency. Industrial cooling water or unpolluted waters may be discharged, upon approval of the appropriate state agency, to a storm sewer or natural outlet.

(3) If the council shall determine that any preexisting connection of a storm drain to a sanitary sewer shall be discontinued, the village manager shall give notice to the owner or occupants of such premises to disconnect the stormwater drain within ten days after the date of the notice. If the owner or occupant of the premises fails to comply with such notice, the village shall disconnect the stormwater drain. The disconnect cost plus an administrative charge of ten percent may be assessed against the premises and the owner.

(g) *Prohibited uses*. Except as provided in this section by specific limits, no person shall discharge any of the following described water or waste in any public sewers:

(1) BOD5 in excess of 200 mg/L.

(2) COD in excess of 450 mg/L.

(3) Chlorine demand in excess of 15 mg/L.

(4) Color~~, as from, but not limited to,~~ derived from dyes, inks and vegetable tanning solutions shall be controlled to prevent light absorbency which would interfere with treatment plant processes or that prevent analytical determinations.

(5) Explosive liquid, solid, gas, gasoline, benzene, naphtha, fuel oil, or other flammables shall not be admitted.

(6) Garbage not properly shredded (no particle size greater than one-half inch) shall not be allowed.

(7) Grease, oils, wax, fat, whether emulsified or not, in excess of 50 mg/L, or other substances which may solidify or become viscouse at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit shall not be admitted to the sanitary sewer.

PROOFS

(8) Industrial wastes in concentration in excess of those limits ~~listed below~~ established by state law or rule shall not be allowed to enter sanitary sewers.

~~__ Cd Cadmium~~

~~__ CN Centane Number: Limitations set forth by appropriate state agencies to comply with federal guidelines for protection of treatment plant and receiving watercourse, and limitations set forth in the NPDES permit.~~

~~__ CR6+ Chromium Cr6+~~

~~__ Cr Total Chromium, Total~~

~~__ Cu Copper~~

~~__ Fe Iron~~

~~__ Ni Nickel~~

~~__ Pb Lead~~

~~__ Phenols~~

~~__ Zn Zinc~~

~~__ Or any other metallic compound in sufficient quantity to impair the operations of the sewage treatment process.~~

(9) Inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or dissolved solids (such as but not limited to, sodium chloride and sodium sulfate) in unusual concentrations shall not be allowed.

(10) Insoluble, solid, or viscous substances (such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, tar feathers, plastics, wood, hair, fleshings, etc.) shall not be admitted to sanitary sewers.

(11) Noxious or malodorous gas (such as, but not limited to, hydrogen sulfide, sulfur dioxide or oxides of nitrogen and other substances capable of public nuisance) shall not be allowed.

(12) pH less than 5.5 and greater than 9.5 shall not be allowed.

(13) Radioactive wastes or isotopes of such half-life or concentration which may exceed limits established by applicable state and federal regulation shall not be allowed.

(14) Suspended solids in excess of 250 mg/L.

(15) Temperature of waste less than 32 degrees Fahrenheit and greater than 150 degrees Fahrenheit shall not be allowed.

(16) Waters or wastes containing substances which are not amenable to treatment and/or reduction by the sewage treatment processes employed are prohibited only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(h) *Alternative responses to discharge of deleterious matter*. If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess characteristics enumerated in subsection (g) of this section and which, in the judgment of the village manager, may have a deleterious effect upon the sewage works, process, equipment or receiving waters or otherwise create a hazard to life or constitute a public nuisance, the village manager may:

(1) Reject the waste.

(2) Require pretreatment to the level and rates of discharge.

(3) Require control over the quantities and rates of discharge.

(4) Require payment under the provisions of subsection (m) of this section to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

PROOFS

(5) Require new industrial customers or industries with significant changes in strength or flow to submit prior information to the village manager concerning the proposed flows; provided, however, that if the village manager permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the village manager and shall be subject to the requirements of all applicable codes, ordinances and laws.

(i) *Interceptors*. Grease, oil, and sand interceptors shall be provided when, in the opinion of the village manager, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients. Interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the village manager and shall be located as to be readily and easily accessible for cleaning and inspection.

(j) *Maintenance of preliminary treatment facilities*. Preliminary treatment or flow equalizing facilities which provide for any water or wastes shall be maintained continuously in satisfactory and effective operating condition by the owner at owner's expense.

(k) *Observation manholes*. When required by the village manager, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of wastes. Such manhole, when required, shall be accessible, safely located and constructed in accordance with plans approved by the village manager. The manhole shall be installed by the owner at his/her expense and shall be maintained by him/her so as to be safe and accessible at all times.

(l) *Methods of testing*. All measurements, tests and analyses of characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the most recent edition of Standard Methods for the Examination of Water and Sewage, and shall be determined at the control manhole or upon suitable samples taken at the control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of any premises is appropriate or whether grab samples should be taken.

(m) *Special agreements prior to discharge of deleterious matter*. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the village council and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the village for treatment, subject to payment therefor by the industrial concern.

(n) *Pretreatment of industrial cooling water*. Industrial cooling water containing such pollutants as insoluble oils and grease or other suspended solids shall be pretreated for removal of the pollutants and then discharged to the storm sewer.

(o) *Protection from damage*. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the municipal sewage works.

(p) *Powers and authority of inspectors*. Duly authorized and properly identified agents of the village, the state department of natural resources or the federal environmental protection agency shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article.

(1) The village manager or his/her representative shall have no authority to inquire into any process including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers, waterways or facilities for wastewater treatment.

(2) While performing the necessary work on private properties referred to in this subsection (p), the village manager or duly authorized employees of the village shall observe all safety rules applicable to the premises established by the company. The company shall be held harmless for injury or death to the

PROOFS

village employees.

(3) The village shall indemnify the company for liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(Ord. No. 2010-02, § 54-33, 12-14-2010)

Sec. 22-74. Rates; billing and collection for sewage treatment service.

(a) *General rates, billing and collection.* Except as otherwise provided in this section, rates payable for sewer service shall be as provided in the village fee schedule and ~~as well as~~ methods of billing and collection shall be the same as those applicable to water services. ~~as established in section 8 of Village Ordinance 1975 No. 4 (302.08), as amended, or as may be amended from time to time.~~

(b) *Joint billing.* Each bill submitted for water and sewer service shall show the sum then due and payable for both water service and sewer service combined. The service components of such statement shall not be severable but shall be paid as one bill. All payments accepted on behalf of the village shall be applied to the earliest existing amount unpaid and to any penalty thereon. Any partial payment shall be applied first to any penalty imposed, and then to amounts due for service prorated over the water and sewage treatment service components of the bill in proportion to the amounts of each such component.

(c) *Unmetered service during construction.* The owner of premises upon which a building is being constructed where a temporary meter has not been installed but which receives sewer service during construction shall be charged the appropriate minimum rates for such service, as provided in the rate schedules, prorated on a monthly basis for the term of such use.

(d) *Unmetered dwelling units.* For any building which has more than one dwelling unit or commercial enterprise and does not provide metered service for each distinct unit, as required by section 22-33(a), each distinct unit or enterprise shall be charged the appropriate minimum rates for such service as provided in the rate schedule. If the metered consumption for the entire premises is greater than would be covered by payment of the combined minimum bills of the distinct units located therein, the excess consumption shall be charged, in accordance with the rate schedules, to the unit which is in fact metered.

(e) *Metered buildings and/or metered dwelling units.* In some events a metered building and/or a metered dwelling unit utilize an unmetered water source and utilize the village sewer service. These events show meter reading usage at minimum water and sewer usage. In these occurrences, the meters on the buildings and/or dwelling units do not record true or real sewage service usage. If the village manager has reason to believe that more than the minimum amount of sewage service is being used by a distinct metered unit, the village manager may adjust the consumption rate by using the formula of 75 gallons per day, multiplied by the number of persons occupying the distinct unit. The dwelling unit shall be charged accordingly. This provision shall not be deemed to shift or modify final liability for payment of such charges pursuant to MCL 141.121, part ~~section 21~~ of the Revenue Bond Act, MCL 141.101 et seq.~~, being Public Act No 94 of 1933 (Michigan Compiled Laws 141.121), as amended.~~

(f) *Unmetered water source.* For any building with unmetered water sources, the consumption rate shall be adjusted using a formula of 75 gallons per day, multiplied by the number of persons occupying the building. The building or dwelling unit shall be charged accordingly. This provision shall not be deemed to shift or modify liability for payment of such charge pursuant to MCL 141.121, part ~~section 21~~ of the Revenue Bond Act, MCL 141.101 et seq.~~, being Public Act No 94 of 1933 (Michigan Compiled Laws 141.121), as amended.~~

(Comp. Ords. 1984, § 300.10; Code 1995, §§ 54-36, 54-56; Ord. No. 2010-02, § 54-36, 12-14-2010)

Sec. 22-75. Complaints to council.

Any person claiming to be overcharged for sewage treatment service, or otherwise claiming to be aggrieved by any action taken pursuant to this article, shall first make a complaint in writing to the village clerk for placement of the matter upon the agenda for the next regular village council meeting. The complainant shall make full presentation at such meeting for consideration by the council. Compliance with this procedure shall be a condition precedent to any other action upon the matter which may be available to the complainant.

(Comp. Ords. 1984, § 300.13(a); Code 1995, § 54-39; Ord. No. 2010-02, § 54-39, 12-14-2010)

PROOFS

Sec. 22-76. Limitation of liability for discontinuance of service.

If it should be necessary to discontinue sewer service to any section of the village or to any premises because of an accident or for making repairs or extensions, the village manager or his authorized agent shall endeavor to give timely notice to the consumers affected thereby, and shall, so far as practicable, attempt to prevent inconvenience or damage resulting from such discontinuance of service. Failure to give such notice shall not render the village liable for damages which may result from such discontinuance of service, nor shall the village be liable for damage or inconvenience resulting for any discontinuance of service authorized by this article.

(Comp. Ords. 1984, § 300.13(b); Code 1995, § 54-40; Ord. No. 2010-02, § 54-40, 12-14-2010)

~~**Sec. 54-43. Savings clause; severability.**~~

~~**A**ll ordinances, resolutions or part thereof, in conflict with the provisions of this article are, to the extent of such conflict, repealed. If any section, paragraph, clause or provision of this article shall be held invalid, the invalidity of such section paragraph, clause or provision of this article shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this article.~~

~~(Ord. No. 2010-02, § 54-43, 12-14-2010)~~

PROOFS

Appendix A

ZONING*

*__Editor's note__—Printed herein is the Hybrid Zoning Ordinance of the Village of Ontonagon, Michigan, as amended through January 31, 2021. Obvious misspellings, grammatical errors, and inconsistent styling in this printing have been corrected without notation. Material in brackets [ ] has been added, if necessary, for clarity.

ARTICLE 1. INTRODUCTORY PROVISIONS

[SECTION 1.0. GENERALLY]

An ordinance to establish zoning districts for the Village of Ontonagon, Michigan; to establish regulations for those districts that are consistent with the Ontonagon Village Master Plan; to encourage and regulate the proper use of land; to provide for the administration, enforcement, and penalties for violation; to continue a Zoning Board of Appeals, and to provide duties for the Board of Appeals and Planning Commission pursuant to the Michigan Planning Enabling Act, Public Act 33 of 2008, which incorporate the powers and duties of a zoning commission pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended; to repeal all inconsistent ordinances; and saving from the 1995 VILLAGE OF ONTONAGON, MICHIGAN, ZONING ORDINANCE, as repealed, the penalties and liabilities therein imposed.

After careful study of this Ordinance, the Village of Ontonagon Planning Commission recommends its adoption to the Village Council of the Village of Ontonagon, and does ordain the following:

SECTION 1.1. BACKGROUND

1.1.1 *Title*. This Ordinance shall be known as the Village of Ontonagon Zoning Ordinance, and may be referred to within this document as "Ordinance", or "Zoning Ordinance".

1.1.2 *Legal basis.* This Ordinance is adopted pursuant to the authority and requirements of the Michigan Zoning Enabling Act, Public Act 110 of 2006, which may hereafter be referred to as simply the Michigan Zoning Enabling Act; and other applicable acts related to specific uses.

1.1.3 *History and repeal of prior ordinances.* The previous Village of Ontonagon Zoning Ordinance was adopted and became effective in 1995, and was subsequently amended. That ordinance is repealed by and replaced with this Ordinance.

1.1.4 *Effective date*. This Ordinance shall become effective seven (7) days from the date of publication of notice of adoption.

SECTION 1.2. ORDINANCE INTERPRETATION AND APPLICATION

1.2.1 *Authority*. The Zoning Administrator and the Planning Commission are responsible for interpreting the text of this Ordinance in accordance with the standards set forth in this Article, and applicable Ordinance standards and requirements, and applicable state and federal law.

1.2.2 *Jurisdiction*. This Ordinance shall apply to all buildings, structures, lands, water, and uses over which the Village of Ontonagon has jurisdiction under the constitution and laws of the State of Michigan and of the United States.

1.2.3 *Relationship to other regulations*.

By the adoption of this Ordinance, the Village does not intend to legitimize activities prohibited by local ordinance, state, or federal law. Within the jurisdictional boundaries of the Village of Ontonagon, no land shall be used, and no structure erected or maintained, in violation of any state or federal law or other regulation. References to other laws or regulations in the Ordinance are for the convenience of the reader, however, the lack of cross-reference does not exempt a land, building, structure, or use from other applicable regulations.

In the interpretation, application, and enforcement of this Ordinance, whenever the Ordinance imposes a greater restriction than is required by another existing ordinance, law, rule, regulation, or permit, the

PROOFS

provisions of the Ordinance shall control.

This Ordinance is not intended to interfere with or annul any ordinance, rule, regulation, or permit previously adopted and not in conflict with any of the provisions of this Ordinance. This Ordinance is not intended to interfere with or annul any easements, covenants, deeds, or other agreements between parties, provided however, that where the Ordinance imposes a greater restriction, then the provisions of the Ordinance shall control in addition to all nonconflicting requirements.

In the event that the combined effect of the requirements of this Ordinance and any other law, rule, regulation or ordinance so severely limit the use of property subject to this Ordinance that no economically viable use of the property remains and a claim of taking under the Fifth Amendment to the U.S. Constitution could be made, then prior to seeking any redress in a court of law, the property owner shall file a petition with the Village Council for a Hardship Planned Unit Development under Section 10.7 of this Ordinance.

Meetings of the Village Council, Planning Commission, and Zoning Board of Appeals under this Ordinance are subject to the Open Meetings Act, P.A. 267 of 1976, as amended. Documents prepared for or retained for the administration of this Ordinance are subject to the Freedom of Information Act, P.A. 442 of 1976, as amended.

1.2.4 *Statutory references*. All statutory citations are to statutes including codifications and repeals if a new statute is adopted with a similar scope and purpose. All references to state law in this Ordinance refer to the Michigan Compiled Laws (MCL), as amended.

1.2.5 *Applicability*. Every building or structure erected; any use of land, building, structure or premises; any structural alteration or relocation of an existing building or structure; and any enlargement of, or addition to, an existing use of land, building, structure, or premises occurring after the effective date of this Ordinance shall be subject to the provisions of this Ordinance.

1.2.6 *Vested rights*. Except as otherwise noted in this Ordinance, nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and all rights are hereby declared to be subject to such subsequent amendment, change, or modification as may be necessary for the preservation or protection of public health, safety, and welfare.

1.2.7 *Severability*.

If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, that ruling shall not affect any other provisions of this Ordinance not specifically included in the ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot, use, building, or structure, that ruling shall not affect the application of provision to any other parcel, lot, use, building, or structure not specifically included in the ruling.

If any portion of this Ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the Village of Ontonagon intends that portion be disregarded, reduced, and/or revised so as to be consistent with the purposes of this Ordinance to the fullest extent allowed by law.

1.2.8 *Regulations run with the land*

All zoning approvals granted under this Ordinance run with the land. The right to continue a land use or activity, or construct a building or structure which is either permitted by this Ordinance or established as a nonconformity, shall be vested with the property rather than the owner. No rights shall be terminated for reasons of transfer of ownership unless such a permit is no longer valid as determined by the Zoning Administrator. The right to continue a land use or activity shall transfer automatically upon the conveyance of the property unless terminated pursuant to other terms of this Ordinance.

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

1.2.10 *Meaning and intent.* All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to this Ordinance's stated purpose and intent, and applicable state law.

1.2.11 *Text controls.* The following rules of construction apply to the text, tables, and illustrations of this

PROOFS

Ordinance:

1.2.11.1 In case of any difference of meaning or implication between the text of this Ordinance and any heading, drawing, table, figure, caption, or illustration, the text shall control.

1.2.11.2 The particular shall control the general. The use of a general or similar term shall not be taken to be the same as the use of any other specific term.

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

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

1.2.11.5 A "building" or "structure" includes any part thereof.

1.2.11.6 The word "dwelling" includes "residence".

1.2.11.7 The word "lot" includes the word "plot", "tract", or "parcel".

1.2.11.8 The phrase "used for" or "occupied" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."

1.2.11.9 The word "person" includes an individual, a corporation, a limited liability corporation, a partnership, a trust, a firm, an incorporated association, or any other similar entity.

1.2.11.10 Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either. . . or," the conjunction shall be interpreted as follows:

1.2.11.10.A "And" indicates that all the connected items, conditions, provisions or events shall apply.

1.2.11.10.B "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

1.2.11.10.C "Either. . . or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

1.2.11.11 Words and phrases not otherwise defined in this Ordinance shall have the meaning customarily assigned to them.

1.2.11.12 The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, schedules as included or attached and as enacted or subsequently amended. The use of the words "Village", "Village Council", and "Planning Commission" all refer to the appropriate entities of the Village of Ontonagon, Michigan.

1.2.12 *Interpretation of boundaries.* Where a question arises with respect to the boundary of any district, the following shall govern:

1.2.12.1 Boundaries indicated as approximately following the center lines of streets or alleys shall be construed to follow the center lines.

1.2.12.2 Where boundaries follow the shore line of a stream, lake, or other body of water, the boundaries shall follow such shoreline, and in the event of change in the shoreline, the boundaries shall be the actual shoreline; where boundaries follow the centerline of streams, rivers, canals or other bodies of water, such shall follow the centerlines thereof.

1.2.12.3 A boundary indicated as approximately following a recorded lot line or the line bounding a parcel (such as a section or quarter-section line) shall be construed as following the lot line.

1.2.12.4 A boundary indicated as following the municipal boundary line shall be construed as following the boundary line.

1.2.12.5 A boundary indicated as following a railroad line shall be construed to be midway between the main tracks or in the center of the right-of-way if the tracks have been removed.

PROOFS

1.2.12.6 Boundaries indicated as parallel to, or extensions of features indicated in subsections 1-5 above, shall be so construed. A distance not specifically indicated in the Official Zoning Map shall be determined by the scale of the map to the nearest foot.

1.2.12.7 Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Appeals shall interpret the district boundaries.

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

1.2.13 *Official zoning map provisions.*

1.2.13.1 The boundaries of the respective zoning districts are defined and established as depicted on the official map entitled "Village of Ontonagon Zoning Map," which is an integral part of this Ordinance, and which, with the accompanying explanatory notes, shall be published as part of and incorporated by reference to the Village of Ontonagon Zoning Ordinance.

1.2.13.2 The Official Zoning Map shall be identified by the signature of the Village President, attested by the Village Clerk, and bearing the seal of the Village under the following words: "This is to certify that this is the Official Zoning Map of the Zoning Ordinance of the Village of Ontonagon, Michigan", together with the date of adoption of this Ordinance.

1.2.13.3 One (1) copy of the Official Zoning Map shall be maintained and kept up-to-date in the office of the Zoning Administrator of the Village of Ontonagon, along with a chronological file of the official actions taken.

1.2.13.4 If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map within ten (10) days after the amendment has been approved by the Village Council. No amendment to this Ordinance which involves matters portrayed on the Official Zoning Map shall become effective until such change and entry has been made on the map. Amendments shall not be considered final, and building permits shall not be issued, until the appropriate amendments have been made on the Official Zoning Map. Each amendment shall be accompanied by a reference number on the map, which shall refer to the official action of the Village Council.

1.2.13.5 Any unauthorized change on or defacing of the Official Zoning Map by any person or persons shall be considered a violation of this Ordinance.

1.2.13.6 Regardless of the existence of copies of the Official Zoning Map which may be made or published, the Official Zoning Map retained in the office of the Zoning Administrator shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Village.

1.2.13.7 In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Village Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Village President, attested by the Village Clerk, bearing the seal of the Village under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the Village of Ontonagon, Michigan" together with the date of adoption of this resolution. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts that remain shall be preserved together with all available records pertaining to its adoption or amendment.

ARTICLE 2. ZONING INTENT AND PURPOSES

SECTION 2.1. PURPOSE

The Village of Ontonagon declares, by reference to the Michigan Zoning Enabling Act declarations (Act 110

PROOFS

of 2006, as amended), that the purposes of this Ordinance are to:

- Promote the public health, safety, and general welfare;
- Meet the needs of the state's residents for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service and other uses of land;
- Ensure that uses of land are situated in appropriate locations and relationships;
- Limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities;
- Facilitate the adequate and efficient provision of transportation systems, sewage disposal, energy, solid waste disposal, drainage, public water supply, education, recreation and other public service and facility requirements.

This Ordinance is also intended to:

- Make it possible for the Village to retain its distinctive natural features and visual character derived from its location and climate, including topography, landscape, hydrographic features, and shoreline.
- Advance the interests of both conservation and development while responding to existing conditions, regional context, natural features, infrastructure considerations, and existing buildings;
- Preserve traditional neighborhoods, historic resources, and public access to the natural environment;
- Conserve energy and better serve diverse population needs through land use patterns and transportation connectedness that encourage walking, bicycling, and transit use;
- Increase the utilization of "green infrastructure" such as trees and other vegetation to improve community aesthetics, buffer uses, improve stormwater management, and assist in mitigating adverse winter climate conditions;
- Maintain the preeminence of the Village Downtown core for the area's economic, civic, and cultural activities;
- To make possible more mixed-use development opportunities in the Village so that civic, institutional, and commercial activity is embedded appropriately within neighborhoods and not separated into single-use complexes;
- To re-orient the Village's commercial corridors with mixed-use, walkable activity clusters easily accessible from the surrounding neighborhoods.
- Increase density where it is most advantageous close to shopping and employment centers so that the ordinary activities of daily living can occur within walking distance of most dwellings, allowing independence for those who do not drive;
- Encourage infill and redevelopment of existing structures and properties where public infrastructure and services are already available;
- Distribute affordable housing and diverse housing types throughout the Village to match job opportunities and accommodate diverse ages and incomes;
- Accommodate vehicles while respecting pedestrians and spatial forms of public space;
- Support a transportation framework that provides alternatives to automobile use;
- Locate civic buildings and gathering places to reinforce community identity and strengthen public participation;
- Allow inhabitants to experience the geography and climate most efficiently with energy efficient design.
- Protect critical water resources from adverse impacts through judicious land use regulation in proximity to water resources, and through appropriate buffering and performance standards.

SECTION 2.2. CONSISTENCY WITH THE VILLAGE OF ONTONAGON MASTER PLAN

The Districts and other provisions of this Ordinance are also based upon the Future Land Use Map and policies

PROOFS

of the Ontonagon Village Master Plan of 2007, and upon the Michigan Planning Enabling Act (Act 33 of 2008). By reference to these documents, the intent of this Ordinance is to regulate the use of land and structures to:

- Accomplish development that is coordinated, adjusted, harmonious, efficient, and economical
- Promote efficiency in the expenditure of funds for public improvements and services while preventing the overburdening of public facilities
- Adequately provide for a system of transportation to lessen congestion on streets
- Provide adequate light and air, and protect air and water quality
- Provide for the healthful and convenient distribution of population
- Reduce hazards to life and property due to fire, flooding, erosion, pollution, or excessive dust, fumes, smoke, noise, vibration, noxious odors or other hazards
- Prevent nuisances and preserve quality of life
- Encourage the use of lands and resources in accordance with their character and adaptability
- Conserve natural resources and energy and protect the quality of the natural environment
- Provide for good civic design and arrangement
- Guide and accomplish development that considers the character of the Village and its suitability for particular purposes, judged in terms of such factors as trends in land and population development.
- Support the desired character of the community, such as the human scale and small town feel of Downtown Ontonagon
- Preserve existing neighborhoods and housing stock
- Enhance and protect property values
- Support better access to and utilization of the waterfront
- Expand opportunities for retail development that will contribute to a vibrant Downtown
- Utilize the rail yard and back of buildings along the river in Downtown
- Zone land on the corridor to reinforce Downtown's role as the commercial center for the region
- Focus corridor development near the existing commercial node so as not to create a continuous commercial strip pattern
- Implement access management standards along the highway corridor
- Implement the Aesthetic Enhancement Plan for the highway corridor
- Utilize design solutions to improve traffic flow through interconnected parking areas

PROOFS

ARTICLE 3. ORDINANCE AND DISTRICT OVERVIEW

[SECTION 3.0. GENERALLY]

This section describes the Ordinance's approach, and provides a guide for navigating and finding information in the Ordinance.

SECTION 3.1. TRADITIONAL APPROACH

The Village of Ontonagon is comprised of a combination of residential neighborhoods, business centers, mixed-use areas, and natural space components. These areas generally are organized around common physical and functional characteristics such as relationships of buildings to streets, street layout, building types, prominent uses, circulation patterns, and development patterns. The traditional zoning approach provides basic standards to ensure the continued compatibility of development in these areas.

SECTION 3.2. FORM. BASED APPROACH

This Ordinance also includes a form-based approach that emphasizes the creation of a basic format for future

development which explains how buildings, structures, and circulation patterns relate to public space, natural features, and to each other, while allowing more flexibility in use over time. The intent is to contribute to the unique and desirable character of the district.

SECTION 3.3. HOW TO USE THIS ORDINANCE

Anyone seeking to erect, alter, or relocate any building or structure, or commence any new use of land, building, or structure, should first consult the Zoning Administrator to review the Official Zoning Map and determine which district(s) applies to their property. A basic understanding of district dimensional regulations can be found in the summary table in Article 3: Ordinance and District Overview. A basic understanding of permitted uses can be found in the summary table in Article 4: Use Overview and Matrix. Before finalizing a development plan, an applicant should consult Article 2: Zoning Intent and Purposes, and the Site Plan Review section of Article 14 to determine consistency with community and Ordinance goals.

All proposals must satisfy the provisions of Article 5: General Provisions, which addresses regulations applying to all structures; lots; parking and loading; landscaping, screening, and fencing; signs; essential services, communications, utility, and public infrastructure; access; and miscellaneous provisions. Article 6 contains the regulations applying to each traditional zoning district, and Article 7 contains the regulations applying to the form-based zoning district(s). Supplemental conditional and special use provisions are contained in Article 9. In the case of a Planned Unit Development (PUD), Article 10 applies.

If a nonconforming lot, building, structure, or use is involved, Article 13 should be consulted. Article 14: Zoning Administration explains the appropriate review and approval process. For reference, measurement standards and definitions are located in Article 15.

SECTION 3.4. ZONING DISTRICT OVERVIEW

The Michigan Zoning Enabling Act establishes the authority of a local government to establish one or more districts within its zoning jurisdiction which regulate the use of land and structures for the various purposes contained within the Act. This includes the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and establishment of districts in areas subject to damage from flooding or beach erosion. The local unit of government may adopt regulations designating or limiting the location, height, bulk, number of stories, uses, and size of dwellings, buildings, and structures that may be erected or altered, including tents and recreational vehicles. The zoning districts of the Village of Ontonagon Zoning Ordinance were designed to achieve the vision, goals, and objectives of the Ontonagon Village Master Plan of 2007.

3.4.1 *Establishment of zoning districts.* The purpose of this Section is to provide an understanding of the zoning districts within the Village of Ontonagon, in relation to the Future Zoning Plan from the Ontonagon Village Master Plan of 2007, and in relation to the zoning districts of the former Village of Ontonagon Zoning Ordinance (see Table 1-1). This summary is intended only as a guide to understanding the transition between the current and former zoning ordinance, and the connection with the Village master plan. More detailed information for each district is contained in Article 6: Schedule of Regulations for Traditional Zoning Districts, and Article 7: Schedule of Regulations for Form-Based Zoning Districts.

TABLE 3-1. COMPARISON OF FUTURE ZONING TO FUTURE ZONING PLAN FROM MASTER PLAN AND CURRENT ZONING DISTRICTS

Zoning Plan from Master Plan	*Future Zoning Category*	*Current Zoning Category*
R-1, R-2, R-3, B-2	R-1 Residential	R-1, R-2, M-H
R-3	R-2 Residential	R-2, R-3
R-1, R-3, B-2, I-1, I-2	W-MU Waterfront Mixed-Use	R-1, R-2, R-3, I-1, I-2

PROOFS

I-2, R-1	I General Industrial	I-2, R-1
B-1, B-2	DT3 Downtown 3	B-1
B-2, R-1, R-2, R-3	DT2 Downtown 2	B-1, R-1, R-2, R-3
R-1, B-2, R-2, R-3, I-2	GC Gateway Corridor	R-2, R-2, R-3, I-2

3.4.2 *List of zoning districts.*

Form- Based Zoning Districts

- DT3 – Downtown 3
- DT2 – Downtown 2
- GC – Gateway Corridor

Traditional Zoning Districts

- R1–R-1 Residential
- R2–R-2 Residential
- W-MU – Waterfront Mixed-Use
- I – General Industrial

3.4.3 *Newly annexed territory*. Whenever any lands are annexed to the Village, one of the following conditions will apply; 1) Land that is zoned previous to annexation shall be lawfully zoned as being in whichever district of this Ordinance most closely conforms with the zoning that existed prior to annexation, such district to be recommended by the Planning Commission and lawfully adopted by the Village Council within ninety (90) days of annexation. 2) Land not previously zoned shall be automatically zoned R-1 district until a zoning designation and appropriate map for said lands are recommended by the Planning Commission and lawfully adopted by the Village Council within ninety (90) days of annexation.

3.4.4 *Comprehensive schedule of district regulations.* Table 3-2 summarizes the general dimensional regulations for all zoning districts for easy reference. More detailed information is in Article 6: Schedule of Regulations—Traditional Zoning Districts, and Article 7: Schedule of Regulations—Form-Based Zoning Districts.

PROOFS

Traditional Zoning Districts											
Zoning District	*Use*	*Min. Lot Size Square Ft.*	*Min. Lot Width*	*Min Front Setback*	*Max Front Setback*	*Min Side Yard*	*Min Rear Yard*	*Min Floor Area Per Unit*	*Max Lot Coverage*	*Max Impervious Surface*	*Max Height*
R- 1 Residential	Single-lot development	23,500	100'	20'	-	8'	25'	1,100	25%	40%	2.5 stories/35'
	Open Space Preservation or Cluster Develop	10,000*	75'	20'	30'	8'	20'	900	35%	50%	2.5 stories/35'

	ment										
R- 2 Residential	SF Residential, Duplex	5,000/8,000	50'/75'	20'	35'	5'	20'	900'/800'	35%	50%	2.5 stories/35'
	Multi-Residential (3+)	10,000	75'	20'	35'	8'	25'	700'	40%	55%	2 stories/35'
	Non-Residential or Mixed-Use	5,000	50'	20'	35'	8'	20'	N.A.	50%	65%	2 stories/35'
W- MU Waterfront Mixed Use	SF Residential, Duplex	3,750/5,000	50'/75'	10' fr. Street ROW/50 fr. OHWM	20' fr. Street ROW/no max from OHWM	8'	15'	800'/900'	60%	70%	2.5 stories/35'
	Multi-Residential (3+)	5,000	50'			8'***	15'	500'	70%	80%	2 stories/35'
	Non-Residential or Mixed-Use	4,000	40'	Zero fr. Street ROW, 50' from OHWM		8'***	10'	_	75%	85%	2 stories/35'

PROOFS

*Assuming an appropriate water and wastewater treatment system can be engineered and Standards of Sections 5.4.6 and 9.3.6.2.B are met.

**Does not apply to attached buildings.

***Zero rear yard required with alley access. OHWM = Ordinary High Water Mark

Traditional Zoning Districts											
Zoning District	*Use*	*Min. Lot Size Square Ft.*	*Min. Lot Width*	*Min Front Setback*	*Max Front Setback*	*Side Yard*	*Rear Yard*	*Min Floor Area Per Unit*	*Max Lot Coverage*	*Max Impervious Surface*	*Max Height*

I- 2 Industrial		43,560(1 acre)	150'	20'	65'	20'	30'	_	70%	80%	60'
Form- Based Zoning Districts											
Zoning District	*Use*	*Min. Lot Size Square Ft.*	*Min. Lot Width*	*Required Building Zone*	*Side Yard*	*Rear Yard*	*Min Floor Area Per Unit*	*Max Lot Coverage*	*Max Impervious Surface*	*Max Height*	
DT- 3 Downtown 3		3,000	30'	Zero to 10'	5'**	10'***	_	85%	95%	3 stories/42'	
DT- 2 Downtown 2		4,000	40'	Zero to 30'	5'**	10'***	_	80%	90%	2.5 stories/35'	
GC Gateway Corridor	SF Residential, Duplex	10,000 with sewer / 23,500 with septic	100'	50' min. to undetermined max.	10'	25'	_	70%	85%	3 stories/42'	
	Multi-Residential (3+)		300'								
	Non-Residential or Mixed-Use		300'								

*Assuming an appropriate water and wastewater treatment system can be engineered and Standards of Sections 5.4.6 and 9.3.6.2.B are met.

**Does not apply to attached buildings.

***Zero rear yard required with alley access. OHWM= Ordinary High Water Mark

PROOFS

ARTICLE 4. USE OVERVIEW AND MATRIX

[SECTION 4.0. GENERALLY]

The purpose of this Article is to introduce the different types of land use review and approval categories and to give a summary of the permitted uses for all districts.

SECTION 4.1. UNDERSTANDING PERMITTED USES

4.1.1 *Categories of permitted uses.*

4.1.1.1 *Use permitted by right (P).* A use permitted in a district without the need for special administrative review and approval, upon satisfaction of the standards and requirements of this Ordinance.

4.1.1.2 *Conditional land use (C).* Conditional Land Uses are not necessarily incompatible with uses permitted by right in a zoning district, but, because of special characteristics, these uses require additional conditions to ensure compatibility before administrative approval. Before establishing, expanding, or amending a Conditional Land Use, with the exception of terminating a Conditional Land Use, the applicant shall obtain a Conditional Land Use Permit from the Zoning Administrator pursuant to

permitting requirements using an application provided by the Zoning Administrator. Conditional Land Uses are permitted by right in a particular zoning district provided that the use complies with general review standards in Section 14.5.6 and specific use standards in Article 9. The Zoning Administrator may refer the application to the Planning Commission for comment before rendering a decision. If the application is denied, the Zoning Administrator shall identify in writing the reasons for that denial. In such a case, an aggrieved Applicant may appeal the decision to the Zoning Board of Appeals.

4.1.1.3 *Special land use (S).* Special Land Uses are not essentially incompatible with uses permitted in a Zoning District, but possess characteristics which require Planning Commission review and discretion to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. Before establishing, expanding, or amending a Special Land Use, with the exception of terminating a Special Land Use, the applicant shall obtain a Special Land Use Permit from the Zoning Administrator pursuant to permitting requirements using an application provided by the Zoning Administrator. Special Land Uses are permitted if approved in a particular zoning district provided that the use complies with general and special and use review standards in Section 14.5.6 and specific use standards in Article 9. If the application is denied, the Planning Commission and Zoning Administrator shall identify in writing the reasons for that denial. In such a case, an aggrieved Applicant may appeal the decision to the Zoning Board of Appeals.

4.1.2 *General use provisions.*

4.1.2.1 Only uses permitted under the provisions of this Ordinance may be established on a parcel. All other uses may be permitted only if this Ordinance has been amended to permit them, unless authorized by means of approval of a Planned Unit Development pursuant to Article 10.

4.1.2.2 A change in use group under the Stille- DeRossett- Hale Single State Construction Code Act, Public Act 230 of 1972, being MCL 125.1501, et seq., such as from "storage" or "business" to "mercantile" or "assembly" is a change of use requiring review and approval under this Ordinance.

4.1.2.3 The principle and accessory uses permitted by zone are listed in Tables 4-1 and 4-2. Uses Permitted by Right are listed as "P". Uses listed as "C" are permitted by right (Conditional Land Use Permit) if the nondiscretionary conditions associated with that use, as set forth in Article 9, are met. Special Uses, listed as "S", are permitted by Special Land Use Permit if the required discretionary and nondiscretionary standards associated with that use, as set forth in Article 9 and Article 14, are met, as reviewed and approved by the Planning Commission. Standards for accessory uses are in Section 5.3 and in Article 9.

4.1.2.4 Any of the uses permitted in a district may be combined in a Planned Unit Development per the requirements of Article 10.

4.1.2.5 Where a proposed use of land or use of building is not contemplated or specified by this Ordinance, or where the Zoning Administrator has a question as to the appropriateness of a use which, although basically permitted, involves other features which were not contemplated or specified by this Ordinance, the Zoning Administrator may request the Planning Commission to consider the proposed use, and if deemed appropriate, to then initiate the necessary amendment to this Ordinance to provide for the requested use in appropriate districts and according to standards recommended by the Planning Commission. Following adoption of the amendment by the Village Council, a permit application may be made to the Zoning Administrator to establish that use on a parcel in a district in which that use is permitted.

4.1.2.6 No part of a setback area, or other open space, or off-street parking or loading space required in connection with any use of land, building or structure, for the purpose of complying with this Ordinance, shall be included as part of a setback area, open space, or off-street parking lot or loading space similarly required for any other use, building or structure, except as provided for joint use of parking in Section 5.5.4.

4.1.2.7 No use of land, buildings, structures, or portions thereof of a size or character greater than the threshold as provided in Section 14.5 of this Ordinance, shall be erected or utilized without the prior approval of the site plan in accordance with Article 14 of this Ordinance.

PROOFS

4.1.2.8 Whenever any street, alley, or other public way within the Village of Ontonagon shall be vacated by official action, such street, alley, or other public way, or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches.

4.1.2.9 Every use must comply with all applicable regulations in this Ordinance. All relevant sections must be consulted to understand the scope of regulations that apply in a particular case. The most common applicable regulations in addition to the use regulations of this Article and Articles 6: Schedule of Regulations—Traditional Zoning Districts, and Article 7: Schedule of Regulations—Form-Based Zoning Districts, include those in Article 5: General Provisions (such as parking, loading, landscaping, buffering, fencing, signs); and Article 9: Conditional and Special Uses.

4.1.3 *Interpretations of use classes*.

4.1.3.1 Use classes arrange land uses and activities into use categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. The categories provide a systematic basis for assigning present and future land uses into appropriate zoning districts.

4.1.3.2 When all principle uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, delicatessen, and bakery, for example, would be classified in the Food and Drink Service Establishments category, because all of the development's principle uses are in that category. When the principle uses of a development fall within different use categories, each principle use is classified in the applicable category and each use is subject to all applicable regulations for that category. A mail order facility may simply be a call center or it may have warehouse or storage facilities on site. The Zoning Administrator shall classify the facility into the proper zoning district based on the characteristics of the use.

4.1.3.3 Accessory uses are permitted in conjunction with a principle use, subject to any special regulations applicable to it and to the regulations applicable to the principle use if there are no special regulations. See Article 5 and Article 9 for additional accessory use regulations.

4.1.3.4 Table 4-1, Section 4.2, lists common examples of uses included in the respective use category. The names of these sample uses are generic—in interpreting use descriptions, the actual activity on the site will be matched to the use description. Uses categories are based on common meanings and not on what a specific use may call itself. For example, a use that calls itself "Wholesale Warehouse" but that sells mostly to consumers, is included in the General Retail Establishments category rather than the Wholesale Trade Establishments category. This is because the actual activity on the site matches the description of the General Retail Establishments category.

4.1.3.5 An uncategorized use may be a Special Use for which particular standards are provided in Article 9.

4.1.3.6 The Zoning Administrator shall keep a log of all use interpretations indicating the use, the options considered, and the selection made, along with the reasons for that decision.

4.1.4 *Criteria for interpretation*. The following considerations are examples of the factors that may be evaluated by the Zoning Administrator in making similar use interpretations:

4.1.4.1 Actual or projected characteristics of the proposed activity in relationship to similar use categories;

4.1.4.2 The relative amount of site area or floor space and equipment devoted to the activity;

4.1.4.3 Relative amounts of sales from each activity;

4.1.4.4 The customer type for each activity (retail or wholesale);

4.1.4.5 The relative number of employees in each activity;

4.1.4.6 Hours of operation;

4.1.4.7 Building and site arrangement;

4.1.4.8 Vehicles used with the activity;

PROOFS

4.1.4.9 The relative number of vehicle trips generated by the use;

4.1.4.10 How the use advertises itself;

4.1.4.11 Any other relevant considerations.

SECTION 4.2. SUMMARY USE MATRIX

Table 4-1 presents land use classes, definitions, and examples of principle uses permitted per District. Table 4-2 presents use regulations for accessory uses.

Table 4- 1, Use Matrix- Page 1								
Agricultural Uses								
Agricultural Service Establishments	*LUI Code*	*Form Districts* *DT3 DT2 GC*			*Traditional Districts* *R1 R2 W- MU I*			
Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, and farm labor and management services.								
Livestock auction and transport facilities; slaughterhouses; grain and seed elevators and sales; cold storage of agricultural products; farm implements sales or repair.	VI	--	--	--	--	--	--	P
Farm feed and small equipment sales; fertilizer, herbicide, and pesticide sales (limited outdoor storage)	V	--	--	P	--	--	--	P
Animal Services: Completely indoor facilities. Animal hospitals or shelters, commercial kennels, veterinary services.	IV	--	C	C	--	--	C	P
Animal Services: with unenclosed, outdoor confinement. Animal hospitals or shelters, commercial kennels, veterinary services.	VI	--	S	S	S	--	S	P
Commercial Agriculture or Horticulture	*LUI Code*	*Form Districts* *DT3 DT2 GC*			*Traditional Districts* *R1 R2 W- MU I*			
The commercial production, harvesting and storage of farm products on a farm and the farm operations typically attendant thereto, as "farm" is defined in the Michigan Right to Farm Act, Public Act 93 of 1981; as amended with conformance with Generally Accepted Agricultural Management Practices.								
Commercial production of biomass crops; forages and sod crops; grains; feed crops; field crops; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees, and other similar uses; and the usual farm buildings associated with such uses.	I	--	--	--	C	--	C	C
Dairy and dairy products; poultry and poultry products; livestock including breeding and grazing of cattle, swine, captive deer, equine, and similar animals; horse riding stables; nurseries; greenhouses; apiaries; annelid farms; mushrooms; aquaculture; fish hatcheries, similar agricultural enterprises; and the usual farm buildings associated with such uses.	II	--	--	--	C	--	C	C
Composting (large scale) and other industrial scale or intensive agriculture activity.	VI	--	--	--	--	--	--	S

PROOFS

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

Table 4- 1, Use Matrix- pg 2								
Agricultural Uses, continued								
Small Scale Food Production and Urban Agriculture	*LUI Code*	*Form Districts* *DT3*	*DT2*	*GC*	*Traditional Districts* *R1*	*R2*	*W-MU*	*I*
The production of fruits, vegetables, livestock, flowers and other natural food and non-food materials within or near the limits of a city, especially on vacant lots, in open spaces such as parks, and in enclosed, indoor facilities such as greenhouses or aquaculture systems.								
Accessory private yard vegetable and flower gardens and orchards within any required yards.	I	--	P	P	P	P	P	--
Accessory greenhouses or aquaculture systems.	II	C	P	P	P	P	P	P
Accessory apiary.	II	--	--	--	C	--	C	P
Community gardens and urban gardens as a principle use.	I	C	C	C	P	P	P	P
Farmer's Markets-Whole Food Stands	III	P	P	P	C	--	C	--
Commercial & Commercial Services Uses								
Business Service Establishments	*LUI Code*	*Form Districts* *DT3*	*DT2*	*GC*	*Traditional Districts* *R1*	*R2*	*W-MU*	*I*
Establishments primarily engaged in rendering services to business establishments on a fee or contract basis.								
(Lesser retail traffic) Building maintenance; commercial food catering management and consulting services; protective services; commercial research; data processing; vending machine	IV	P	P	P	--	--	P	--
(Greater retail traffic) Advertising and mailing; stenographic services; temporary personnel services; duplicating and copying services; employment services; equipment rental and leasing; photo finishing; telemarketing sales; catalog or mail order sales; and office supply/service/repair services.	V	P	P	P	--	--	P	--
Convenience Retail Establishments	*LUI Code*	*Form Districts* *DT3*	*DT2*	*GC*	*Traditional Districts* *R1*	*R2*	*W-MU*	*I*
A retail establishment offering for sale prepackaged food products, milk, bread, donuts, sandwiches, beverages, newspapers and magazines, household items, pharmaceuticals, and other items for off-premises consumption. These are usually short trip, high volume uses not more than 3,500 square feet in size. A convenience retail establishment can share a building with another use, such as an automobile service station. Drive-through establishments are not convenience retail establishments.								
Party and liquor stores; drug stores; grocery stores; bakeries; delicatessens; magazine and newspaper stands or stores.	V	P	P	P	--	--	P	--

PROOFS

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

Table 4- 1, Use Matrix- pg 3								
Commercial & Commercial Services Uses, continued								
Drive- Through Establishments	*LUI Code*	*Form Districts*			*Traditional Districts*			
		DT3	*DT2*	*GC*	*R1*	*R2*	*W-MU*	*I*
An establishment that by design, physical facilities, service or by packaging procedures encourages or permits customers to conveniently make deposits, view specified objects, receive services, or obtain goods without disembarking from their motor vehicles, and then proceeding elsewhere. Distinguished from a drive-in establishment by the absence of parking while the service is being provided (as in a drive-in theater).								
Drive-through fast food restaurants, banks, drug stores, photo shops, grocery or party stores, and related businesses. A drive-through window, or motor vehicle oriented pick-up window, even if accessory to the principal use, shall subject the use to all the standards applicable to uses in which the drive-through aspect is a principal feature of the use.	V	C	P	P	--	--	--	--
Food and Drink Service Establishments	*LUI Code*	*Form Districts*			*Traditional Districts*			
		DT3	*DT2*	*GC*	*R1*	*R2*	*W-MU*	*I*
An establishment where food and drink are prepared, served and consumed primarily on the premises.								
Restaurants (eat-in or take-out, but not drive-through); bakeries; cafes; bars and taverns; nightclubs; cabarets; brewpubs (allowed only in conjunction with and as part of a restaurant); coffee shops; delicatessens; diners; soup kitchens; and related uses similar to and compatible with the above uses.	V	P	P	P	--	--	P	P
Forest Management	*LUI Code*	*Form Districts*			*Traditional Districts*			
		DT3	*DT2*	*GC*	*R1*	*R2*	*W-MU*	*I*
The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or the performing of forest services. Usually done in accordance with a forest management plan establishing best conservation and management practices, including schedules and responsible entities.								
Commercial tree planting, harvesting, sawing, chipping, temporary storage, and transport of forest products, as well as forest research facilities are permitted uses. The processing of wood products is an industrial activity (see Manufacturing Establishments).	II	--	--	--	--	--	--	P
Commercial sawmills, whether temporary or permanent.	VI	--	--	--	--	--	--	P

Note: P =Use permitted by Right, C=Use permitted by right with conditions, S=Special Use. *structures <5,000 sq ft. **structures >5,000 sq ft.

PROOFS

Table 4- 1, Use Matrix- pg 4								
Commercial & Commercial Services Uses, continued								
General Retail Establishments	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
The principal activity of general retail establishments is the purchase and resale, leasing or renting of goods or merchandise to the public for personal, household, or business use or consumption and rendering services incidental to the sale of such goods. There maybe processing or manufacturing of products incidental or subordinate to the selling activities (such as a bakery or delicatessen at a grocery store). A common accessory use is repair of products sold on the premises. See also Tourist Service Establishments.								
Stores selling, leasing, or renting new or used consumer, home, and business goods including, but not limited to, pharmaceuticals, groceries, electronic, office, hardware, personal care, advertising, and household goods. Also an auction house.	IV* V**	P	P	P	--	--	P	--
Large scale retail development; building materials sales; warehouse store or mobile and manufactured home sales.	V	--	S	S	--	--	S	P
Indoor Entertainment Establishments	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
Business establishments providing recreation that diverts, amuses, entertains, or provides entertainment or other hospitality associated with food service or accommodations. Does not include drive-through establishments. Restaurants and cafes without entertainment are not indoor entertainment establishments, they are food service establishments. Hotels, motels and other temporary lodging are not indoor entertainment establishments if there is no entertainment offered, they are lodging/accommodation establishments.								
Athletic/fitness/exercise establishments; health club; aquarium; auditorium; bowling alleys; ice or roller blade rinks; indoor soccer fields and racquet courts; sports arenas; amusement centers and game arcades; bingo parlors; pool or billiard halls; dance halls; teen club; theaters; membership clubs; saunas, hot tubs and similar establishments; indoor archery and shooting ranges; swimming pools/clubs; indoor commercial accessory entertainment facilities.	IV* V**	P	P	P	--	--	P	P

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use. *structures <5,000 sq ft. **structures >5,000 sq ft.

PROOFS

Table 4- 1, Use Matrix- pg 5								
Commercial & Commercial Services Uses, continued								
Outdoor Commercial Recreation & Entertainment Establishments	*LUI Code*	*Form Districts* *DT3*	*DT2*	*GC*	*Traditional Districts* *R1*	*R2*	*W-MU*	*I*
Outdoor recreation and entertainment uses provide continuous, intermittent or seasonal recreation and/or entertainment- oriented activities largely in structures in an outdoor setting. There may be concessions, restaurants, retail shops selling items related to the recreation or entertainment uses, office for management functions, spectator seating and service areas, including locker rooms and rest rooms, caretaker's quarters and maintenance facilities in addition to structures for the principal uses. Additional regulations apply to outdoor entertainment establishments that serve alcohol.								
Fairgrounds; golf driving ranges; golf courses and country clubs; nordic ski resorts; playground; park; arboretum.	III	--	--	S	S	--	S	--
Marina; boat launch.	IV	--	--	--	--	--	S	--
Public swimming pool; swimming clubs, tennis clubs/courts; batting cages; skateboard parks; and outdoor ice rinks.	IV	S	S	S	S	--	S	--
Amusement and water parks; theme parks; miniature golf facilities; amphitheaters; drive-in-theater; zoos; transient amusement enterprises.	V	S	S	S	--	--	S	--
Outdoor archery, rifle, skeet, trap shooting ranges.	V	--	--	--	S	--	S	S
Ani mal racing; automobile, go-kart, snowmobile and motorcycle race tracks and events.	VI	--	--	S	S	--	--	S
Lodging/Accommodations	*LUI Code*	*Form Districts* *DT3*	*DT2*	*GC*	*Traditional Districts* *R1*	*R2*	*W-MU*	*I*
A facility offering transient lodging accommodations to the general public and possibly providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities as accessory uses.								
Bed and Breakfast Establishments; Tourist Homes	III	P	P	P	C	C	P	--
Organized camps and campgrounds for tents or recreational vehicles.	IV	--	C	C	C	--	C	--
Resorts	IV	--	--	PD	PD	--	PD	--
Hotels, motels, auto courts, residence inns.	V	P	P	P	--	--	P	--

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use. *structures <5,000 sq ft. **structures >5,000 sq ft.

PROOFS

Table 4- 1, Use Matrix- pg 6								
Commercial & Commercial Services Uses, continued								
Medical Service Establishments	*LUI Code*	*Form Districts*			*Traditional Districts*			
		DT3	*DT2*	*GC*	*R1*	*R2*	*W-MU*	*I*
Health care facilities providing medical, dental, surgical and preventive health services to patients as well as establishments providing support to health professionals and patients such as medical laboratories for research and testing, medical suppliers and service establishments.								
Small: Medical or dental clinics; doctor or dentist offices; medical or dental labs; blood collection facilities; x-ray and related scanning facilities; emergency medical care facilities; sales of medical supplies and prosthetics; drug stores; pharmacies; therapeutic massage by licensed masseuses, physical therapists, rehabilitation therapists, nurses, or physicians.	IV* V**	P	P	P	--	--	P	P
Large: Hospitals.	V	--	S	P	--	--	--	--
Office Establishments	*LUI Code*	*Form Districts*			*Traditional Districts*			
		DT3	*DT2*	*GC*	*R1*	*R2*	*W-MU*	*I*
Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, financial services. Accessory uses may include cafeterias and health facilities established primarily to service the needs of employees on the premises.								
Financial institutions: lenders, brokerage houses, banks; insurance offices; real estate offices; travel agencies; offices for attorneys, accountants, architects, engineers and similar professionals; government offices; public utility offices; telemarketing sales offices and other similar compatible uses.	IV* V**	P	P	P	--	--	P	P
Accessory Home Occupations	II	C	C	C	C	C	C	C

PROOFS

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use. *structures <5,000 sq ft. **structures >5,000 sq ft.

Table 4- 1, Use Matrix- pg 7			
Commercial & Commercial Services Uses, continued			
Personal Service Establishments	*LUI Code*	*Form Districts* *DT3 DT2 GC*	*Traditional Districts* *R1 R2 W-MU I*
Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.			

Laundry pick-up stations; dry cleaning establishments performing the cleaning processes on site; self-service laundromat; nails, beauty and barber shops and salons; shoeshine and shoe repair; tattoo parlors; tanning, steam baths, reducing salons and health clubs; tailor and dressmaker shops; tuxedo rental; photographic studios; animal grooming and obedience classes; and domestic services. Does not include massage services except as accessory to a beauty shop or salon.	IV* V**	P	P	P	--	--	P	P
Funeral services and crematoria.	V	C	C	P	--	--	--	P
Marihuana Related Businesses	V	--	--	S	--	--	--	S
Repair Services	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
Establishments that service or repair appliances, electrical equipment or other mechanical equipment or consumer goods. Includes customer drop-off and pick-up as well as off-site service calls. Does not include repair of motor vehicles.								
Light: Repair/sales of televisions, bicycles, clocks, watches, cameras, shoes, guns, appliances and office equipment; clothing; locks; and upholstery.	V	P	P	P	--	--	P	P
Medium: Repair of small engines like lawn motors and small electric motors, snowmobiles, boat motors, ATV, trail groomers.	V	S	P	P	--	--	P	P
Research and Development Establishments	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
An establishment or other facility for carrying on investigation in the natural, physical, or social sciences which may include engineering and product development.								
Laboratories, research park, computer and related development and testing facility, software development. Other establishments similar to and compatible with the above establishments.	IV* V**	P	P	P	--	--	P	P
Sexually Oriented Businesses	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W- MU I*			
Business or commercial enterprises engaging in the provision of sexually oriented products, services, or entertainment to adults.								
Adult bookstore, adult club, adult massage parlor, adult model studio, adult motel, adult theater or escort agency.	V	--	--	--	--	--	--	C

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use. *structures <5,000 sq ft. **structures >5,000 sq ft.

Table 4- 1, Use Matrix- pg 8		
Commercial & Commercial Services Uses, continued		

PROOFS

Tourist Service Establishments	*LUI Code*	*Form Districts DT3 DT2 GC*	*Traditional Districts R1 R2 W-MU I*					
Business establishments providing either/or: lodging/accommodations; gift shops and/or certain tourist related services; banks, real estate and other professional offices; and/or recreation that diverts, amuses entertains, or provides entertainment or other hospitality associated with food service or accommodations. Does not include drive-through establishments. Additional state regulations apply to tourist service establishments that serve alcohol.								
Rental, sales and service of non-motorized recreational equipment such as snow ski, bicycle, kayak, canoe, and other rentals. Gift shops, handicraft shops, candy, baked goods, pottery, furniture and other handcrafted enterprises.	IV* V**	P	P	P	--	--	P	P
Motorized Vehicle Sales and Service Establishments	*LUI Code*	*Form Districts DT3 DT2 GC*	*Traditional Districts R1 R2 W-MU I*					
Retail sales and service of motorized land and water vehicles. Except for filling vehicles with gasoline or diesel, or for an oil change, generally the customer does not wait at the site while the service or repair is being performed. Accessory uses may include offices, showrooms, sales of parts, and vehicle storage. Does not include: auto body shop; frame reconstruction; repair and service of industrial vehicles and heavy trucks. See also Industrial Services Use Class.								
Sales or rental of new and used motorcycles, snow mobiles, ATV's, and other small personal motorized sporting goods.	V	S	P	P	--	--	S	P
Sales or rental of new and used automobiles, light and medium trucks; motor homes; and recreational vehicles and trailers.	V	--	P	P	--	--	--	P
Marine sales and service, including short-term outdoor storage.	V	--	S	S	--	--	S	P
Gasoline and auto service station.	V	--	--	S	--	--	--	S
Industrial & Warehousing Uses								
Dangerous Chemicals and Fuels: Manufacturing, Storage and/or Distribution	*LUI Code*	*Form Districts DT3 DT2 GC*	*Traditional Districts R1 R2 W-MU I*					
Manufacturing or storage establishments which produce or store flammable, explosive or corrosive substances subject to state or federal regulation.								
Manufacture and/or storage of fireworks, petroleum products, propane, bottled gas storage, industrial acids or similar substances; refineries.	VI	--	--	--	--	--	--	S

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use. *structures <5,000 sq ft. **structures >5,000 sq ft.

PROOFS

Table 4- 1, Use Matrix- pg 9								
Industrial & Warehousing Uses, continued								
Extractive Industries	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
Excavating and removing rock, stone, ore, soil, gravel, sand, minerals, and similar materials from the surface and/or subsurface.								
Sand and gravel extraction processing and transport including manufacture of cement and cement products. Underground mining, processing and transport.	VI	--	--	--	--	--	--	S
Industrial Service Establishments	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
Industrial service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. "Light": fully enclosed; no outdoor operations or storage of materials or vehicles. "Medium": same uses identified in "light", but with some outdoor operations or temporary storage of materials or vehicles. "Heavy": same uses as light or medium, but at a greater scale or volume of activity plus other uses with greater nuisance characteristics.								
Boatworks - Custom Building/Repair/Storage	V	S	P	P	--	--	S	P
Light: auto and small truck engine, radiator, transmission, body and frame repair; plumbing or electrical contractors; laundry, dry-cleaning and carpet cleaning plants; diaper services; linen supply services; photo-finishing laboratories; and furniture & upholstery stripping/refinishing and repair, refinishing shop.	V	--	P	P	--	--	--	P
Medium: Welding shops; machine shops; blacksmithing; tool repair; electric motor repair; repair of scientific or professional instruments; building, heating, general building contractors; exterminators; well drilling service; recycling operations (other than vehicles); fuel oil distributors, solid fuel yards, propane storage and distribution; lawn and garden services; septic tank sales/service.	VI	--	C	P	--	--	--	P
Heavy: Sales, rental, repair, storage, salvage or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; auto and truck salvage and wrecking; auto recycler; junkyards; heavy truck servicing and repair; tire retreading or recapping; truck stops; asphalt and cement batching and redi-mix; batch plant for road construction; contractors with large equipment stored on site; heavy equipment trade schools.	VI	--	--	--	--	--	--	S

PROOFS

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

Table 4- 1, Use Matrix- pg 10								
Industrial & Warehousing Uses, continued								
Manufacturing Establishments	*LUI Code*	*Form Districts DT3 DT2 GC*		*Traditional Districts R1 R2 W-MU I*				
Manufacturing and production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, manmade, raw, secondary, or partially completed materials may be used. Products may be finished or semifinished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.								
Light: Creameries; bottling works; bakery goods; candy; food products; ice making; taxidermists; printing, publishing and engraving shops; automotive products; boat, vehicle, and machinery assembly; fabricated metal products; forming and molding plastic products; cosmetics; pharmaceuticals; toiletries; hardware and cutlery; tool, die, gauge and machine shops; processing of machine parts; musical instruments; toys; novelties; ornamental iron works; metal or rubber stamps; molded rubber products; monument and art stone production; furniture and related wood products processing facility; logging (contractor and operations yard); assembly of electrical appliances, electronic instruments and devices; meat and poultry processing and packing (wholesale excluding slaughtering).	V	--	--	--	--	--	S	P
Heavy: Wood products manufacture involving extensive use of glues and other chemicals, such as sheet boards and chip boards; drop forging; heavy stamping; punch pressing; heat treating, plating, hammering; or other similar activities; automobile, truck, farm or other large equipment assembly; manufacture of metallurgical products; heavy machinery fabrication; dry bulk blending plant or handling of liquid nitrogen fertilizer and/or anhydrous ammonia; paint/wallpaper plants; paper/pump mill; refinery.	VI	--	--	--	--	--	S	S

PROOFS

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

Table 4- 1, Use Matrix- pg 11			
Industrial & Warehousing Uses, continued			
Warehousing and Wholesale Trade Establishments	*LUI Code*	*Form Districts*	*Traditional Districts R1 R2*

		DT3 DT2 GC			*W-MU I*			
A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time to persons and businesses. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, fueling and maintenance.								
Self-service storage facilities, also known as: mini-warehouses, and rental storage units.	V	--	C	C	--	--	S	P
Warehousing, storage or transfer buildings, excluding the storage of flammable liquids. Truck, rail or air freight terminals; rail yards; bus barns; cold storage facilities; parcel services, fertilizer sales, seed sales; lumber companies selling at wholesale; stockpiling of sand, gravel or other aggregate materials.	VI	--	--	--	--	--	--	P
Institutional Uses								
Educational Institutions	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
An educational institution is any government or privately-owned and/or operated facility, building or part thereof which is designed, constructed, or used for education or instruction. Educational institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.								
Governmentally or privately owned and operated elementary and secondary schools. Other institutions similar to and compatible with the above uses, including research and development establishments when associated with an educational institution.	IV	C	P	P	C	C	C	--
Religious Institutions	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
Religious institutions primarily provide meeting areas for religious activities. They may be associated with a convent (group housing) or provide caretaker housing or a parsonage on site (as an accessory use). NOTE: Schools, day care centers, homeless shelters, soup kitchens and other uses sometimes associated with religious institutions are separate principal uses.								
Churches, synagogues, temples, mosques. Seminaries, convents and monasteries.	III	C	P	P	--	--	C	--

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

Table 4- 1, Use Matrix- pg 12			
Institutional Uses, continued			
Social Institutions	*LUI Code*	*Form Districts DT3 DT2 GC*	*Traditional Districts R1 R2 W-MU I*

PROOFS

A social institution is a privately owned or operated facility which is designed, constructed, or used to provide service of a public, nonprofit, or charitable nature to the people of the community on an ongoing basis (not just special events). Social institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.								
Including military schools; business, trade and vocational schools (not construction equipment or large vehicles); art, music and dance schools; drivers' training (not large or CDL vehicles); institutions for higher education.	III	C	P	P	C	--	--	--
Facilities to house charitable or philanthropic organizations such as United Way, Red Cross, Salvation Army, as well as centers for social activities such as neighborhood, community or senior centers; auditoriums and other places for public assembly.	IV	C	C	P	--	--	--	--
Public Use								
Essential Services	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
The erection, construction, alteration or maintenance by public utilities or government departments or commissions of overhead, surface or underground gas, communication, telephone, television, electrical, steam, fuel or water distribution or transmission systems, collection, supply or disposal systems including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, and other similar equipment and accessories in connection therewith, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, BUT NOT INCLUDING communication towers or office buildings, substations, or structures for service equipment, or maintenance depots.								
Telephone, television, and electrical lines (except as noted below); sanitary sewer, storm sewer and water lines; railroad right-of-way and uses related thereto; gas and oil lines that link homes, businesses, schools and other buildings to utility and public services structures, but excluding "structures " such as telephone pedestals, cable television service boxes, and the like, so long as they do not exceed 10 sq. ft. in base building footprint and are no more than 4 ft. tall . Anything more than a pole, box and basic lines is classified as utility and public service installations. Al so includes public roads and road rights-of-way.	--	P	P	P	P	P	P	P

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

Table 4- 1, Use Matrix- pg 13			
Public Uses, continued			
Public Buildings & Related Facilities	*LUI Code*	*Form Districts DT3 DT2 GC*	*Traditional Districts R1 R2 W-MU I*
Buildings housing public services of cities, villages, townships, counties, state and federal government, usually in offices, including publicly-owned "Utility and Public Service Installations" and "Educational and Social Institutions".			

PROOFS

Libraries, museums, township hall, county courthouse, police station, fire station, public works, schools, publicly owned tourist information centers, and other public buildings similar to and compatible with the above uses, and any publicly-owned "Utility and Public Service Installations".	IV	S	P	P	S	S	S	S
Trails, trail easements (motorized and non-motorized).	II	S	S	S	S	S	S	S
Roadside parks and all other public parks and playgrounds.	II	P	P	P	P	P	P	P
Cemetery.	III	--	--	P	--	--	--	P
Utility and Public Service Installations	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
A building or structure within which a utility or transportation service deemed necessary for the public health, safety or general welfare (an essential service) is provided to the public by an entity under public franchise or ownership; including but not limited to facilities created for the generation, transmission and/or distribution of electricity, gas, steam, communications, television, and water; the collection and treatment of sewage and solid waste; and the provision of roads, rails, air or mass transportation. Accessory uses may include offices, truck and large equipment parking, fueling and maintenance.								
Light: Electrical substations, gas regulator stations; radio, television, cellular and microwave transmitter towers or other communication towers; satellite antennas larger than ten feet diameter.	IV	S	S	S	S	S	S	S
Heavy: Water and sewage treatment facilities; water towers; large scale artificially constructed stormwater retention and detention facilities; telephone exchanges; recycling collection centers; solid waste; road maintenance and other public works garages.	V	--	--	S	--	--	--	S
345kv or larger overhead electric transmission lines and towers constructed after the effective date of this Ordinance are prohibited in the Village of Ontonagon. Buried 345kv or larger electric transmission lines are permitted by special use permit.	--	--	--	S	--	--	--	S
WECS wind towers under 35 feet in height.	III	--	C	C	S	--	C	C
WECS towers between 35 and 80 feet in height.	III	--	C	--	S	--	C	C
WECS towers over 80 feet in height.	IV	--	--	--	--	--	--	S

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

Table 4- 1, Use Matrix- pg 14			
Residential Services Uses			
Institutions for Human Care and Habitation	*LUI Code*	*Form Districts DT3 DT2 GC*	*Traditional Districts R1 R2 W-MU I*

PROOFS

Institutions for human care include a broad spectrum of facilities for the diagnosis, treatment, care, rehabilitation or training of persons who may be developmentally dependent, ill, physically disabled, mentally retarded, emotionally disturbed, drug or alcohol dependent. Also includes facilities designed to meet the temporary housing needs of special populations (e.g. homeless, abused spouses, etc.). Does not include correctional facilities. See Definitions in Article 2.								
Nursing or convalescent homes; homes for the aged; assisted living facilities; orphanages; sanitariums; halfway houses; spouse abuse shelters; and homeless shelters.	III	C	P	P	--	--	C	--
Community Residential Care Facilities	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
Community residential care facilities provide part- or full-time shelter and specialized care for individuals in facilities or single family								
dwellings. These are all state-regulated facilities. See Definitions in Article 2.								
Large Child/Day Care Centers with over 6 children; Child Caring Institutions; Children's Therapeutic Group Homes; Adult Foster Care Facilities, and Adult Foster Care Congregate	IV	C	P	P	--	--	C	--
Company-sponsored daycare on-site during hours of operation.	IV	C	P	P	--	--	C	P
Group Housing	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
Group housing is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of a "family" but often share a common situation. The size of the group may be larger than the average size of a household. Tenancy is usually arranged on a monthly or longer basis. It may be a form of transient lodging. There is usually a common eating area for residents.								
Boarding house, rooming house, fraternity or sorority. Other housing similar to and compatible with the above housing. Does not include prisons, other correctional facilities, community residential care facilities or institutions for human care.	III	--	S	S	--	--	--	--
Mobile Home Park and Manufactured Housing Community	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
Mobile home park and manufactured housing communities.	III	--	--	S	S	--	S	--

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

Table 4- 1, Use Matrix- pg 15			
Residential Services Uses, continued			
Multiple Family Dwellings	*LUI Code*	*Form Districts DT3 DT2*	*Traditional Districts R1 R2 W- MU I*

PROOFS

		GC						
A building or portion thereof used and designed to contain separate living quarters for three or more families on one or more levels, but which may have joint services or facilities, such as for laundry or storage.								
Apartment building, townhouses, and row houses, garden apartments, and condominiums when considering the entire structure (not the individual dwelling units). Other housing similar to and compatible with the above housing.	III	C	C	C	--	C	C	C
Single Family Dwelling	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
A building containing not more than one dwelling unit used, intended or designed to be used as the home, residence or sleeping place of one-family and those under their care.								
Single family dwelling, site condominium, mobile or manufactured home on an individual lot. Other housing similar to and compatible with the above housing.	II	--	P	P	P	P	P	--
Cabins and camps for a single family for seasonal occupancy.	I	--	--	--	P	--	--	--
Open Space Preservation and Cluster Developments.	III	--	--	S	S	--	S	S
Child Care Center/Day Care Center with fewer than 7 children; Family Child Care Homes; Group Child Care Homes; Adult Foster Care Family Home; Adult Foster Care Small and Large Group Homes; Foster Family Home; Foster Family Group Home. State Licensed Residential Facility. See Definitions in Article 2.	II	P	P	P	P	P	P	--
Tourist homes/bed & breakfast establishments	III	P	P	P	C	C	P	--
An ECHO unit (also known as mother-in-law flat) approved pursuant to Section 6.3 does not redefine a single-family dwelling as a two-family dwelling for the purposes of this Ordinance.	II	--	S	S	S	S	S	--
Two- Family Dwelling	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
A building containing not more than two dwelling units, each designed and used exclusively as the residence or sleeping place of one-family.								
A duplex; a building with two dwellings constructed side-by-side, front-to-back, over and under, or some combination of the above. Can be new construction or modification of an existing structure provided each dwelling is separate.	II	P	P	P	--	P	P	--

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

Table 4- 1, Use Matrix- pg 16
Special Mixed Uses

PROOFS

Planned Development	*LUI Code*	*Form Districts DT3 DT2 GC*			*Traditional Districts R1 R2 W-MU I*			
A planned residential, commercial, industrial, public or semi-public land use development consisting or two or more principal uses located on a parcel of land or prescribed minimum area and approved by the Village after site plan review. A PUD may include such concepts as cluster development, planned development, community unit plan, planned residential development, and other terminology denoting zoning requirements designed to accomplish the objectives of this Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.								
Single family or multiple family developments with cluster units around common open space; mixed use developments such as golf course communities surrounded by residences; ski resorts with common lodging, detached and/or attached single family residences; neotraditional or new urbanist developments mixing single family homes around a traditional small town commercial area with a common public open space; research and small manufacturing facilities in a campus like setting. NOTE: Rural cluster developments are not PUDs or PDs. They are exclusively single- family residential developments permitted as a "s" use pursuant to Section 6.3.	IV* V**	--	--	S	S	--	S	S

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use. *With residential uses only. *With Mixed-Use.

TABLE 4- 2. ACCESSORY USE MATRIX

Accessory Use Matrix								
Accessory Use (subordinate to principle use on same parcel)	*Form-Based Districts*			*Traditional Districts*				*Standard Reference*
	DT3	DT2	GC	R1	R2	W-MU	I	
Amateur Radio and TV Antennae Towers	C	C	C	C	C	C	C	Section 5.2.1
Apiary	--	--	--	C	--	C	C	Section 9.4.9
Boathouses and Hoists	--	--	--	--	--	P	--	Section 5.3
Bus Shelter	P	P	P	C	C	C	P	Section 9.4.2
Decks, Patios, Gazebos	P	P	P	P	P	P	P	Section 5.2
Dwellings (accessory to principle dwelling)	--	S	S	S	S	S	--	Section 9.4.1
Freestanding Flagpoles	P	P	P	P	P	P	P	Section 5.2.1
Food Stands (temporary produce/crafts sales accessory to farm/residence)	C	C	C	C	--	C	--	Section 9.5.1
Garages or Carports (residential use)	P	P	P	P	P	P	P	Section 5.3 & district
Home Greenhouses or Aquaculture System	C	P	P	P	P	P	P	Section 9.4.3

PROOFS

Home Occupations	C	C	C	C	C	C	C	Section 9.4.4
Outdoor Fireplaces, Fire pits, Chimera	P	P	P	P	P	P	P	Section 5.3
Outdoor Display & Sales Areas	C	P	P	--	--	C	P	Section 9.4.5
Outdoor Food & Beverage Service	C	P	P	--	--	P	--	Section 9.4.6
Outdoor Storage	--	--	--	--	--	--	--	Section 5.11.2
Pole Barns	--	--	--	C	--	C	P	Section 5.3 & district
Storage or Service Buildings or Sauna	P	P	P	P	P	P	P	Section 5.3 & district
Outdoor Swimming Pools	C	C	C	C	C	C	--	Section 9.4.8
Shipping Containers for Storage	--	--	C	--	--	--	P	
Temporary Sawmill (Commercial)	--	--	--	--	--	--	C	Section 9.5.2

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

ARTICLE 5. GENERAL PROVISIONS

SECTION 5.1. APPLICABILITY

The provisions of this Article generally apply to all zoning districts unless indicated otherwise. Any conflicts between this article and the individual zoning district requirements resolve in favor of the latter.

SECTION 5.2. GENERAL STRUCTURES REGULATIONS

5.2.1 *Height exceptions*. The following non-residential structures and appurtenances shall be exempt from height regulations in all zoning districts in which they are permitted, provided no portion of the excepted structure may be used for human occupancy:

5.2.1.1 Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks and water towers, elevator and stairwell penthouses, ventilators, fire and hose towers, cooling towers, grain elevators, stacks, stage towers or scenery lofts, monuments, cupolas, domes, church steeples and spires, parapet walls not exceeding six (6) feet in height, or other structures where the manufacturing process requires a greater height, provided these appurtenances do not exceed seventy-five (75) feet in height or not more than fifteen (15) feet higher than the highest point of the structure, whichever is higher, and are set back a distance from the property line at least equal to the height of the structure above the roofline. Public-owned water tanks and water towers are not subject to any height limitation.

5.2.1.2 Flagpoles and ham or amateur radio towers shall not exceed thirty-five (35) feet in height.

5.2.1.3 Except in the I General Industrial District, all objects stored within an allowable outdoor storage area may not exceed the height of any required screen or fence except for recreational vehicles and boats.

5.2.2 *Height in relation to grade (fill).* Filling with earth or other materials to an elevation above the established or natural grade of adjacent land is prohibited without the express written approval of the Zoning Administrator. The intent of this provision is to prohibit the erection of buildings taller than the natural grade plus what the height restriction of this Ordinance would otherwise permit. Whenever deemed possible by the Village Engineer, all water runoff shall be stored on site; no water shall be directed into public storm drains, sanitary sewers, or a vacant lot abutting property unless owned by the applicant. Where a new building is constructed between two existing buildings, or on a vacant lot adjacent to an existing building, the natural grade shall be used to determine the finished grade for the new building and the required yard space.

5.2.3 *Additions.* All proposed additions shall meet the setback and area requirements of this Ordinance.

PROOFS

5.2.4 *Porches and decks.*

5.2.4.1 All proposed enclosed porches and all existing open porches, decks, or patios proposed for enclosure shall meet the setback and area requirements of this Ordinance.

5.2.4.2 An open, unenclosed, and uncovered porch or deck six (6) inches or more above finished grade shall meet the setback and area requirements of the district for a principle building if connected to and accessed from the principle building. Otherwise the porch or deck shall meet the yard and area requirements for an accessory structure.

5.2.4.3 Paved terraces, patios, and unenclosed, uncovered porches and decks shall not be subject to yard requirements, provided that all of the following conditions are met:

5.2.4.3.A It is less than six (6) inches above the finished grade.

5.2.4.3.B The paved or decked area is unroofed and without continuous enclosure linking it to the principle building in such a way that it appears functionally a part of the principle building.

5.2.4.3.C No portion of any paved or decked area is closer than three (3) feet from any side or rear lot line.

5.2.5 *Single family dwellings.*

5.2.5.1 *Intent.* It is the intent of this Section to provide a wide variety of single family housing options in the Village of Ontonagon, including the need for lower cost single family housing, while protecting the public health and safety. The purpose of this Section is to provide standards for the construction, installation, and appearance of all single family homes to ensure compatibility. The following minimum requirements apply to all dwelling units outside of mobile home parks:

5.2.5.2 *Requirements*.

5.2.5.2.A All construction required in this Section shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan Construction Code provisions and Ordinance requirements.

5.2.5.2.B Mobile homes not conforming to the standards of this Section shall not be occupied unless located within a mobile home park, or unless used for temporary residence purposes as provided in Section 5.2.6.2.

5.2.5.2.C Requirements for all Single Family Homes:

(1) Shall have a minimum width of twenty (20) feet over fifty (50) percent of the entire structure length.

(2) Shall comply with all pertinent building and fire codes and all applicable roof snow load and strength requirements.

(3) Shall remove the wheels, pulling mechanism, and tongue before placement on a permanent foundation meeting the requirements of the building code.

(4) Shall be connected to a sewer system and water supply system approved by the District Health Department or municipal utilities.

(5) Shall provide steps or porch areas, permanently attached to the foundation, where there exists an elevation differential of more than one foot between any door and the surrounding grade.

(6) Shall provide a minimum of two points of ingress and egress.

(7) Shall construct all additions with similar or better quality materials and workmanship as the original structure, including permanent attachment to the principle structure and construction of a permanent foundation. Additions shall also meet the requirements of Section 5.2.3.

(8) Shall have a minimum of 4/12 roof pitch, with either a roof overhang of not less than six (6) inches on all sides, or alternately, window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.

PROOFS

(9) Innovative design concepts involving renewable energy infrastructure, passive energy or solar design, climate mitigation, orientation to views, design in full compliance with all applicable requirements of the Americans with Disabilities Act., and incorporation of natural features that are consistent with the standards of this Ordinance shall be encouraged.

(10) All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development of Housing and Urban Development Regulations entitled "The National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. 5401 et seq.; 24 CFR Part 3280 and Part 3282. All other dwellings shall meet the requirements of the Stille- DeRossett- Hale Single State Construction Code Act, Public Act 230 of 1972, being MCL 125.1501, et seq.

(11) Legal nonconforming mobile homes (not temporary) located outside mobile home parks, upon removal, shall be replaced with a mobile home in good condition that meets all requirements of this Section, and is certified by the American National Standards Institute or the National Manufactured Housing Construction and Safety Standards Act of 1974, or is a site constructed home or manufactured home that meets all applicable code requirements.

5.2.6 *Temporary buildings and structures*.

5.2.6.1 *Habitation of accessory structures, tents, yurts, and travel trailers*. Except for tents and recreational vehicles in legitimate campgrounds, no structure that does not meet the minimum standards for a dwelling unit as defined in this Ordinance and the Stille- DeRossett- Hale Single State Construction Code Act, Public Act 230 of 1972, being MCL 125.1501, et seq., shall be used for dwelling purposes.

5.2.6.2 *Temporary dwelling units*. The Zoning Administrator may issue a Temporary Zoning Permit per the requirements of Article 14 for a mobile home or other temporary dwelling unit used for temporary dwelling purposes, subject to the following provisions:

5.2.6.2.A The purpose of the temporary housing/dwelling is to provide on-site housing for residents of the lot as an accessory use for:

(1) Temporary use while a new dwelling unit is being constructed or rebuilt;

(2) Temporary use of a tent or recreational vehicle for guests of the owner, without charges or fees, in the side or rear yard of an occupied single family dwelling for not more than fourteen (14) days in succession nor more than sixty (60) days in one (1) year.

5.2.6.2.B The permit is for a period not longer than one (1) year based on evidence presented by the applicant that he/she can have the foundation and complete building framing in place within six (6) months and the entire residence completed within one (1) year. This period may be extended up to one (1) additional year by the Zoning Administrator when the following standards are met:

(1) A good faith effort has been shown to build a new or rebuild a destroyed dwelling unit;

(2) The time extension is reasonably necessary considering the practical difficulties associated with actual construction;

(3) Occupancy of the structure being rebuilt is reasonably possible within the time extension;

(4) Granting of the time extension to the applicant and other similarly situated parties will not prohibit enforcement of any provisions of this Ordinance, unduly overburden administration and enforcement resources, or adversely affect general health, welfare and safety of adjacent properties or the general community.

5.2.6.2.C A residence is permitted in that district;

5.2.6.2.D A performance guarantee pursuant to Section 14.3.3.1 is collected and said temporary dwelling is removed within fifteen (15) days after construction is complete.

5.2.6.2.E The following additional approvals are obtained:

(1) Any applicable permits from the Building Inspector;

PROOFS

(2) Approval of a septic system and well from the District Health Department;

(3) A driveway permit from the Local Road Agency or Michigan Department of Transportation, as applicable.

5.2.6.2.F Any mobile home permitted by temporary permit for purposes other than those described in this Section before the effective date of this Ordinance may be issued a temporary permit by the Zoning Administrator for continuation of use by the present occupant, but no other occupant, provided the dwelling remains in good structural condition, the septic system and well remain approvable by the District Health Department, and a performance guarantee pursuant to Section 14.3.3.1 is collected to ensure the temporary mobile home is removed within thirty (30) days of its no longer being used by the present occupant.

5.2.6.2.G All temporary dwelling units shall comply with the following requirements:

(1) Recreational vehicle shall not be occupied in a driveway or upon a public right-of-way.

(2) On site disposal of waste water (black water and grey water) shall be properly discharged into an approved septic system or sanitary sewer.

(3) Portable generators shall be located not less than fifty (50) feet from any property line.

5.2.6.3 *Temporary contractor buildings*. Temporary structures and temporary uses incidental to construction work, such as contractor storage buildings, semis, or mobile homes used for contractor equipment, foreman offices, and related activities, but not for habitation are exempt from setbacks, and Temporary Zoning Permit requirements, subject to the following provisions:

5.2.6.3.A Such buildings, structures or uses impede no clear vision area;

5.2.6.3.B Structures are removed upon the completion or abandonment of the construction work or within one (1) year from date of placement, whichever period of time is the shortest.

5.2.6.4 *Temporary real estate offices*. Temporary real estate offices are permitted within approved development projects subject to the following provisions:

5.2.6.4.A No cooking or sleeping accommodations shall be maintained.

5.2.6.4.B The temporary Zoning Permit shall be valid for not more than one (1) year, but is renewable.

5.2.6.4.C The office shall be removed upon sale of ninety (90) percent of the lots in the development.

5.2.6.4.D A model home may be used as a temporary sales office.

5.2.6.5 *Temporary buildings incidental to a church or school*. Temporary buildings incidental to a church or school are permitted subject to the following provisions:

5.2.6.5.A All wiring, plumbing, fire protection, and exits are approved by the Fire Chief and Building Inspector.

5.2.6.5.B The structures meet the requirements of all relevant state agencies.

5.2.6.5.C All yard requirements of this Ordinance are met.

5.2.6.6 *Christmas tree sales lots*. The display and sale of Christmas trees on the site of a nonresidential or mixed-use, or at a church in any district, is permitted without a temporary Zoning Permit provided it is incidental and accessory to the principle use, or is a temporary use of a vacant lot, subject to the following provisions:

5.2.6.6.A The display and sale of Christmas trees is permitted for a period not to exceed forty-five (45) days.

5.2.6.6.B All unsold trees must be removed from the property by December 31 of each calendar year.

5.2.6.6.C Any sales of Christmas trees in a location or under circumstances other than those defined above is permitted only by a Temporary Zoning Permit issued at the discretion of the Zoning Administrator.

PROOFS

5.2.6.7 *Auctions*. The public sale of property to the highest bidder shall be permitted for not more than five (5) days and no sales activity shall occur within twenty-five (25) feet of any street or road right-of-way. Off-street parking areas shall be provided and parking is prohibited within the right-of-way of a major thoroughfare.

5.2.7 *Razing of buildings.* No building shall be razed until a demolition permit has been obtained from the Building Inspector in consultation with the Village Zoning Administrator who shall be authorized to require a performance bond in any amount not to exceed one thousand dollars ($1,000) for each one thousand (1,000) square feet or fraction thereof of floor area of the building to be razed. That bond shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Building Inspector may, from time to time, prescribe, including filling of excavations and proper termination of utility connections. If the building is safely razed and the site cleaned as specified in the permit, then the bond shall be returned within thirty (30) days of completion of the razing. If razing is not accomplished according to the terms of the approval, then the Village shall cash the performance bond and use the money to restore the site to a safe condition. Costs in excess of the bond shall be charged back to the property owner and placed as a lien on the property if not paid within three (3) months. This performance bond will be administered as described in Section 14.3.3.1 except, as described above, the Building Inspector and the Zoning Administrator are responsible for administering this requirement, and Planning Commission approval is not necessary to return the bond.

5.2.8 *Moving of buildings*. No existing building or structure shall be moved into or within the Village unless in accordance with a moving plan approved by the Zoning Administrator. The relocated structure shall comply with all the requirements of this Ordinance.

5.2.9 *Damaged buildings*. Any building or structure that has been partially destroyed by fire, storm, water, or other disaster, or is in such a state of disrepair as to be declared unsafe or unfit for human occupancy by the proper authority, shall either be entirely removed or repaired by the owner within twelve (12) months from the date of the determination or the effective date of this Ordinance. In the interim, the site shall be fenced or otherwise protected and prevented from becoming a nuisance.

SECTION 5.3. GENERAL ACCESSORY STRUCTURES REGULATIONS

5.3.1 *Subordinate to principle use*. Accessory uses and structures must be subordinate to the principle use and structure on the subject lot in terms of area, extent, and purpose.

5.3.2 *Time of establishment*.

5.3.2.1 Accessory structures must be constructed in conjunction with or after the principle building, and may not be constructed prior to the construction of the principle building, except per the provisions in this subsection:

5.3.2.1.A A permitted accessory structure may be erected following receipt of a Certificate of Zoning Compliance and building permit and all other appropriate permits for the accessory structure as well as the principle structure on the lot.

5.3.2.1.B Legitimate agricultural accessory structures can be erected independent of a permitted principle structure in the R-1 district.

5.3.2.2 If a garage or other accessory structure is built before a dwelling, where permitted above, the building footprint for the dwelling must be established prior to determining the size of the accessory structure, and before a Certificate of Zoning Compliance can be issued. The permitted single family dwelling which the accessory structure is to accompany shall be erected within two (2) years.

5.3.3 *Use of accessory structures as a dwelling*. No garage or other accessory structure may be used as a dwelling before or after a principle structure is erected unless otherwise provided in this Ordinance (see Section 9.4.1).

5.3.4 *Accessory structure requirements*. Standards for site, placement, setback, and height of accessory structures are detailed within the District standards of Article 6. Total lot coverage may not exceed the requirements within the District standards.

PROOFS

5.3.5 *Accessory structure yard exceptions.* The yard requirements of this Ordinance may be waived for the following accessory structures:

5.3.5.1 Mechanical structures, such as heat pumps, air conditioners, emergency generators, and water pumps are not allowed in front yards, but they may be located in rear or side yards if they are located at least three (3) feet from rear and side lot lines.

5.3.5.2 Freestanding gazebos and other similar outdoor shelters, saunas, and small sheds are not allowed in front yards (except as below), but they may be located in rear or side yards if they are located at least three (3) feet from the rear and side lots lines, and the parcel complies with total lot coverage requirements. In the W-MU district, these structures may be allowed in the front yard (water side) of waterfront properties.

5.3.5.3 Fences or screening walls, as permitted by Section 5.6, may be located in any required yard. Residential fences are permitted on the property lines in residential districts. Fences and walls shall not be closer than three (3) feet to any alley right-of-way.

5.3.5.4 Essential services, utilities, electric power, and communications transmission lines are exempt from the yard and setback requirements of this Ordinance. See applicable standards in Section 5.8.

5.3.5.5 Landscaping and vegetation are exempt from the yard and height requirements except for living fences as in accordance with Section 5.6 of this Ordinance.

SECTION 5.4. GENERAL LOT REGULATIONS

5.4.1 *Two dwelling units on a lot.* No lot on which a dwelling unit is permitted may have a second dwelling unit erected on the lot except as provided in this Ordinance for accessory dwellings units (Section 9.4.1), duplexes, or multi-unit dwelling (Section 9.3.6.1).

5.4.2 *Lots of record.* A lot of record may be used as specified in the zoning district in which it is located. Any structure shall be located on the lot in compliance with all yard and setback requirements for the zoning district in which the lot is located.

5.4.3 *Division of lots*. No lot shall be divided except in conformance with the requirements of the Land Division Act, Public Act 288 of 1967, being MCL 560.101 et seq. and any applicable Village ordinances.

5.4.4 *Combination of lots.* No lot shall be divided and combined with an abutting lot if the portion remaining following the division would not meet the minimum requirements for lots in the district, including the ability to be connected to municipal utilities, or to support a septic system and well under the requirements of the District Health Department.

5.4.5 *Yard provisions.*

5.4.5.1 *Average front yards.* The required front yards may be decreased in any residential or mixed-use district to the average of the existing front yards of the abutting two structures on each side (exempting vacant lots), but in no case less than ten (10) feet (except for the DT-3 and DT-2 districts which require no minimum front setback).

5.4.5.2 *Projections in yards.*

5.4.5.2.A No buildings or structures shall encroach on a clear vision triangle per Section 5.4.5.3.

5.4.5.2.B For existing structures, ramps to accommodate wheelchairs and/or related devices to assist the handicapped or infirm are permitted to encroach on the yard requirements of any district, provided an application for a Certificate of Zoning Compliance is filed with the Zoning Administrator who shall find as a condition of issuing the requested permit that the location selected minimizes the yard encroachment while still meeting the ramp needs of the applicant. No ramp is permitted to extend from a front or side door directly to the front sidewalk or curb, if it is reasonably feasible to connect to an existing private sidewalk or paved driveway. Ramps may not be covered within any setback or required yard. For ramps constructed as part of a new building, ramps must meet all setback requirements. Ramps must meet the requirements imposed by all applicable federal, state and local regulations.

PROOFS

5.4.5.2.C Self-supporting awnings may project into a required yard but shall not be located closer than three (3) feet to any property line. Awnings shall be at least eight (8) feet above grade at every point. No awning, except a fully retractable awning, shall be erected over a public right-of-way.

5.4.5.2.D Uncovered stairs, landings, and fire escapes may project into any yard, but not to exceed six (6) feet, and not closer than three (3) feet to any lot line.

5.4.5.2.E Architectural projections such as chimneys, flues, sills, eaves, belt courses, and ornaments may project into any required yard, but such projection shall not exceed four (4) feet, and shall not be closer than three (3) feet to any lot line.

5.4.5.3 *Clear vision area*. No fence, wall, shrubbery, sign, snow piles, or other buildings, structures, or objects other than official traffic or governmental signs shall be placed so as to obstruct clear vision for motorists within the clear vision area at intersecting streets and intersections of streets and driveways as described below and illustrated in Figure 15-5 of Article 15:

5.4.5.3.A At the intersection of two streets, or where a street intersects with an alley: a triangle defined by measuring twenty-five (25') feet in length along each street/alley right-of-way line from their point of intersection, the third side being a diagonal line connecting the first two.

5.4.5.3.B At the intersection of a driveway and a street: Two sides of the triangle defined by measuring twenty (20') feet in length along the edge of the driveway and along the street right-of-way line and the third side being a diagonal line connecting the first two. Both sides of the driveway shall be protected.

5.4.5.3.C No shrubs, ground covers, boulders, snow piles, berms, fences, or other material constituting visual obstructions will impede clear vision in a vertical area between twenty-four (24) inches and ninety-six (96) inches above the grade of the lower roadway or driveway adjacent to the triangular areas.

5.4.5.4 *Gardening or orchards in required front yards*.

5.4.5.4.A The following improvements shall be allowed in required yards for the purpose of growing fruits and vegetables, but no closer than three (3) foot from any property line and not within the specified clear vision area:

(1) Trellises and arbors, provided they are:

a. No taller than four (4) feet in the front yard.

b. No taller than six (6) feet in side or rear yards.

(2) Raised planting beds up to eighteen (18) inches tall.

(3) Temporary hoop houses or plant covers for early start-up of plants, provided:

a. These covers do not exceed three (3) feet tall; and

b. Are removed by June 30 of each year; and

c. Are maintained in good repair.

5.4.5.4.B All dead plant growth shall be removed.

5.4.5.4.C Nothing herein is intended to preclude any person from filing a private nuisance action against an offensive agricultural use.

5.4.5.5 *Exceptions to site layout standards.* The Planning Commission may alter site layout standards to accomplish any of the following beneficial outcomes:

5.4.5.5.A Create development that is more supportive of the continued existence and health of natural features or biological conditions such as (but not limited to) steep slopes, wetlands, existing trees, geological features, or habitat, than otherwise provided in this Ordinance;

5.4.5.5.B The alteration better mitigates harsh, winter conditions and thereby creates a more supportive pedestrian environment;

PROOFS

5.4.5.5.C The alteration serves to best optimize opportunity for passive solar design;

5.4.5.5.D The alteration allows natural, on-site stormwater management in areas of intense surface run-off.

5.4.5.5.E More inclusive design meant to better accommodate those with disabilities.

5.4.6 *Open space preservation provisions*. Regardless of zoning district, land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on not more than eighty (80) percent of the total permitted buildable area, leaving at least twenty (20) percent of the buildable area as open space if all of the following apply:

5.4.6.1 The land is zoned at a density equivalent to two (2) or fewer dwelling units per acre or, if the land is served by a public sewer system, three (3) or fewer dwelling units per acre;

5.4.6.2 At least twenty (20) percent of the total buildable area shall remain in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land. Unbuildable areas such as wetlands, areas within the one-hundred (100) year floodplain, and areas of slopes greater than twenty-five (25) percent shall not count toward the twenty (20) percent open space minimum;

5.4.6.3 The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of open space provisions would also depend upon the extension;

5.4.6.4 In cases where extension of public sewer or public water are necessary, the developer shall bear the costs associated with the extension;

5.4.6.5 This option has not previously been exercised with respect to the land;

5.4.6.6 The exercise of this option shall also be subject to the provisions of Section 9.3.6.2.B, Cluster Development, and the specific standards in the applicable zoning districts (Articles 6 and 7). If the development is a subdivision, it must meet the Village of Ontonagon Subdivision regulations. If the development is a Planned Unit Development, it must meet the requirements of Article 10.

SECTION 5.5. GENERAL PARKING AND LOADING REGULATIONS

5.5.1 *Intent*. This section is intended to support master plan goals for a balanced transportation system. Each property owner in every zoning District shall provide and maintain parking areas for off-street storage of motor vehicles adequate for the use of occupants, employees, and patrons of each property subject to the provisions of this Ordinance, except as otherwise provided by this Ordinance. Parking standards are intended to minimize the detrimental effects of parking surfaces on adjacent lands, improve the visual aesthetics of parking areas, prevent excessive amounts of off-street parking, encourage appropriate development and redevelopment, enhance the compatibility of auto circulation systems with pedestrian and bicycle circulation, and provide for more beneficial stormwater management.

5.5.2 *Applicability*.

5.5.2.1 Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications or a change in use result in an increase in the required parking under this Ordinance, additional parking shall be provided and maintained as required by this Ordinance.

5.5.2.2 No parking area, parking space, or loading area which exists on the effective date of this Ordinance, or which is later provided for in compliance with this Ordinance, shall thereafter be relinquished or reduced below the requirements established by this Ordinance until equal or better parking facilities in compliance with this Ordinance are provided, or until the Planning Commission determines that the parking requirements of the site have changed.

5.5.3 *Calculating the required and allowed number of parking spaces*. The following standards shall be used to determine the required number of parking spaces:

PROOFS

5.5.3.1 No parking space located within or along the traveled portion of any street shall be counted toward the off-street parking requirements set forth in this Ordinance, but could be considered in a decision to reduce parking requirements per Section 5.5.7.

5.5.3.2 Useable floor area is defined as the gross floor area used for services to the public, including those areas occupied by fixtures and equipment used for display or sale of merchandise, but excluding floor areas which are used exclusively for storage, housing of mechanical equipment integral with the building, maintenance facilities, or other areas where customers, patients, clients, salesmen, and the general public are denied access. Floor area, whether usable or gross, shall be measured from the exterior faces of exterior walls, except in a case where an interior building wall separates two uses or users. In such a case, the floor area shall be measured from the inside face of such an inside wall.

5.5.3.3 When a calculation determining the number of required parking spaces results in a fractional space, any fraction shall be counted as one (1) additional space.

5.5.3.4 Requirements for parking stated in terms of employees shall be based upon the maximum number of employees likely to be on the premises during the largest shift.

5.5.3.5 When benches, pews, or other similar seating is used in calculations, each twenty-four (24) inches of that seating shall be counted as one seat, unless Table 5-1 specifies otherwise.

5.5.3.6 Plans and specifications showing the number of required off-street parking spaces for every use, as listed on Table 5-1, shall be provided and approved prior to the issuance of a zoning or building permit. Any proposed use for which there is no comparable use parking standard in Table 5-1 shall conform to the standard for that use in the most recent edition of Parking Standards published by the American Planning Association. If there is more than one principle use on a lot, then the combined parking requirements for each of the permitted uses must be met unless there is an approved joint use agreement as set forth in Section 5.5.4.

5.5.3.7 Accessible parking spaces required under the Americans with Disabilities Act shall be counted toward the number of parking spaces required under this section.

5.5.3.8 Loading and unloading spaces required under Section 5.5.12 shall not be counted toward the number of parking spaces required under this section.

5.5.3.9 See District standards in Article 6 for any district appropriate exceptions to these standards.

5.5.4 *Joint use of parking areas.*

5.5.4.1 *Applicability*. The joint use of parking areas by two or more uses may be approved by the Zoning Administrator whenever such joint use is practical and satisfactory to each of the uses served, and when all requirements for location, design, and construction are met. Except as otherwise provided in this Ordinance, shared parking shall not include the parking required for residential uses.

5.5.4.2 *Computing capacity*. In computing capacities of any joint parking area, the total parking space requirement is the sum of the greatest number of parking spaces required for the individual uses that will occur at the same time. If the maximum space requirements for individual uses occur at distinctly different times, the total number of off-street parking spaces required for joint use may be reduced by the Zoning Administrator to not less than one-half (1/2) the number of required spaces provided on any one (1) lot. The lots shall be interconnected for vehicular and pedestrian circulation.

5.5.4.3 *Configuration.* Whenever possible, joint or cooperative parking arrangements shall utilize shared driveways, shared service drives, cross access drives, and frontage roads to minimize driveways that access an arterial or collector street. Cross-access easements, if necessary, shall be submitted to the Village for approval.

5.5.4.4 *Record of agreement*. A copy of an agreement between joint users shall be filed with and must be approved by the Zoning Administrator prior to the issuance of the Certificate of Zoning Compliance. The agreement shall include provisions for the continued long-term use and maintenance of the parking area as well as the allocation of parking spaces to each use.

5.5.5 *Parking requirement deferment.*

PROOFS

5.5.5.1 Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area, provided that an area of sufficient size to meet the parking space requirements of this article is retained as open space, and the owner agrees in writing to construct the additional parking based on observed usage within six (6) months of receipt of a written response to the request by the Zoning Administrator.

5.5.5.2 The site plan shall note the area where parking is being deferred, including dimensions and parking lot layout.

5.5.5.3 Proof of an approved stormwater management plan for the complete parking area, including any deferred spaces, must be submitted.

5.5.5.4 Upon review, the Planning Commission may defer the requirements for off-street parking for the allowed uses in the DT-3 District. In each case, the Planning Commission shall determine:

(1) That there is adequate public parking available within 300 feet of the proposed use.

(2) That the typical parking hours of employees and customers do not conflict with any other Village Ordinances, and

(3) That off street parking is provided for any residential uses of the property.

5.5.6 *Additional parking*. To minimize excessive areas of pavement which depreciate aesthetic standards and contribute to high rates of stormwater runoff, no parking lot shall exceed the minimum parking space requirements by ten percent (10%) greater than required except as approved by the Zoning Administrator. In granting additional spaces, the Zoning Administrator shall determine that the parking will be required, based on documented evidence of actual use and demand provided by the applicant.

5.5.7 *Parking requirement reduction*. The Planning Commission, based on a Tier 3 review for a Special Land Use, may approve a decision to reduce off-street parking requirements based on the following factors:

5.5.7.1 Buildings, structures, or uses are within three-hundred (300) feet of a transit stop.

5.5.7.2 The use offers a car sharing service or shared parking arrangement.

5.5.7.3 A development located in a mixed-use district offers a payment in lieu of providing off-street parking to the special assessment fund for the Village to help develop public parking facilities.

5.5.7.4 On-street or publicly owned parking lots or structures can provide a portion of the minimum off-street parking requirements, provided that all these factors are met (a parking demand study may be required for this determination):

5.5.7.4.A This parking is available within three-hundred (300) feet of the main building entrance; and

5.5.7.4.B No more than fifty (50) percent of the off-street parking space requirement is met through the use of on-street or publicly-owned parking; and

5.5.7.4.C The intensity of the use and its parking requirements shall not substantially adversely impact surrounding uses; and

5.5.7.4.D There is no negative impact to existing or planned traffic circulation patterns.

5.5.8 *Location of parking*.

5.5.8.1 Same lot requirement: Unless otherwise permitted under this Ordinance, all off-street parking facilities in residential districts shall be located on the same lot as the use they are intended to serve.

5.5.8.2 300 feet rule: Off-street parking facilities in mixed-density residential, mixed-use, and non-residential districts shall be provided within three hundred (300) feet of the principle building. If on adjacent premises, they shall be under the ownership of the applicant or part of an approved joint parking area under Section 5.5.4. If no parking is available on the same or an adjacent lot, the applicant shall submit a request with the Planning Commission for a Special Land Use Permit according to the provisions of Section 5.5.5 or Section 5.5.7 above.

5.5.8.3 Alleys: Where a parking area abuts an alley, access to the parking area shall be obtained from the

PROOFS

alley. Where a parking area does not abut an alley, and abuts two (2) or more streets, access to the parking area shall be from the street with the lower traffic volumes. The Zoning Administrator may waive this requirement if, due to the particular situation of the parcel, this requirement cannot be satisfied.

5.5.9 *Parking area plan review*. Whenever vehicle parking spaces are required for a given use, plans and specifications for the construction or alteration of an off-street parking area shall be submitted to the Zoning Administrator for review and approval before a zoning and/or building permit is issued. Such plans and specifications shall at minimum include:

5.5.9.1 Existing and proposed grades

5.5.9.2 Location of buildings and parking areas, including size and site design

5.5.9.3 Basis of capacity calculation

5.5.9.4 Specifications on surface and base materials for construction

5.5.9.5 Locations and applicable dimensions of marking, lighting, drainage, curb cuts, entrances, exits, landscaping, signage, and any other detailed feature essential to the complete design and construction of the parking area.

5.5.9.6 For site development requirements for off-street parking and loading, see Section 5.5.12.

TABLE 5- 1 Residential and Related Uses

PROOFS

Parking Standards – Minimum number of parking spaces per unit of measure and per use	
Bed and breakfast operations	One (1) space for each sleeping room, plus two (2) spaces for permanent residents.
Boarding houses, fraternities, and sororities	One (1) space for each bedroom or each two (2) occupants of the structure, whichever is greater.
Community residential care facilities (6 or less persons)	Four (4) spaces.
Convalescent homes, convents, and large residential care facilities (over 6 persons)	One (1) space for each three (3) beds, plus one (1) space for every three (3) employees.
Mobile home parks	Two (2) spaces for each mobile home site, plus one (1) space for each mobile home park employee.
Multiple-family dwellings	One and a half (1.5) spaces for each dwelling unit.
Single-and two-family dwellings	Two (2) spaces for each family dwelling unit. Includes approach to garage on-site and stalls in garage.
Accessory dwelling unit	One (1) space per dwelling unit.
Educational, Government, Institutional, Civic Assembly	
Public buildings	One (1) space for each two hundred and fifty (250) sq. ft. of gross floor area used by the public, and one (1) space for each six hundred (600) sq. ft. of gross floor area not used by the public.
Religious institutions and houses of worship	0.25 times maximum seating capacity.
Theatre, Auditoriums, Spectator/Sports	0.25 times maximum seating capacity or occupancy.

Arenas, studio (aerobics, dance, yoga, karate)	
Educational and community centers	One (1) space per one-thousand (1,000) sq ft plus one (1) per classroom.
Hospital	Three (3) spaces per bed.
Outdoor recreation field	Six (6) spaces per one-thousand (1,000) sq ft.
Auto-Oriented Commercial and related uses	
Automobile rental, short-term	1.25 spaces per rental vehicle.
Car/Truck wash	Four (4) per premises and one (1) per stall over five (5) stalls.
Automobile service and repair garages; gasoline filling and service stations; vehicle wrecking, towing and storage	Two and a half (2.5) spaces for each repair and service stall, plus one (1) space for every employee.
Vehicle sales and lease	Three (3) spaces per one-thousand (1,000) gross sq ft.

Auto Oriented Commercial and related uses, continued	
Drive-through restaurants or fast-food establishments	One (1) space per sixty (60) sq. ft. of eating area, plus one (1) space for each employee on the largest working shift.
Food service establishments that are carry-out or walk-up only, exterior seating only.	One (1) space for each employee, plus four (4) spaces.
Convenience store	One (1) space for each one-hundred fifty (150) sq. ft. of usable floor area.
Other business service establishments such as advertising, mailing, banking, employment, investment, real estate offices.	One (1) space for every three hundred (300) sq. ft. of usable floor area.
Contractor/building services.	One (1) space for every three hundred (300) sq. ft. of usable floor area.
Funeral/mortuary.	One-quarter (0.25) space per occupancy.
Food service establishments with sale and consumption of food and beverages on premises, including drive-in but not drive-thru.	One (1) space for each seventy-five (75) sq. ft. of usable floor area, or one (1) space for each two (2) persons allowed within the maximum occupancy load as established by the local fire marshal.
Retail, General; except otherwise specified herein	Two and a half (2.5) spaces for every one-thousand (1,000) sq. ft. of usable floor area.
Retail, Outdoor nursery or garden center	Three-quarter (0.75) spaces for every one-thousand (1,000) sq. ft. of usable sales area.
Live/Work unit.	Two (2) spaces per unit.
Outdoor seating	One-quarter (0.25) space per four (4) occupancy.
Medical or dental office uses.	One (1) space for every two-hundred fifty (250) sq. ft. of usable floor area.
Barber shop, beauty salon, tanning, massage	Two (2) spaces per station.

PROOFS

Health or athletic club	Two and a half (2.5) spaces for every one-thousand (1,000) sq. ft. of usable floor area.
Motels, hotels and auto courts	One (1) space for each sleeping unit, plus, one (1) space for each two (2) employees.
Personal service establishment and veterinary	One (1) space per two hundred fifty (250) sq. ft. of retail sales area, and one (1) space for each four hundred (400) sq. ft. of service area.
Repair services	One (1) space per each two hundred fifty (250) sq. ft. of usable floor area, plus one (1) space for each employee.
Supermarket	One (1) space for each two-hundred fifty (250) sq. ft. of usable floor area.
Taverns, bars	One (1) space for each seventy-five (75) sq. ft. of usable floor area, or one (1) space for every three (3) seats, whichever is greater.
All indoor entertainment facilities	One (1) space for every two hundred and fifty (250) sq. ft. of usable floor area.

Parking Standards - - Minimum number of parking spaces per unit of measure and per use	
Outdoor Entertainment uses	
Campground	Two (2) 10' x 30' spaces for every campsite.
Golf courses open to the public	Four (4) spaces for each hole, plus one (1) space for each employee, plus required spaces for each accessory use, such as a restaurant or bar.
Golf driving range	One (1) space for each tee, plus one (1) space for each employee on the largest work shift.
Development	
Planned commercial or shopping center	One (1) space for each two hundred fifty (250) sq. ft. of usable floor area.
Industrial and related uses	
Industrial or manufacturing establishments, testing laboratories, creameries, bottling works, printing and engraving shops, and industrial service establishments.	One space for every two (2) employees for industries working two (2) or more shifts. One space for every three (3) employees for industries working one shift or one space for every 400 sq. ft. of gross floor area, whichever is smaller.
Mini-warehouse (self-service storage facility)	One (1) space per fifteen (15) storage units plus one (1) space per employee.
Research and development establishments	One (1) space per employee on the largest shift.
Wholesale trade establishments and warehouses	Two (2) per employee.
Agriculture and related uses	
Livestock auction, transport, and processing	One (1) space per every four (4) person maximum occupancy.
Ag implements, farm, feed sales and service	One (1) space per every four-hundred (400) sq ft gross floor area.

PROOFS

5.5.10 *General standards for off- street parking areas*. All off-street parking, loading, and unloading areas shall be designed, constructed, and maintained in accordance with the following standards and requirements. For the purposes of this section, "parking area" shall mean any area serving as a parking area or a loading and unloading area:

5.5.10.1 Use: Required parking areas shall be used only for the parking of vehicles, and not for material storage, refuse storage stations/dumpsters, storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance except as otherwise provided in this Ordinance.

5.5.10.2 Safety: Each parking area shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles and the access and safety of pedestrians and bicyclists.

5.5.10.3 Ingress and Egress: Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided. See also the general access requirements of Section 5.9. Except for parking areas accessory to single-family and two-family residential lots, drives for ingress and egress to the parking area shall be not less than twenty-four (24) feet wide for two-way access and at least twelve (12) feet wide for one-way access.

5.5.10.4 Maneuvering Lanes: Each parking, loading, or unloading space shall be provided with adequate access by means of maneuvering lanes. The width of required maneuvering lanes for parking spaces varies, depending upon the proposed parking pattern as follows and as illustrated in Figure 5-1:

5.5.10.4.A For right angle parking patterns, seventy-five (75) to ninety (90) degrees, the maneuvering lane width shall be a minimum of twenty-four (24) feet.

5.5.10.4.B For angle parking patterns fifty-four (54) to seventy-four (74) degrees, the maneuvering lane width shall be a minimum of eighteen (18) feet.

5.5.10.4.C For angle parking patterns thirty (30) to fifty-three (53) degrees, the maneuvering lane width shall be a minimum of sixteen (16) feet.

5.5.10.4.D For parallel parking, one-way drives or boulevards, the maneuvering lane width shall be a minimum of twelve (12) feet.

5.5.10.5 Curbs and Vehicle Stops: All off-street parking lots, access drives and aisles, and other vehicle maneuvering areas shall provide curbs or similar devices to prevent vehicles from overhanging on or into the public right-of-way, sidewalks, walkways, adjacent property, or landscape areas.

5.5.10.6 Surfaces: Parking areas shall be surfaced with a durable, smooth, and dustless material approved by the Zoning Administrator, such as asphalt, concrete, pavers, aggregate stone or gravel, or appropriately reinforced and constructed permeable surfaces such as permeable pavers or reinforced turf. The calculations for required stormwater management and retention measure may be adjusted for the use of permeable surfaces for paving.

5.5.10.7 Drainage: Parking areas shall be graded and provided with adequate drainage. Surface drainage may not be directed or permitted to flow from or across the parking area onto the public right-of-way. The required parking area and/or surface shall be maintained and replaced if necessary, as long as the building it serves is occupied or the use is continued.

5.5.10.8 Lighting: Except for single-family and two-family residential lots, adequate lighting satisfying the requirements of Section 5.11.3 shall be provided for each parking area.

5.5.10.9 Connections: When safe and feasible, adjoining parking areas of businesses on abutting properties in any District may be connected so that drivers of motor vehicles do not need to enter onto a street or road and then immediately exit in order to go from one establishment to another. The particular design of such connections shall be approved by the Zoning Administrator.

5.5.11 *Parking space standards*.

[GRAPHIC – FIGURE 5-1 – PARKING SPACE DIMENSIONS]

5.5.11.1 Handicapped: All parking spaces shall be designed and located consistent with all applicable barrier free and handicapped parking requirements under federal, state, county, and local law.

PROOFS

5.5.11.2 Space Delineation: Each space s purposes exclusive of space three (3) or more spaces and off-street loading areas shall include painted lines, curbs or vehicle stops, or other identifiers to delineate parking and loading areas.

5.5.11.3 Dimensions: Parking space dimensions are illustrated in Figure 5- 1, and vary per parking configuration as below:

5.5.11.3.A Minimum size. Each off-street parking space shall be not less than nine feet (9') wide and eighteen feet (18') long, exclusive of access drives or aisles.

5.5.11.3.B For parallel parking, minimum stall dimensions are nine (9) foot width and twenty-two (22) foot length, or nine (9) foot width and nineteen (19) foot length with a five (5) foot wide access aisle between every two spaces.

5.5.11.3.C For 30 to 53 degree angle parking, minimum stall dimensions are ten (10) foot width and twenty (20) foot length with a minimum sixteen (16) foot drive aisle between angled parking areas.

5.5.11.3.D For 54 to 74 degree angle parking, minimum stall dimensions are ten (10) foot width and twenty (20) foot length with a minimum eighteen (18) foot drive aisle between angled parking areas.

5.5.11.3.E For 75 to 90 degree angle parking, minimum stall dimensions are ten (10) foot width and twenty (20) foot length with a minimum twenty-four (24) foot two-way drive aisle between parking areas.

5.5.11.4 When individual garages are access directly from a street, garage doors and all required off-street parking spaces must be located at least twenty (20) feet from the front lot line to prevent obstruction of the sidewalk by parked cars.

5.5.12 *Loading/unloading space standards*.

5.5.12.1 Required Space: In all Districts, for every building or part thereof which is to be occupied by manufacturing, storage, warehouse, goods display, retail store or block of stores over ten thousand (10,000) square feet, wholesale store or warehouse, market, hotel, motel, hospital, mortuary, laundry, dry cleaning, or other uses similarly requiring the receipt or distribution of materials or merchandise by vehicle, there shall be provided and maintained on the same premises with the building off-street loading spaces in relation to floor areas (one per 10,000 square feet of useable floor area or fraction thereof, and one additional loading space for each additional 20,000 square feet of floor area or fraction thereof). If there is more than one principle use on a lot, and the uses can share the loading/unloading space, then the greater of the loading and unloading requirements for one of the permitted uses must be met. Accessible parking spaces required under the Americans with Disabilities Act and parking spaces required under Section 5.5.3 shall not be counted toward the number of loading and unloading spaces required under this section.

5.5.12.2 Dimensions: Each loading and unloading space required by this section shall not be less than twelve (12) feet in width, fifty (50) feet in length, and fourteen (14) feet in height.

5.5.12.3 Access: Access to a loading and unloading space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street or alley so as not to interfere with traffic on public streets or off-street parking. Loading/unloading areas and docks shall be prohibited in the front yard or on any building side facing and directly visible from a public street.

5.5.12.4 Design Requirements: Off-street loading spaces and access drives shall be paved, drained, lighted, and shall have appropriate bumper or wheel guards where needed. Any light used for illumination shall be so arranged as to reflect the light away from adjoining premises and streets. No loading space shall be located closer than fifty (50) feet to any lot in any residential District, or fronting educational, recreational, or religious uses, unless wholly within a completely enclosed building or enclosed on all sides by a wall or uniformly painted solid board or masonry fence not less than six (6) feet in height.

5.5.13 *Parking landscape standards*. This section applies to landscaping for any vehicular use area, which is any area of 1,200 square feet or more of a property which is not located within an enclosed structure and which

PROOFS

is devoted to a use by or for motor vehicles, including parking (accessory or non-accessory) or storage of automobiles, trucks or other vehicles; loading areas; service areas and drives. Any paved area designed to be used solely for access between the street and the vehicular use area is not considered part of the vehicular use area. Vehicular use areas shall have the following landscaping and screening, which shall be continuously planted with living vegetation:

5.5.13.1 Right- of- way screening: Vehicular use areas that are visible from a public right-of-way shall include one of the following landscape buffers between the vehicular use area and the right-of-way (This section applies to public alleys only when the public alley separates a residential use or zone from a vehicular use area);

5.5.13.1.A Buffer type "E1", including an opaque fence, as described in Section 5.6.5.5.

5.5.13.1.B Buffer type "D2", with the fence not required as described in Section 5.6.5.4.

5.5.13.2 Edge landscaping: When the provision of off-street parking for ten (10) or more vehicles is required, there shall be landscaped open space within the perimeter of the parking area, or areas, in the minimum amount of eighteen (18) square feet for each parking space, which shall be located so that no parking space is more than 60 feet from a portion of the landscaped open space required by this Section. The required open space need not be continuous, but there shall be at least one (1) deciduous tree in each separate area at least twelve (12) feet tall at time of planting. The buffer shall be planted with a minimum of one (1) shade tree and seven (7) shrubs per thirty-five (35) lineal feet of parking frontage. These plantings shall cover a minimum of sixty-five (65) percent of the total distance of any one frontage line. Shrubs may be clustered at intervals instead of spaced evenly. The remaining open space ground plane shall be covered with native seeding, ornamental grasses, or ground cover.

5.5.13.3 Interior landscape areas. To break up the expanse of pavement and cool parking surfaces, vehicular use areas greater than 3,300 square feet (or of any size with more than two rows of parking) shall contain protected landscape areas located entirely within the edges of the vehicular use area, at the ratio of one (1) square foot of landscape use area per every twenty (20) square feet of vehicular use area. Any landscaped area located outside the edges of the vehicular use area will not count toward satisfying this requirement. There shall be one (1) deciduous tree for each two-hundred fifty (250) square feet of required interior landscaped area. To be credited toward meeting the requirements of this section, each interior landscaped area containing a deciduous tree shall have minimum dimension of eight (8) feet in any direction. If a pedestrian pathway is included as part of a landscape island, the island shall be a minimum of twelve (12) feet wide.

PROOFS

SECTION 5.6. GENERAL LANDSCAPING, SCREENING, AND FENCE REGULATIONS

5.6.1 *Purpose*. The purpose of this Article is to provide regulations and requirements for landscaping, buffering, and fencing the perimeter of certain activities in order to protect the character of the surrounding area, enhance aesthetics, protect property values, discourage theft, stabilize soils, control windblown dust and debris, prevent light from glaring onto adjoining properties, reduce stormwater runoff, increase groundwater infiltration, provide for snow accumulation, and reduce noise.

5.6.2 *General landscape and screening standards*.

5.6.2.1 Live materials are required for all landscaped areas. No artificial trees, shrubs, turf, or plants may be used to fulfill the landscaping requirements of the Ordinance. Planting areas must be covered by live ground covers, low growing shrubs, or gravel, tree bark, bark mulch, or similar materials, but not concrete or asphalt paving materials or similar materials.

5.6.2.2 Landscape Maintenance: It shall be the owner's responsibility to see that any landscaping installed as a condition of development approval is maintained in a neat, clean, orderly, and healthful condition. This includes, among other things, proper pruning, mowing of lawns, weeding, removal of litter, replacement of plants when necessary, and the regular watering of all vegetation. Drought-resistant plants and shrubs are encouraged.

5.6.2.3 Native Plantings: Planting of landscaping using vegetation native to Ontonagon County or edible landscaping is strongly encouraged. Every property owner is encouraged to protect existing native

vegetation, especially along roadways, and to plant edible vegetation such as berry bushes whenever possible.

5.6.2.4 Existing Vegetation: Every property owner is encouraged to protect existing native vegetation, especially along roadways. Preservation of existing trees may count toward landscape or buffer requirements of the Ordinance. Property owners shall protect established trees not diseased or decayed within setbacks adjacent to public spaces by refraining from compacting the soil during construction or excavation activities, or replacing trees when damage is unavoidable.

5.6.3 *Right-of-way protection and public safety*. In public rights-of-way, landscaping, buffering, and fencing shall be placed and maintained so as not to present a hazard to the public by maintaining clear vision areas as detailed in Section 5.4.5.3 and illustrated in Figure 15-6 of Article 15.

5.6.4 *Applicability.*

When required by this Ordinance or by the Planning Commission as a condition to the approval of a Site Plan, Conditional or Special Land Use Permit, Planned Unit Development, or variance, a screening method shall be installed and maintained in continuously good condition, or shall be continuously planted with living vegetation, for the duration of the principle use of property in accordance with the following requirements. Where the Ordinance or Planning Commission does not specify which option to use, the applicant shall choose. Where existing vegetation is adequate to achieve the screening requirements of this Ordinance as determined by the Planning Commission, it may serve as an option. Necessary drives and access ways from public rights-of-way through required landscape or screening areas shall be permitted.

Each group of uses in the Use Matrix of Table 4-1 is assigned a Land Use Intensity (LUI) code, ranging from I (least intense) to VI (most intense), based on the presupposed impact which they may impose on an adjacent land use. These impacts may be related to noise, vehicular traffic, glare, large bulk or scale, increased stormwater runoff, or large equipment. The LUI is related to appropriate screening methods as presented in Section 5.6.5 and illustrated in Figure 5-2. These methods utilize distance/space, fences, berms, and vegetation to provide buffers between uses. Tables 5-2 and 5-3 present the relationships and requirements for buffers between existing and vacant lands and proposed land uses.

Tables 5-2 and 5-3 present the relationships and requirements for buffers between proposed land uses and existing adjacent uses or vacant land. Where Tables 5-2 and 5-3 present multiple buffer options, the appropriate approval body shall determine which option is most appropriate for the specific proposed use in relation to the specific location and adjacent uses. The user should refer to the regulations in Table 4-1 to determine whether a proposed use is permitted at a particular location or not. Tables 5-2 and 5-3 pertain only to permitted buffer types, and are not meant to indicate permitted uses.

The procedure to determine required buffering or screening requirements between a proposed and existing land use begins with identification of the Land Use Intensity number of the proposed and adjacent existing land uses in Table 4-1, Use Matrix. This information is then used to identify the potential permitted screening methods in Table 5-2.

The procedure to determine required buffering or screening requirements between a proposed land use and adjacent vacant land begins with identification of the Land Use Intensity number of the proposed land use in Table 4-1, Use Matrix. Then the zoning district of the adjacent vacant property should be determined based on the Official Zoning Map. This information is then used to identify the potential permitted screening methods in Table 5-3.

TABLE 5- 2. PROPOSED LAND USE INTENSITY IN RELATION TO EXISTING LAND USE INTENSITY

Proposed Land Use Intensity (LUI) Number *vs.* *Adjacent Land - Existing Land Use Intensity (LUI)*			
Proposed Land		Adjacent Land - Existing Land Use Intensity (LUI)	

PROOFS

Use Intensity (LUI) Number	I	II	III	IV	V	VI
I	*	*	*/E2	*/E2	*/D2	*/D2
II	*	*	*/D2	*/D2/E1	D2/E1	C/D1
III	*/D2/E1	*/D2/E1	*/D2/E2	*/D2/E1	C/D1	B1/B2
IV	*/A/C/E1	C/D1	C/E1	E2	*/D2/E1	A/B1/B 2
V	*/A/C/E1	B2/D1	A/C/D1	D2/E1	E2	A/B1/C
VI	A /B2	B1	B1	B1/B2	B1/B2	A/C

* No screening required. Where more than one screening method is listed, the Zoning Administrator and/or Planning Commission shall make the final determination. Additional landscaping and screening standards may be in the district standards and Conditional and Special land use standard

TABLE 5-3. PROPOSED LAND USE INTENSITY IN RELATION TO ZONING DISTRICT OF ADJACENT VACANT LAND

Zoning District of Adjacent Vacant vs. Adjacent Land-Proposed Land Use Intensity (LUI) Number						
Proposed Land Use Intensity (LUI)		Zoning District of Adjacent Vacant Land				
	R-1	R-2	DT-3	W-MU DT-2	GC	I
I	*/E2	*/E 2	*/E2	*/E2	*/E 2	*/E2
II	*/E2	*/E 2	*/D2	*/D2	D2/ E2	D2
III	*/C	A/C /D1	C/D 2	C/D2	C/D 2	A/C/D2
IV	C/D 1	C/D 1	*/E2	*/E2	E2	D2
V	A/C /D1	B2/ D1	C/D 2	C/D2/ E1	E2	D2
VI	B1/ B2	B1/ B2	B1/ B2	B1/B2	B1/ B2	A/C

PROOFS

* No screening required. Where more than one screening method is listed, the Zoning Administrator and/or Planning Commission shall make the final determination.

5.6.5 *Screening types*. Buffer strips are generally located along the outer perimeter of a lot extending to the parcel boundary line. They shall not extend into a road or dedicated street right-of-way. Depending on the size of the parcel and terrain conditions, buffer requirements may be modified or combined. In general, buffer strips are intended to be located on the property burdened with the buffer strip requirement. When mixed land uses of varying land intensity codes are combined on one parcel, buffer requirements follow the most intense land use.

5.6.5.1 *Buffer type 'A' – greenbelt*. The greenbelt, as shown in Figure 5-2, consists of a landscaped open space strip running along the property line at least forty (40) feet in width, with the following required landscaping elements:

5.6.5.1.A Nine (9) deciduous trees per one-hundred (100) lineal feet; and

5.6.5.1.B Four (4) evergreen trees per one-hundred (100) lineal feet; and

5.6.5.1.C Native seeding or ground cover on the ground plane.

5.6.5.2 *Buffer type 'B' – buffer strip.* This buffer strip, as shown in Figure 5-2, consists of a landscaped strip running along the property line at least forty (40) feet in width. Two options are offered within Buffer Type 'B', as follows:

5.6.5.2.A Option B1:

(1) Six (6) deciduous trees per one-hundred (100) lineal feet; and

(2) Six (6) evergreen trees per one-hundred (100) lineal feet; and

(3) Native seeding or ground cover on the ground plane.

(4) Fence between six (6) feet tall and twelve (12) feet tall, depending on the intensity of the use to be buffered and at the discretion of the approval body.

5.6.5.2.B Option B2:

(1) Six (6) deciduous trees per one-hundred (100) lineal feet; and

(2) Six (6) evergreen trees per one-hundred (100) lineal feet; and

(3) Turf, native seeding, or ground cover on the ground plane.

(4) Berm five (5) feet tall, with maximum slope one (1) vertical foot per three (3) horizontal feet. The width of the berm may be reduced by up to fifty percent (50%) if a retaining wall is used, but the retaining wall must be on the side of the berm not facing the nearest property line, with the vegetation in front of the retaining wall (on the side facing the property line).

5.6.5.3 *Buffer type 'C' – buffer strip*. This buffer strip, as shown in Figure 5-2, consists of a landscaped strip running along the property line at least twenty (20) feet in width, with the following required landscaping elements:

5.6.5.3.A Three (3) deciduous trees per one-hundred (100) lineal feet; and

5.6.5.3.B Two (2) evergreen trees per one-hundred (100) lineal feet; and

5.6.5.3.C Nine (9) deciduous shrubs per one-hundred (100) lineal feet; and

5.6.5.3.D Turf, native seeding, or ground cover on the ground plane.

5.6.5.3.E Berm three (3) feet tall, with maximum slope one (1) vertical foot per three (3) horizontal feet. The width of the berm may be reduced by up to fifty percent (50%) if a retaining wall is used, but the retaining wall must be on the side of the berm not facing the nearest property line, with the vegetation in front of the retaining wall (on the side facing the property line).

5.6.5.4 *Buffer type 'D' – buffer strip*. This buffer strip, as shown in Figure 5-2, consists of a landscaped strip running along the property line at least twelve (12) feet in width. Two options are offered within Buffer Type 'D', as follows:

5.6.5.4.A Option D1:

(1) Four (4) deciduous trees per one-hundred (100) lineal feet; and

(2) One (1) evergreen tree per one-hundred (100) lineal feet; and

(3) Six (6) evergreen shrubs per one-hundred (100) lineal feet; and

(4) Three (3) deciduous shrubs per one-hundred (100) lineal feet; and

(5) Turf, native seeding or ground cover on the ground plane.

PROOFS

(6) Fence between six (6) feet tall and twelve (12) feet tall, depending on the intensity of the use to be buffered and at the discretion of the approval body.

5.6.5.4.B Option D2 includes all of the above except the fence.

5.6.5.5 *Buffer type 'E' – buffer strip*. This buffer strip, as shown in Figure 5-2, consists of a landscaped strip running along the property line at least eight (8) feet in width. Two options are offered within Buffer Type 'E', as follows:

5.6.5.5.A Option E1:

(1) Six (6) deciduous trees per one-hundred (100) lineal feet; and

(2) Native seeding or ground cover on the ground plane.

(3) Fence four (4) to six (6) feet tall, one-hundred (100) percent opaque, with back side to the higher intensity use.

5.6.5.5.B Option E2 includes all of the above except the fence.

[GRAPHIC – FIGURE 5-2 – SCREENING/BUFFER TYPES]

Buffer Type A (check Section 5.6.5.1 for number and type of plants)

Buffer Type B (includes options B1 and B2)

(check Section 5.6.5.2 for number and type of plants)

Buffer Type C (check Section 5.6.5.3 for number and type of plants)

Buffer Type D (includes options D1 and D2)

(check Section 5.6.5.4 for number and type of plants)

Buffer Type E (includes options E1 and E2)

(check Section 5.6.5.5 for number and type of plants)

5.6.6 *Recommended plant types, placement, and maintenance*. Number of specimens indicated for buffer plantings are minimum quantity and approved species. Species recommended are native and especially appropriate where limited maintenance and cultivation are expected. These recommendations are not meant to exclude cultivars and species generally available from the nursery trade. Species known to be invasive should be avoided. Alternative species shall be as approved by the Zoning Administrator.

5.6.6.1 *Shade (deciduous) trees*. The following types of shade trees are recommended (cal. Stands for caliper):

Sugar Maple, Acer saccharum, 1½" cal. Red Maple, Acer rubrum, 1½" cal.

White birch, Betula papyrifera, 1½" cal. Ironwood, Ostrya virginiana, 1" cal.

Little Leaf Linden, Tilia cordata, 1½" cal. Linden, Tilia Americana, 1½" cal.

River Birch, Betula nigra, 1" cal. Red Oak, Quercus rubra, 1½" cal.

Pin Oak, Quercus palustris, 1½" cal.

Small Tooth Aspen, Populus tremuloides, 1½" cal. (no more than 10% of total # of shade trees)

Large Tooth Aspen, Populus grandidentata, 1½" cal. (no more than 10% of total # of shade trees) Northern Hackberry, Celtis occidentalis, 1½" cal.

5.6.6.2 *Evergreen trees*. The following types of evergreen trees are recommended:

Red Pine, Pinus resinosa, 6' tall White Pine, Pinus strobus, 6' tall White Spruce, Piceaglauca, 6'tall

5.6.6.3 *Evergreen shrubs*. The following types of evergreen shrubs are recommended:

PROOFS

Common Juniper, Juniperus communis, 18" spread Canada Yew, Taxus canadensis, 12" spread

5.6.6.4 *Deciduous shrubs*. The following types of deciduous shrubs are recommended:

Witch Hazel, Hamamelis virginiana, 18" tall Nanyberry, Viburnum lentago, 2' tall American Hazelnut, Corylus americana, 2' tall Shrubby Cinquefoil, Potentilla fruticosa, 18" tall Snowberry, Symphoricarpos albus, 1 gal. pot Smooth Arrow-wood, Viburnum dentatum, 18" tall

5.6.6.5 *Understory tree*. The following types of understory trees are recommended:

Balsam Fir, Abies balsamea, 4' tall White Cedar, Thuja occidentalis, 4' tall Serviceberry, Amelanchier arborea, 3' tall Mountain Ash, Sorbus americana, 3' tall Choke Cherry, Prunus virginiana, 3' tall Smooth Sumac, Rhus glabra, 2' tall

Staghorn Sumac, Rhus typhina, 2' tall Alternate-leaved Dogwood, Cornus alternifolia, 3' tall

5.6.6.6 *Groundcover*. The following types of understory trees are recommended:

Sweet Fern, Comptonia peregrina, 1 gal. pot Bush Honeysuckle, Diervilla lonicera, 18" tall New Jersey Tea, Ceanothus americanus, 4" pot Thimbleberry, Rubus parviflorus, 1 gal. pot Wild Red Reaspberry, Rubus strigosus, 1 gal. pot Solomon-Seal, Polygonatum biflorum, 2" pot False Solomon's Seal, Smilacina racemosa, 2" pot

5.6.6.7 *Native seed rate/mix*. Apply seed at the rate of 10 pounds of 'pure live seed' per acre. Seed mix to include 50% grass and 50% forbs. Include two or more of the following grasses: sideoats grama, little bluestem, prairie dropseed. Include at least fifteen of the following forbs (Note: not more than 10% of any particular species of forb in the mix) lavender hyssop, nodding pink onion, blue aster, smooth aster, New Jersey tea, Canada milk vetch, lanceleaf coreopsis, white prairie clover, purple prairie clover, shooting star, purple coneflower, prairie blazingstar, wild quinine, smooth penstemon, bee balm, columbine, great solomon's seal, black eyed susan, Ohio goldenrod, showy goldenrod, Ohio spiderwort.

5.6.6.8 *Size and placement of trees in the public space*. These specifications refer specifically to vegetation in public parks, street right-of-ways, and other public facilities.

5.6.6.8.A All trees shall be not less than one (1) inch caliper, measured at six (6) inches above ground level.

5.6.6.8.B No tree shall be planted closer than two (2) feet from the curb line or the outer line of the sidewalk.

5.6.6.8.C All trees shall be planted in line with each other and at a minimum setback and spacing to conform as follows:

(1) Thirty (30) feet setback from intersections

(2) Fifteen (15) feet setback from driveways and alleys

(3) Ten (10) feet setback from utility poles

(4) Twenty-five (25) feet spacing for small trees (height less than thirty feet)

(5) Thirty-five (35) feet spacing for medium trees (height from thirty to forty-five feet)

(6) Forty (40) feet spacing for large trees (height greater than forth-five feet)

5.6.6.8.D Structural soils shall be installed under impervious surfaces in the tree planting areas at the time of new construction or existing infrastructure replacement or repair.

5.6.7 *Screening of mechanical equipment*. When located outside of a building, support equipment including air conditioning and heating devices, but not including plumbing or exhaust vents or chimneys, is to be screened to the height of the particular piece of equipment, as follows:

5.6.7.1 Roof- or Wall- Mounted Equipment: Shall be screened by architectural features from the view of pedestrians on abutting streets and parcels.

PROOFS

5.6.7.2 Other Exterior Equipment: Shall be screened by landscaping, a solid wall, or fencing from the view of pedestrians on abutting streets and parcels. Such equipment is encouraged to be installed on the rear slope of the building. The above requirement does not apply to single-family residential or two-family residential uses.

5.6.8 *Screening of outdoor storage of trash or rubbish.* All areas used for the storage of trash or rubbish in dumpsters and other commercial containers shall be screened by a solid fence or wall no less than six (6) feet in height to keep from the view of pedestrians on abutting streets and parcels. If a fence is used, view obstructing doors at least six (6) feet in height shall be installed and kept closed except when accessing.

5.6.9 *Fences and walls.*

5.6.9.1 *Living fence*. Shrubs and trees planted for the purpose of creating a living fence shall be planted so that the trunk or main stem of the plant is no closer than three feet (3') from any property line. A living fence is not limited to the height requirements of other fences and no building permit is needed.

5.6.9.2 *Constructed fence*.

5.6.9.2.A Placement: Fences may be erected along property lines (except living fences as noted above) or within yards, irrespective of the setback requirements of this Ordinance.

5.6.9.2.B Fence Approval:

(1) Fences or walls over six (6) feet in height require a building permit. No fence, wall, or structural screen other than plant material shall be erected higher than eight (8) feet except as noted below.

(2) No site plan review is required for a fence which conforms to Ordinance standards.

(3) The Zoning Administrator may require the removal, reconstruction, or repair of any fence, living fence, wall or screen not in good condition. The removal reconstruction or repair can be a condition of any application for approval under this Ordinance.

5.6.9.2.C Fence Standards:

(1) Fences in DT-3, DT-2, R-2, and W-MU districts shall not contain barbed wire or chain link fences with sharp wire edges exposed, except as otherwise stated below.

(2) No fence, wall, planting, or structure shall, within the clear vision area described in Section 5.4.5.3, be of such a nature as will impede clear vision of an intersecting sidewalk, street, alley, or driveway.

(3) In DT-3, DT-2, R-2, and W-MU districts, fences located in the front yard or between the front lot line and the building line shall not exceed four (4) feet in height, measured along the average grade of an unbroken run. Except in a clear vision area (as in Section 5.4.5.3), fences in the front yard may be solid for not more than three (3) feet in height.

(4) In DT-3, DT-2, R-1, R-2, and W-MU districts, fences located in a required side yard or rear yard shall not exceed six (6) feet in height (except as stated below) measured along the average grade of an unbroken run. Fences in the rear and side yards may be solid, and may extend from the side lot line to the side of the principle structure, but shall not occupy the portion of the front yard in front of the principle structure unless in compliance with (3) above.

(5) In all districts, a security fence surrounding a public utility, police, or correctional facility may extend to eight feet (8') in height and may contain barbed wire or chain link fences with sharp wire edges and be located within a required side yard, rear yard, or front yard. The barbed wire cannot exceed eighteen (18) inches in height, and must be located on top of and may be in addition to the eight (8) foot height fence. The barbed wire shall slant inwards toward the property or be straight up. Security fences with barbed wire in any other location or surrounding any other use require approval by the Planning Commission.

(6) No fence shall be constructed or maintained which is charged or connected with an electrical current.

PROOFS

(7) To allow for snow storage adjacent to alleys, all fences hereafter erected adjacent to an alley shall be set back a minimum of 3 feet from the property line.

(8) Decorative or ornamental sides of fences or walls shall face the adjoining properties (face the outside).

5.6.9.2.D Exceptions to Screening and Fencing Standards:

(1) Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.

(2) Any fence, landscape screen, wall, or hedge which does not conform to this Ordinance and which legally exists at the effective date of this Ordinance may be continued and maintained, provided there is no physical change other than necessary maintenance and repair; unless otherwise regulated by this Ordinance.

SECTION 5.7. GENERAL SIGN REGULATIONS

This Article, and others as referenced, shall govern and control the erection, placement, alteration, enlarging, moving, operation, and maintenance of all signs by permitted uses within all zoning districts established within this Ordinance. Regulations apply to all signs that are visible from the public right-of-way, public facilities, trails open to the public, and navigable waterways. Nothing herein contained shall be deemed a waiver of the provisions of any other ordinance or regulation applicable to signs. Signs located in areas governed by several ordinances and/or applicable regulations shall comply with all such ordinances and regulations. The standards in this Article are determined to be the minimum necessary to achieve the above stated purposes. Administrative review procedures have been established as the minimum necessary to enforce applicable standards and to balance the community's objectives and regulatory requirements with the reasonable advertising and wayfinding needs of businesses.

5.7.1 *Statement of purpose*. It is acknowledged that, depending on their characteristics and context, signs may impact visual quality, affect safety of vehicular traffic, and define community image. It is the intent of this Section to regulate signs in the Village of Ontonagon so as to protect and enhance public health, safety and welfare while preserving the right of free speech and expression. This is accomplished by regulating the size, placement, relationships, construction, illumination, and other aspects of signs in the Village. It is determined that such regulation is necessary for the following reasons:

5.7.1.1 To enable the public to locate goods, services, and facilities without difficulty and confusion.

5.7.1.2 To prevent dangerous competition for attention between advertising signs and traffic control signs and signals.

5.7.1.3 To prevent signs which are potentially dangerous to the public due to structural deficiencies or disrepair.

5.7.1.4 To assure the continued attractiveness of the community by showing special concern for the value of its cultural and natural features such as scenic views, landscapes, architecture, and the night sky.

5.7.1.5 To protect public/private investments in property through the use of signs which are aesthetically pleasing, of appropriate scale, and integrated with surrounding buildings and landscape.

5.7.1.6 To enhance economic vitality and support business development through a collective representation of quality.

5.7.1.7 To reduce visual clutter and distracting demands for attention through reasonable standards.

5.7.1.8 To provide businesses with effective and efficient opportunities for identification by reducing competing demands for visual attention.

5.7.1.9 To assure equitable representation and distribution of sign opportunity.

5.7.2 *Guide to regulations*. General sign regulations are contained within this Article. Regulations that are specific to a particular zoning district are contained within the relevant section of Article 6.

PROOFS

5.7.2.1 *Relationship to other regulations*. Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than those imposed by any governmental authority, the regulations, rules, or restrictions which are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other provision of this Ordinance, no sign shall be erected or maintained in violation of any state or federal law or regulation.

5.7.2.2 *Applicability*. It shall be unlawful for any person to erect, relocate, or structurally alter or repair any sign or other advertising structure within the Village of Ontonagon, as defined by this Ordinance, without first obtaining a Certificate of Zoning Compliance. All signs shall be subject to the Building Code and the provisions of this Ordinance, and all illuminated signs shall be subject to the provisions of the Michigan Electrical Code. See Section 5.7.2.4, Section 5.7.2.5 for signs exempt from regulation, and Section 5.7.6.5 for maintenance exceptions which do not require a Certification of Zoning Compliance.

5.7.2.3 *Noncommercial signs and messages*. Any sign that can be displayed under the provisions of this Ordinance may contain a non-commercial message. The owner of any sign which is otherwise allowed by this Ordinance may substitute noncommercial copy in lieu of any other copy without additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any noncommercial message over any other noncommercial message.

5.7.2.4 *Signs exempt from regulation*. The following graphics are exempt from the regulations contained in this Ordinance and do not require a Certificate of Zoning Compliance. Approval of the property owner is required prior to the erection of a sign. It is the responsibility of the party erecting the sign to determine if a building permit is required.

5.7.2.4.A Any public purpose/safety sign and any other notice or warning required by a valid and applicable federal, state, or local law, regulation, or resolution.

5.7.2.4.B Signs for public demonstrations or promotion of civic welfare or charitable purposes, on which there is no commercial advertising, providing the jurisdiction is held harmless for any damage resulting therefrom.

5.7.2.4.C Religious and other holiday lights and decorations containing no commercial message, and displayed only during the appropriate time of the year.

5.7.2.4.D Works of art that do not include a commercial message, except wall murals.

5.7.2.5 *Signs not requiring certificates of zoning compliance but subject to regulation*. Certificates of Zoning Compliance shall not be required for the following signs, provided that said signs meet all other requirements of this Ordinance. Approval of the property owner is required prior to the erection of a sign. It is the responsibility of the party erecting the sign to determine if a building permit is required.

5.7.2.5.A Address signs (911 and driveway): Two 911 or driveway address signs per parcel, not illuminated, and not exceeding two (2) square feet per sign.

5.7.2.5.B Small Residential Identification Sign / Home Occupation: One (1) under-canopy, freestanding ground, projecting, or wall sign per parcel, not illuminated, and not exceeding four (4) square feet in area. No more than one (1) such sign shall be allowed per parcel.

5.7.2.5.C Identification signs for a commercial district or recognized residential neighborhood: One (1) such identification sign is permitted for each street entrance, provided the sign shall not extend into any public right-of-way. Total sign area shall not exceed twenty (20) square feet and the sign shall not exceed eight (8) feet above the uniform finished grade, unless the placement of the sign is below the grade of the road from which access is taken, in which case it shall not be more than eight (8) feet above the grade of the road.

5.7.2.5.D Inconspicuous signs which are not legible by a person of ordinary eyesight from any distance off the zoning lot for which it is approved, or from a public right-of-way. If the

PROOFS

lettering from any drop boxes, ATMs, vending machines, newspaper dispenser, gasoline pump, or similar device is legible by a person of ordinary eyesight from any distance off the zoning lot for which it is approved, those graphic elements shall count toward total signage area allowed on the zone lot, as calculated in Section 5.7.4.

5.7.2.5.E Vehicle mounted signs with a permanent message, such as a sign indicating the name of the owner or business, displayed on trucks, buses, trailers, or other vehicles which are being operated or stored in the normal course of a business, provided the primary purpose of the vehicle is not for the display of signs.

5.7.2.5.F Commemorative Signs: Signs in the nature of cornerstones, commemorative plaques, and historical signs which are limited to not more than two (2) per lot; not more than sixteen (16) square feet per sign; and may be illuminated only from a downcast, concealed light source which does not flash, blink, or fluctuate and shall not be animated.

5.7.2.5.G Signs that consist of religious symbols, identification emblems, or organizational insignia provided this subject matter relates exclusively to the premises on which they are located. These signs shall not exceed sixteen (16) square feet. Illumination must be downcast and screened from all adjacent residences. Only one such sign is allowed per street frontage.

5.7.2.5.H Governmental Flags: These flags must be flown in accordance with established protocol. No flag shall exceed fifty-six (56) square feet. Any flag not meeting these conditions shall be considered a sign and shall be subject to regulations as such. Any number of official governmental unit flags may be located on any site. Only one corporate flag or pennant may be displayed. Flagpoles shall not exceed the allowable building height in the applicable context district in which the flagpole is located, but in no case shall the height of the flagpole exceed a height of thirty-five (35) feet.

5.7.2.5.I Entrance or Directional Signs: On-premise signs of a non-advertising, non-identification nature designed exclusively to control access or use, to warn or to direct traffic or pedestrians. Only one (1) entrance/exit directional sign is allowed per legal driveway, and it may not exceed four (4) square feet in area.

5.7.2.5.J Warning and Informational: Signs such as danger, no trespassing, no dumping, dangerous animal, and on-premise informational signs, provided they do not exceed two (2) square feet in area per sign and are spaced at least two hundred (200) feet from one another, except hazards which may be located as needed to protect the public safety and welfare.

5.7.2.5.K Trail Signs: Signs on public hiking, biking, snowshoeing, skiing, and snowmobile trails identifying the trail, providing direction and/or identifying the availability of products, services, or businesses ahead, provided that all such signs are made of materials and erected per the requirements of the entity responsible for trail maintenance and operations, and provided all product, services, and business signs are posted not less than two-hundred (200) feet from the intersection of a public road or public right-of-way, the message is not visible from the right-of-way, and the sign area of each sign is not more than two (2) square feet. Signs for multiple entities may be combined into one panel not to exceed sixteen (16) square feet per location.

5.7.2.5.L Time/temperature signs: Variable electronic signs displaying only the time or temperature, provided that the light sources shall not exceed fifteen (15) watts and that each message shall not change more often than once every five (5) seconds.

5.7.2.6 *Temporary signs not requiring certificates of zoning compliance but subject to regulation.*

5.7.2.6.A Temporary freestanding signs shall be limited to ground signs.

5.7.2.6.B Temporary yard, garage, or rummage sale signs: Not more than one (1) sign allowed per parcel, not to exceed four (4) square feet in area, to be erected not more than three (3) days prior to the event and removed immediately after completion of the event. Directional signs

PROOFS

not to exceed two (2) square feet in area, but not placed in the public right-of-way or on public property, and removed immediately after completion of the event.

5.7.2.6.C Temporary promotional banners or special events signage within the public right-of-way or in the air space over a public right-of-way shall be allowed only with the public property owner's permission. No temporary promotional banner shall exceed thirty-two (32) square feet. Only one (1) promotional banner is allowed per building front, securely attached to the principle structure. Banners or promotional signage may be erected not sooner than three (3) weeks before the event and must be removed not later than seven (7) days after an event.

5.7.2.6.D Temporary real estate signs are permitted at no more than one (1) real estate sign per street frontage which advertises the sale, rental, lease of the premise upon which the sign is located. The sign shall not exceed six (6) square feet for a single-family residence or duplex, or thirty-two (32) square feet for all other uses. There shall be no illumination or animation. Signs for a single property shall be removed within thirty (30) days of the sale or rental.

5.7.2.6.E Temporary signs advertising multiple lots for sale (subdivision) may be erected and maintained until ninety (90) percent of the lots are sold. The sign shall not be erected within one hundred (100) feet of an occupied residence.

5.7.2.6.F Temporary political and campaign signs on behalf of candidates for public office or measures on election ballots may be erected up to forty five (45) days prior to the primary election and shall be removed within five (5) days following said election. There shall be no limit in the number of such signs on each site with the consent of the property owner. No such signs shall be located in the public right-of-way without permission of the public property owner.

(1) Political signs within residential areas may include wall signs, window signs, and freestanding ground signs not more than six (6) square feet, and not illuminated or animated.

(2) All other political signs erected in all other areas shall not exceed sixteen (16) square feet, and not be illuminated or animated.

5.7.2.6.G Temporary signs identifying construction sites for which a building permit has been issued shall be removed within five (5) days after the occupancy of the structure. One (1) sign per premises shall be permitted not to exceed six (6) square feet for single-family and two-family structures or thirty-two (32) square feet for all other structures.

5.7.2.6.H Temporary signs identifying home improvement activities for which no permit is required. One (1) on- premise sign per premises not to exceed six (6) square feet, which may be in place while the work is in progress. In no case shall such sign be in place for more than thirty (30) days.

5.7.2.6.I A portable, moveable sign may be erected for a fourteen (14) day period at the opening of a new business or to identify a construction site. At no time shall flashing lights be used on portable signs.

5.7.2.7 *Prohibited signs*. The following signs are prohibited in the Village:

5.7.2.7.A Any sign installed prior to the effective date of the Ordinance without a Certificate of Zoning Compliance or permit as required by the previous ordinance.

5.7.2.7.B Any sign unlawfully installed, erected, or maintained after the effective date of this Ordinance.

5.7.2.7.C Abandoned or dangerous signs, as defined in Section 5.7.6.2 and Section 5.7.6.3.

5.7.2.7.D Signs that obstruct free ingress or egress from a required door, window, fire escape, or other required exit.

PROOFS

5.7.2.7.E Privately owned signs and associated support structures located on trees, utility poles, public benches, or any other form of public property or within any public right-of-way unless explicitly permitted by this Ordinance. This includes the air space above publicly-owned property or right-of-way.

5.7.2.7.F No sign shall be located at the intersection of any street, or in driveways, parking lots, or loading areas in such a manner as to obstruct free and clear vision as defined in Section 5.4.5.3.

5.7.2.7.G No sign shall simulate or be confused with the lighting of emergency vehicles or traffic signs, nor shall make use of the words "Stop", "Look", "Danger", or any other words, phrases, symbols, or characters that interfere with, mislead, or confuse traffic.

5.7.2.7.H Painted signs on the face of a structure or natural feature such as trees, rocks, shrubs, fences, etc., except for approved murals per Section 5.7.5.8.

5.7.2.7.I Signs illuminated by other than electrical means.

5.7.2.7.J Off-premise commercial advertising signs or graphics (signs which advertise a business which is not conducted at the place where the sign is erected), including portable signs, reader boards, or signs carried by people or incorporated into a costume. Does not include temporary, off-premise signs pertaining to promotional or special events as provided for in Section 5.7.2.6 or off premise directory or tourist oriented directory signs permitted in Section 5.7.5.11.

5.7.2.7.K Portable or moveable signs with the exception of sidewalk signs (Section 5.7.5.7) and temporary signs (Section 5.7.2.6).

5.7.2.7.L Roof signs.

5.7.2.7.M Animated, flashing, blinking, fluctuating, rotating signs and festoons or any element having the appearance of moving or animated or moving parts as defined in Article 15; inflatable signs, tethered balloons, banners, pennants, streamers, searchlights, exposed light bulbs, and any clearly similar features, except those specifically exempt from regulation in this Section; special event signs or banners permitted in Sections 5.7.2.6, or electronic message centers as permitted Section 5.7.5.2.

5.7.2.7.N Signs in or on a vehicle when the vehicle is placed in a location not normally expected for such vehicles, and the location has the apparent primary purpose of attracting attention or providing advertising in addition to that permitted for legal signs on the site.

5.7.2.7.O Merchandise, equipment, products, vehicles, or other items which are not available for purchase, but are intended to attract attention, or for identification or advertising purposes.

5.7.2.7.P Other signs or attention getting devices that raise concerns substantially similar to those listed above, or any sign not expressly permitted.

5.7.3 *Regulations applicable to all signs*.

5.7.3.1 Signs shall be structurally sound and designed in compliance with all applicable building and electrical codes.

5.7.3.2 Signs shall be located so as to pose no reasonable threat to safe vehicular and pedestrian circulation or public safety signals and signs. Except for necessary traffic signs, all signs will be located outside the clear vision area as described in Section 5.4.5.3. Specific examples include:

5.7.3.2.A No sign shall obstruct the vision of drivers at any driveway, parking lot, or other route providing access to any land use.

5.7.3.2.B No signs shall be located on any street, intersection, or street corner which would obscure the vision of drivers and pedestrians using said streets, or conflict with traffic control signs or signals in any location.

PROOFS

5.7.3.2.C A sign, other than a traffic sign installed by a governmental entity, shall not simulate or imitate the size, lettering, or design of any traffic sign in such manner as to interfere, mislead, or confuse the public.

5.7.3.3 No signs shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window, or door opening used as a means of egress.

5.7.3.4 If possible, signs should not be in locations that obscure architectural features such as pilasters, arches, windows, cornices, etc.

5.7.3.5 No sign shall be placed in a drainage, utility, or other easement without first obtaining all applicable authorizations.

5.7.3.6 Swinging signs shall be permitted only as under-canopy signs designed to a pedestrian scale and on swinging-style sidewalk signs.

5.7.3.7 Illuminated signs as permitted in the zoning districts are subject to these standards:

5.7.3.7.A The brightness and intensity shall not be greater than necessary to meet reasonable needs of the business or use served; and

5.7.3.7.B Light sources shall be shielded from all adjacent buildings and streets; and

5.7.3.7.C The lighting shall not create excessive glare to pedestrians and/or motorists, and will not obstruct traffic control or any other public informational signs.

5.7.3.7.D All property owners are encouraged to turn off all unnecessary lighting after hours.

5.7.3.8 No sign shall have exposed electrical wires, and electrical service to signs shall be concealed wherever possible to preserve aesthetic values.

5.7.3.9 Cutting or killing vegetation growing on public rights-of-way (or below the ordinary high water mark of navigable streams) to enhance visibility of a sign is prohibited.

5.7.3.10 No signs shall be located in wetlands except governmental signs, warning signs, or signs that interpret natural, historical, or cultural features.

5.7.4 *Measurement standards.*

5.7.4.1 *Determining sign area and dimensions.*

5.7.4.1.A For a wall sign which is framed or has a background for the sign display, the area and dimensions shall include the entire portion within the background or frame.

5.7.4.1.B For a wall sign comprised of individual letters, figures or elements on a wall of a building or structure, the area and dimensions of the sign shall encompass a regular geometric shape or a combination of regular geometric shapes, which form or approximate the perimeter of all elements in the display, the frame and any applied background that is not part of the architecture of the building. This ensures that "air space" or "background wall" is generally not included in area measurements so that uniquely shaped sign elements do not constitute a penalty and so that architectural components of historic buildings are not obscured. When separate elements are organized to form a single sign, but are separated by open space, the sign area and dimensions shall be calculated by determining the geometric form, or combination of forms, which comprises all of the display areas as above, but including the space between different elements. Minor appendages to a particular regular shape, as determined by the Zoning Administrator, shall not be included in the total area of a sign.

5.7.4.1.C For a Freestanding sign, the sign area shall include the frame (if any) but shall not include:

(1) A pole or other structural support unless such pole or structural support is internally illuminated or otherwise designed to constitute a display device or a part of a display device.

(2) Architectural features that are either part of the building or part of a freestanding

PROOFS

structure, and not an integral part of the sign, and which may consist of landscaping, building or structural forms complementing the site in general.

5.7.4.1.D When two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and are part of the same sign structure, the sign area shall be computed as the measurement of one of the two faces. When a sign has more than two display surfaces, the sign area is the area of the largest display surface that is visible from any single direction.

5.7.4.1.E In the event of a dispute in calculating the area or dimensions of any sign, a negative decision of the Zoning Administrator may be appealed by formal submission of an application to the Planning Commission for review.

5.7.4.2 *Determining sign height.*

5.7.4.2.A The height of a freestanding sign shall be measured from the base of the sign or supportive structure at its point of attachment to the ground to the highest point of the sign. A freestanding sign on a man- made base, including a graded earth mound, or that is located in a depression below the adjacent street grade, shall be measured from the grade of the nearest pavement to the highest point of the sign.

5.7.4.2.B Vertical clearance shall be measured as the smallest distance between the finished grade and the lowest point of the sign, including any framework or other embellishments.

5.7.4.3 *Determining building frontages and frontage lengths.*

5.7.4.3.A The building unit is equivalent to the tenant space. The frontage of the tenant space on the first floor shall be the basis for determining the permissible sign area for wall signs.

5.7.4.3.B The frontage of any building unit shall include the elevation(s) facing a public street, facing a primary parking area for the building or tenants, or containing the public entrance(s) to the building or building units.

(1) The primary frontage shall be considered the portion of any frontage containing the primary public entrance(s) to the building or building units.

(2) The secondary frontage shall include those frontages containing secondary public entrances to the building or building units, and all building walls facing a public street or primary parking area that are not designated as the primary building frontage by subsection (1) above.

5.7.4.3.C The length of any primary or secondary building frontage shall be the sum of all wall lengths parallel, or nearly parallel, to such frontage, excluding any such wall length determined by the Zoning Administrator as clearly unrelated to the frontage criteria.

5.7.4.3.D For buildings with two or more frontages, the length of the wall and allowable sign area shall be calculated separately for each such building frontage.

5.7.4.3.E The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.

5.7.5 *Regulations based on sign type.* Table 5-4 illustrates which sign types are permitted per zoning district.

TABLE 5- 4. PERMITTED SIGN TYPES

District	DT- 2	W- MU	R- 2	R- 1	DT- 3	GC	I
Canopy & Marquee Sign	*	*			*	*	*
Electronic Message / Changeable Copy Sign						*	*

PROOFS

Freestanding Sign	*	*	*	*	*	*	*
Illuminated Signs	*	*			*	*	*
Projecting Sign	*	*			*	*	*
Sidewalk Sign	*	*			*		
Wall Murals	*	*			*	*	*
Wall Sign	*	*	*	*	*	*	*
Window Signs	*	*	*	*	*	*	*

5.7.5.1 *Canopy and marquee signs.*

5.7.5.1.A Canopy or marquee signs shall not be placed less than eight (8) feet above the sidewalk.

5.7.5.1.B Canopy and marquee signs shall not be located closer than two (2) feet to the vertical plane of the face of a street curb or closer than three (3) feet to the edge of the street (if there is no curb) or parking lot as determined by the Zoning Administrator.

5.7.5.1.C Signs that are attached to the face of a marquee or canopy and are parallel to the flow of traffic shall meet the requirements of wall signs. Signs that are attached to the sides of a marquee or canopy and are not parallel to the flow of traffic shall meet the requirements of projecting signs.

5.7.5.1.D The sign may not project more than six (6) inches from the face of the canopy or marquee.

5.7.5.1.E Sign height shall not exceed three (3) feet.

5.7.5.1.F Illuminated Canopy and Marquee signs shall meet the requirements of Illuminated Signs in Section 5.7.5.5 of this Ordinance.

5.7.5.1.G A sign may hang from the underside of a canopy, marquee, or porch provided it does not present a hazard to ingress/egress and public safety, and does not exceed the total area requirements for each district. The following conditions shall also apply:

(1) Shall not be greater than six (6) square feet.

(2) Shall not be more than one (1) such sign per business.

(3) Shall be no less than seven (7) feet above the grade or floor.

(4) Shall not be located closer than two (2) feet to the vertical plane of the face of a street curb or closer than three (3) feet to the edge of the street (if there is no curb) or parking lot as determined by the Zoning Administrator.

(5) May swing provided that the distance between the top of the sign and the underside of the canopy, marquee, or porch is not greater than four (4) inches.

5.7.5.2 *Electronic message/changeable copy signs*.

5.7.5.2.A Changeable copy by non-electronic means may be utilized on any permitted sign.

5.7.5.2.B Signs with changeable copy shall have characters securely attached to the sign face.

5.7.5.2.C Only one (1) electronic message sign is permitted per visible street frontage for each lot in the appropriate zoning districts.

5.7.5.2.D Electronic message signs are permitted in specific zoning districts as listed in Table 5-4.

PROOFS

5.7.5.2.E The copy on electronic message signs shall not change more than once every five (5) seconds.

5.7.5.2.F The electronic message sign shall not exceed fifty (50) percent of the total sign area permitted on the site.

5.7.5.2.G All electronic message signs are required to have automatic dimming capability that adjusts the brightness to the ambient light at all times of the day and night.

5.7.5.3 *Flexible signs*. Signs of fabric, thin plastic, or other flexible material may be erected as freestanding or wall signs provided that all requirements for those types of signs are met in addition to the requirements for flexible signs. The outer perimeter of the flexible sign shall be contained in a frame. No ropes or guy wires may be fastened so as to cause a hazard. Flexible signs shall be removed at the first evidence of wear or deterioration.

5.7.5.4 *Freestanding signs*.

5.7.5.4.A All permanent freestanding signs shall have self-supporting structures erected on, or permanently attached to, concrete foundations.

5.7.5.4.B A maximum of one (1) freestanding sign is allowed per interior lot or parcel within the applicable districts. Through lots and lots with multiple street frontages may have one (1) additional sign per street frontage.

5.7.5.4.C The area beneath and around a freestanding sign shall be landscaped with plants, ground cover, and materials so as to complement the site and integrate the sign with buildings, parking areas, surrounding vegetation, and natural features of the landscape. For every two (2) square feet of sign, one (1) square foot of planting or lawn must be provided and maintained at the base of the sign.

5.7.5.4.D The property surrounding any freestanding sign shall be maintained by the property owner in a clean and sanitary condition free from weeds, rubbish, and flammable material.

5.7.5.4.E Freestanding signs shall be set back in conformity with clear vision triangle requirements as detailed in Section 5.4.5.3 if located near driveways or intersections.

5.7.5.4.F For any freestanding sign that is within ten (10) feet of the curb of a public street, there shall be a minimum unobstructed distance of ten (10) feet between the bottom of any display area and the ground. For every two and a half (2.5) feet the sign is set back from the right-of-way, the base of the display area may be lowered by one (1) foot provided there is enough ground area for the required landscaping.

5.7.5.4.G For every additional ten (10) feet that a sign is set back from the required front yard, the area of the ground sign may be increased by ten (10) percent. The required landscaping at the base of the sign must be adjusted for the increased sign area. This increase in size shall not apply to off-premise signs.

5.7.5.4.H The allowable sign height for freestanding signs shall be as specified in Table 5-5.

TABLE 5-5. HEIGHT OF FREESTANDING SIGNS

Free Standing Sign Height Allowances	*Maximum Height (Feet)*		
District	Ground Only	15'	20'
R-1	*		
R-2	*		
DT-2		*	

PROOFS

W-MU	*		
DT-3		*	
I			*
GC			*
*Depends on the use. See District standards for particular applications.			

*Depends on the use. See District standards for particular applications.

5.7.5.4.I The area of a freestanding sign shall not exceed the maximum square footage shown in Table 5- 6.

TABLE 5-6. AREA OF FREESTANDING SIGNS

Freestanding Sign Area Allowances	*Maximum Area (Square Feet)*			
District	16	32	40	100
R-2	*			
W-MU		*		
DT-2			*	
R-1	*			
DT-3			*	
GC				*
I				*

*Depends on the use. See District standards for particular applications.

5.7.5.5 *Illuminated signs*. In order to reduce glare and the general overwash of light to public rights-of-way and residential uses, and to promote the protection of the dark sky, all illuminated signs shall be designed and constructed to meet or exceed the following standards.

5.7.5.5.A Flashing, rotating, and intermittent lighting and exposed bulbs are prohibited, except time and temperature signs and electronic message centers as regulated in Section 5.7.5.2.

5.7.5.5.B Internally illuminated signs are required to have a dark face or opaque background. Only the message shall be lit, not the entire sign. Internally illuminated signs shall have back-lighted individual letters or objects softly silhouetted against the background from a diffused light source inside each letter or object.

5.7.5.5.C External illumination must be downcast, directed only to the face of the sign, and screened from all adjacent residences. No sign lighting shall project beyond the building premises. No exposed bulbs or unshielded flood lamps are permitted. Illumination will also be arranged so as not to adversely affect driver visibility on adjacent thoroughfares.

5.7.5.5.D With the exception of directional and "no vacancy" signs, no sign shall be illuminated between the hours of 11:00 p.m. and 6:00 a.m. unless the premises are open for business.

5.7.5.6 *Projecting signs*.

PROOFS

5.7.5.6.A No portion of a projecting sign shall be less than eight (8) feet or greater than fourteen (14) feet above grade as measured as the vertical distance between the bottom of the sign or support structures and the grade or floor immediately below the sign.

5.7.5.6.B No sign shall be located closer than ten (10) feet to any intersecting rights-of-ways.

5.7.5.6.C The sign shall be located no closer than two (2) feet to the vertical plane of the face of a street curb, or no closer than three (3) feet to the edge of the street (if there is no curb) or parking lot as determined by the Zoning Administrator.

5.7.5.6.D Projecting signs shall be spaced at least fifteen (15) feet apart.

5.7.5.6.E A sign shall not project more than eight (8) feet from any structure.

5.7.5.6.F A projecting sign shall not exceed eight (8) square feet.

5.7.5.6.G No sign may project over an alley or private access lane.

5.7.5.6.H All projecting signs shall be designed, installed, and erected in such a manner that there shall be no visible angle iron or wire support structures above the roof line or parapet.

5.7.5.7 *Sidewalk signs.*

5.7.5.7.A Sidewalk signs shall be permitted in the applicable zoning district during the hours a business is open to the public, but in no instance may a sign be placed on the street earlier than 8:00 a.m. nor later than 9:00 p.m.

5.7.5.7.B Sidewalk signs shall be of A-frame or swinging-style construction that shall be sturdy, stable, and of heavy enough construction on its own to withstand typical winds without flipping over or sliding.

5.7.5.7.C A sidewalk sign shall have no moving parts, including wheels.

5.7.5.7.D The maximum height shall be four (4) feet and the sign shall not occupy more than nine (9) square feet of sidewalk. The base of the sign shall not exceed thirty-six (36) inches wide. The required dimensions shall include the support structure and shall be measured along the widest or highest section of the sign.

5.7.5.7.E The surfaces of sidewalk signs shall be durable and weather-resistant. Loose paper faces, cardboard, paper, fabric, and non-rigid material shall not be permitted.

5.7.5.7.F Sidewalk signs shall not be illuminated by any means except natural light and existing street lights.

5.7.5.7.G At all times of the year, sidewalk signs shall be placed directly in front of the business holding the permit for the sign, a minimum of two (2) feet away from the vertical plane of the face of a street curb, or three (3) feet away from the edge of the street (if there is no curb) or parking lot as determined by the Zoning Administrator.

5.7.5.7.H The sign placement shall allow a minimum of five (5) feet of unobstructed sidewalk for pedestrians.

5.7.5.7.I Sidewalk signs shall not be placed within twenty (20) feet of an intersection.

5.7.5.7.J During the winter months, the sidewalk shall be completely clear of snow prior to placement and sidewalk signs shall not be placed on snow banks.

5.7.5.7.K A sidewalk sign shall not obstruct the clear vision area as described in Section 5.4.5.3, vehicular/bus stops, benches, fire hydrants, or other features legally located in the right-of-way.

5.7.5.7.L The owner of the sign and the owner of the site upon which it is located must sign a statement assuming all liability for damage and injury caused by the sign.

5.7.5.7.M Sidewalk signs shall be exempt from the total sign area calculation.

PROOFS

5.7.5.7.N There shall be one sidewalk sign allowed for each tenant provided that all of the requirements of this section are met.

5.7.5.8 *Wall murals*.

5.7.5.8.A Prior to painting or affixing a mural to the building, the surface of the building must be fully repaired and/or deemed suitable for the proposed mural. The Building Inspector or other authorized agent shall check the surface for general suitability. However, the Village and/or its authorized agents shall not be responsible for any potential failures associated with the structure or mural.

5.7.5.8.B A sealer shall be applied to the surface of the mural to extend the life of the mural and make it easier to clean and maintain.

5.7.5.9 Wall signs.

5.7.5.9.A No wall sign shall cover, wholly or partially, any wall opening nor shall any sign project beyond the ends or top of the wall to which it is attached.

5.7.5.9.B Sign position will avoid obscuring architectural ornament and detail.

5.7.5.9.C A wall sign shall not project more than twelve (12) inches from the wall.

5.7.5.9.D Wall sign area is counted toward the total area requirements, however, the minimum sign area for each tenant, including those without outside frontage, shall not be less than two (2) square feet.

5.7.5.9.E For any commercial or mixed-use building containing more than one tenant, a directory sign containing the names of all tenants may be located at each common public entrance to the building, not to exceed a maximum size of twenty (20) square feet for each directory. Directory and restaurant menu signs not exceeding two (2) square feet need not be included in the sign area calculations.

5.7.5.9.F Each tenant may have multiple wall signs as long as the total wall sign area does not exceed the allowances established for wall signs for that tenant space or use (not including building directories and menu boards as above).

5.7.5.9.G Additional wall sign area is permitted for a secondary frontage which shall be equal to one-hundred (100) percent of the primary sign area allowance.

5.7.5.9.H Fifteen (15) square feet of bonus area is permitted on each of the building's primary and secondary frontages for a building with two (2) or more floors. The bonus sign must be placed at the height for which the bonus has been granted.

5.7.5.9.I No wall sign shall have a length greater than eighty (80) percent of the length of the tenant space, or for single tenant buildings, the length of the building frontage.

TABLE 5- 7. TOTAL COMBINED SIGN AREA ALLOWANCE

Total Combined Sign Allowances (also applies to one wall sign)		*Maximum Square Feet of sign area per lineal foot of building/tenant*		
District	1.5	2	2.5	3
DT-2			*	
R-2	*			
R-1	*			
W-MU		*		
DT-3			*	

PROOFS

GC				*
I				*

* Depends on the use. See District standards for particular applications.

5.7.5.10 *Window signs.*

5.7.5.10.A Window signs shall not exceed twenty-five (25) percent of the area of a window, except when the window is covered by a single mural or photo, and in that case, the display shall not exceed seventy-five (75) percent of the window area.

5.7.5.10.B Window signs shall be counted in the total allowable sign area calculation.

5.7.5.10.C Business hours, open/closed signs, and other similar information are exempt from the total allowable window sign square footage calculation.

5.7.5.11 *Off premise directory and tourist oriented directory signs.*

5.7.5.11.A Off premise directory and tourist oriented directory signs are permitted in the GC Zoning District.

5.7.5.11.B A Directory sign owned or sponsored by the DDA, Chamber of Commerce, Convention and Visitor's Bureau or other business association shall be permitted to display information for businesses and other tourist related facilities.

5.7.5.11.C Directory and Tourist Oriented Directory signs shall comply with all other sign requirements of the GC Zoning District.

5.7.6 *Sign administration.*

5.7.6.1 *Nonconforming signs.* Non-conforming signs are those which do not comply with size, placement, construction, or other provisions or regulations of this Ordinance, but which were lawfully established prior to the adoption of this Ordinance. It is the intent of this Ordinance to discourage the continuance of non-conforming signs and to encourage their removal by whatever lawful means available.

5.7.6.1.A Nonconforming signs shall be maintained in good condition pursuant to Section 5.7.6.5.

5.7.6.1.B A nonconforming sign or sign structure shall be brought into conformity with this Ordinance if it is altered, reconstructed, replaced, or relocated. A change in copy is not an alteration or replacement for purposes of this Section. An alternation also does not include maintenance that is intended to keep the nonconforming sign or sign structure in good condition per its original state, such as replacing or repairing worn or damaged parts. However, changes or additions shall not be made to any sign on a site so as to increase the total nonconformity.

5.7.6.1.C Non-conforming signs requiring structural repair to make them safe shall be removed.

5.7.6.1.D On parcels where there is a legal non-conforming sign, no new additional signs shall be erected until all such non-conforming signs are brought into compliance with this Ordinance.

5.7.6.1.E Removal of a nonconforming sign, or replacement of a non-conforming sign with a conforming sign is required when:

(1) A non-conforming sign, or a substantial part of a non-conforming sign, is blown down, destroyed, or for any reason or by any means taken down, altered, or removed. As used in this section, "substantial" means fifty (50) percent or more of the entire sign structure; or

(2) A non-conforming sign, sign structure, or the building to which a non-conforming sign is attached, is destroyed or damaged by a fire, flood, windstorm, or similar abnormal event, and the cost of reconstruction of the street sign or structure or building to its

PROOFS

condition immediately prior to the event exceeds fifty (50) percent of the value of the sign, structure, or building prior to its destruction or damage; or

(3) The condition of the non-conforming sign or sign structure has deteriorated and the cost of restoration of the sign to its condition immediately prior to such deterioration exceeds fifty (50) percent of the value of the sign or sign structure prior to its deterioration; or

(4) The property on which the sign is located has become vacant, or been unoccupied for a period of sixty (60) consecutive days or more.

(5) The regulation or amendment to these regulations which made the sign non-conforming has been in effect for ten (10) years or more.

5.7.6.1.F The dates established in this Section for a sign to be brought into compliance with the requirements of these regulations may be extended at the request of the sign owner or lease. In evaluating the extension of time for a non-conforming sign, the Zoning Administrator shall consider the following factors to determine whether the owner of the sign has had reasonable amount of time to recoup the initial investment.

(1) The value of the sign at the time of construction and the length of time the sign has been in place;

(2) The life expectancy of the original investment in the sign and its salvage value, if any;

(3) The amount of depreciation and/or amortization of the sign already claimed for tax or accounting purposes;

(4) The length of the current tenant lease or expected occupancy compared to the date the sign is to be brought into compliance;

(5) The extent to which the sign is not in compliance with the requirements of these regulations; and

(6) The degree to which the Zoning Administrator determines that the sign is consistent with the purposes of these regulations.

(7) Whether the sign has "historical" or "landmark" significance and should, therefore, be exempt from amortization.

5.7.6.2 *Abandoned signs*. Abandoned signs shall be removed by the property owner within 30 days.

5.7.6.3 *Dangerous signs.* In the case of a sign which presents imminent danger to life or property the sign owner, or if he cannot be reached, a responsible Village official must take immediate action as necessary to remove the danger. See Section 5.7.6.6.

5.7.6.4 *Permitting procedures*.

5.7.6.4.A A Certificate of Zoning Compliance shall be obtained from the Zoning Administrator prior to the issuance of a building permit.

5.7.6.4.B Application for a Certificate of Zoning Compliance shall be made upon forms provided by the Zoning Administrator, and shall contain or have attached the following information:

(1) Name, address, telephone number, and signature of the applicant (person or firm erecting the sign).

(2) Name, address, telephone number and signature of the owner of the land on which the sign is to be erected.

(3) A scale drawing indicating:

a. An accurate site plan showing the location of each proposed sign, existing signs, property lines, and all buildings and driveways on the parcel. All dimensions are to be included.

b. An accurate elevation of each building wall intended to accommodate a sign,

PROOFS

including window signs, showing the location, dimensions, and height of each sign above grade level. A computation of the area of each sign on the parcel is to be included.

c. An illustration depicting color scheme and items of information proposed to be displayed. Include the percentage of the signable area covered by the proposed graphics.

(4) A copy of the plans, specifications, method of construction, and means of attachment to the building or ground, including means of illumination or mechanical movement, if any.

(5) Upon demand of the Zoning Administrator, a copy of stress sheets and calculations showing the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other applicable laws and ordinances.

(6) Such additional information as required by the Zoning Administrator to show full compliance with this and all other laws and ordinances of the Village.

5.7.6.4.C A Comprehensive Sign Plan (CSP) may be submitted that permits consideration of unique conditions, flexibility, and creativity. Such CSP is subject to approval by the Planning Commission. The application of such plan cannot be viewed as imposing more restrictive requirements than permitted by the basic standards, but rather, may permit additional signs and/or sign area based on the applicant's demonstration of unique characteristics of the design, building, and/or site. A bonus may also apply when the applicant utilizes preferred designs such as a dark face or opaque background for internally-lit signs or amber lighting on message centers.

5.7.6.4.D All sign applications shall be reviewed for compliance with these regulations within twenty (20) business days from the time a completed application has been accepted by the Zoning Administrator.

5.7.6.4.E Reasons for denial of any sign application shall be set forth in writing and shall include any changes which would make the plan acceptable.

5.7.6.4.F The applicant may appeal any denial to the Zoning Board of Appeals.

5.7.6.4.G Each sign requiring a Certificate of Zoning Compliance shall contain a clearly legible identification plate, no larger than fifteen (15) square inches in area, stating the name of the person responsible for its construction and erection, along with the installation date and permit number.

5.7.6.5 *Maintenance*.

5.7.6.5.A The property owner shall maintain the sign in safe structural condition at all times in accordance with all Village standards and building code requirements. This includes but is not limited to the replacement of defective parts and peeling, faded, or broken display faces and structural members. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or constructed of rust resistant metals. All parts of the signs, including bolts and cables, shall remain painted and free from corrosion.

5.7.6.5.B Maintenance Requiring no Permit:

(1) The repainting of any portion of a sign structure, or the periodic changing of a bulletin board or billboard panel or the renewing of copy which has been made unacceptable or unusable by ordinary wear shall not require a permit.

(2) The replacing or repairing of non-structural portions of a sign shall not require a permit.

5.7.6.5.C Maintenance Requiring a Permit:

(1) Structural alteration, repair, or replacement of a sign or sign support structures shall require a permit.

PROOFS

(2) An enlargement or increase in any of the dimensions of a sign or the sign structure shall require a permit.

5.7.6.5.D The Zoning Administrator shall inspect and may order the painting, repair, alteration, or removal of a sign which constitutes a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence. If the sign is deemed by the Zoning Administrator to be in an unsafe condition, the owner of the business shall be immediately notified in writing, and shall, within 48 hours of receipt of such notification, respond to the Village with a plan to correct or remove the unsafe condition or cause it to be removed. If after thirty (30) days, the unsafe condition has not been corrected through repair or removal, the Zoning Administrator may cause the repair or removal of such sign at the expense of the property owner or lessee. If the total costs are not paid in full within sixty (60) days of the repairs or removal, the amount owed shall be certified as an assessment against the property of the sign owner, and lien upon that property, together with an additional fifteen (15) percent penalty for collection as prescribed for unpaid real estate taxes.

5.7.6.6 *Sign removal procedures*.

5.7.6.6.A The Zoning Administrator shall order the removal of any sign for which no Certificate of Zoning Compliance has been issued or signs erected in violation of this Ordinance.

5.7.6.6.B The Zoning Administrator shall notify the property owner by first class mail describing the sign and specifying the violation involved.

5.7.6.6.C The property owner shall remove sign or initiate an appeal within fifteen (15) days of receipt of the letter. An appeal stays all proceedings unless the official from whom the appeal is taken certifies to the Zoning Board of Appeals that a stay would cause imminent peril to life or property.

5.7.6.6.D If at the expiration of the time limit in said notice, the owner has not complied with the requirements thereof, or appealed the decision of Zoning Administrator, the Zoning Administrator shall carry out the requirements of the notice. The costs of such abatement may be charged against the premises and the owner thereof.

5.7.6.6.E In cases of emergency, the Zoning Administrator may cause the immediate removal of a dangerous or defective sign without notice.

PROOFS

SECTION 5.8. GENERAL ESSENTIAL SERVICES, COMMUNICATION, UTILITY, AND PUBLIC INFRASTRUCTURE REGULATIONS

The provisions of this Ordinance apply to buildings, structures, facilities, and/or uses owned or operated by the Village of Ontonagon. All buildings, structures and/or uses owned or operated by any other local, county, state or federal agency within the Village of Ontonagon require review and approval of a site plan by the Planning Commission before construction or alteration, except as provided elsewhere in this Ordinance, or by State or Federal Law.

5.8.1 *Essential services, public facilities, and utilities*. The erection, construction, alteration or maintenance of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, water towers, poles, street lighting, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories, but not including communication towers, which are reasonably necessary for the furnishing of adequate service for the public health, safety or general welfare by public utilities or governmental units, boards, or commissions is permitted in any zoning district, subject to the following provisions:

5.8.1.1 A fence or wall six (6) feet high and adequate to obstruct passage of persons or materials shall enclose electrical substations and/or gas regulator stations.

5.8.1.2 Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.

5.8.1.3 Communication towers require a Special Land Use Permit according to the standards in Article 9 and Article 14.

5.8.1.4 Any building erected for human occupancy after the effective date of this Ordinance and used for dwelling, business, industrial, mercantile, or storage purposes shall not be erected, altered, used, or moved upon any premises without a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of human, commercial, and industrial wastes.

5.8.1.5 All on-site sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the District Health Department as well as those of other applicable local, county, state, or federal agencies.

5.8.1.6 Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of the vacated area.

SECTION 5.9. GENERAL ACCESS REGULATIONS

5.9.1. *Driveway Standards.*

5.9.1.1 *Road authority approval*. No driveway shall connect to a public street or road without first receiving approval of the driveway location and cross section specifications from either the Local Road Agency or the Michigan Department of Transportation (MDOT) (on a state highway). However, such approval shall not be given where such curb cuts and driveways shall cause an unreasonable increase in traffic hazards, including but not limited to allowing adequate sight distance for ingress and egress.

5.9.1.2 Driveway plans and specifications.

5.9.1.2.A *Plan approval*. All plans for structures to be erected, altered, moved or reconstructed, and use of premises within the Village shall contain a plan for the proposed driveway access to the premises. Such plan shall be approved by the Zoning Administrator before the issuance of a Zoning Permit. No such plan shall be approved unless such driveway access is onto a dedicated public street or road, or to a pre-existing private street or road.

5.9.1.2.B *One driveway per parcel.* Each parcel with a single tax code number on the effective date of this Ordinance, which fronts on one side of a major thoroughfare, shall be entitled to one (1) driveway access from that street or highway. Subsequent division of each parcel, by metes and bounds descriptions, by plats created in accord with P.A. 288 of 1967 or by site condominiums in accord with Act 59 of 1978 shall provide access by a single public road or by an approved joint parking area or driveway, as described in Section 5.5.4. No direct additional access to the major thoroughfare shall be permitted with subsequent land divisions unless the parcel has more than six hundred (600) feet of frontage and driveway separation is at least six hundred (600) feet; except following a careful review of onsite conditions by the Ontonagon Village or MDOT, as applicable, a lesser separation distance is approved. However, if a parcel is split by a street or road, there may be a driveway on both sides of the road, provided they are both in direct alignment with one another.

5.9.1.2.C *Specifications applicable to all driveways*.

(1) Drives should enter perpendicular to the existing public street, private street, or alley.

(2) No portion of the driveway entrance within the right-of-way shall have a grade of greater than fifteen (15) percent (1 foot vertical rise in 6.7 feet of horizontal distance) unless a greater slope is necessary because of site conditions.

(3) The driveway shall meet clear vision standards of Section 5.4.5.3.

(4) Driveways shall be a minimum of fifty (50) feet from the nearest right-of-way line of an

PROOFS

intersecting road or street except on a nonconforming lot of record, in which case the maximum separation feasible shall be achieved, but in no case shall it be less than twenty-five (25) feet.

(5) Driveways shall be designed to minimize runoff and erosion, and shall not alter existing drainage unless approved by appropriate road authority.

(6) The location of new driveways shall conform with road improvement plans or corridor plans adopted by the appropriate road authority.

(7) An individual driveway serving more than one non-residential use is permitted, but access for a non- residential use shall not cross residentially zoned property.

(8) The new driveways shall align with existing or planned driveways, crossovers, turn lanes or other access features provided that the resulting alignment provides safe access and if all other access requirements of this Ordinance are met.

(9) The Local Road Agency or MDOT shall inspect the constructed driveway for compliance to all standards and shall so notify the Building Inspector prior to issuance of a Building Permit.

(10) In non-residential zones, no more than one driveway shall be allowed per lot or parcel on a street unless separated by two hundred (200) feet, or unless traffic safety requires another driveway within a shorter distance as established by the Local Road Agency, or MDOT, or a qualified traffic engineer by means of a traffic impact study prepared according to MDOT guidelines, or unless additional driveways are permitted in Special Land Use standards for a particular use.

5.9.1.2.D RESIDENTIAL DRIVEWAY SPECIFICATIONS.

Residential Driveway Specifications		
Design Features	Standard Specification	Accepted Range
Intersecting Angle	90 degree	70 to 110 degree
Driveway Width	12 feet	10 to 24 feet
Entering and Exit Taper	2 feet	2 to 4 feet
Curb Cut	14 feet	14 to 28 feet

PROOFS

5.9.1.2.E NON-RESIDENTIAL DRIVEWAY SPECIFICATIONS.

*Non-Residential Driveway Specifications**		
Design Features	Standard Specification	Accepted Range
Intersecting Angle	90 degree	70 to 110 degree
Driveway Width	24 feet	12 to 35 feet
Entering and Exit Taper	6 feet	3 to 20 feet
Curb Cut	36 feet	18 to 75 feet

*Commercial, Industrial, Multiple-Family (5 unit and greater)

5.9.2 *Sidewalks*. Every subdivision, condominium project, PUD, commercial, industrial, or other public or private project newly constructed in the Village or which must go through site plan review shall have sidewalks or

another approved walkway system meeting the following requirements:

5.9.2.1 Sidewalks shall be at least five (5) feet in width and meet the Village construction standards.

5.9.2.2 Intersections of pedestrian paths with streets shall be designed with clearly defined edges. Crosswalks shall be well-lit and defined with contrasting paving materials or striping.

5.9.2.3 All pedestrian sidewalks and paths shall be handicapped accessible.

5.9.3 *Public street standards*. New public roads or streets shall conform to the requirements of this Section.

5.9.3.1 The creation of a street that serves a subdivision or a parcel shall meet or exceed the cross-sectional construction standards established by the appropriate road approval authority.

5.9.3.2 All new streets shall be dedicated to and accepted by the public, and no structure or development activity shall be established within approved rights-of-ways or easements. All plans as submitted for approval must show the proposed street including a legal description and sketch of description, and must include profiles with the horizontal and vertical alignments and drainage systems for these streets.

5.9.3.3 All streets shall terminate at other streets or at public land, except as specified below:

5.9.3.3.A Access lanes that terminate in cul-de-sacs may be permitted only when topography prevents the use of loop streets.

5.9.3.3.B Local streets may terminate in stub streets when such streets act as connections to future phases of the development.

5.9.3.4 Right angle intersections shall be used whenever possible. No street shall intersect another at an angle of less than seventy-five (75) degrees.

5.9.3.5 Connection to County roads requires construction authorization from the Ontonagon County Road Commission; and connection to State highways requires construction authorization from the Michigan Department of Transportation. The County may disapprove a proposed public street or road that does not provide a connection to another public street or road when that connection is necessary for safe traffic flow and emergency vehicle access.

5.9.3.6 No more than twenty-five (25) lots may gain access to a single street if only one point of intersection is provided between the new street and another existing public street. No more than seventy-five (75) lots may gain access to a new street where two or more points of intersection are provided between the new street and other public streets.

5.9.3.7 Frontage measurements for cul-de-sac lots shall be from the curve tangent that meets both side lot lines. See Figure 5-5.

[GRAPHIC – FIGURE 5-5 – LOTS FRONTING ON A CUL-DE]

5.9.3.8 Pedestrian Circulation: Pedestrian sidewalks or paths shall be provided with all new developments as determined by the Zoning Administrator or Planning Commission based on the need to connect residences with community focal points, schools, parks and recreation areas, municipal buildings, public facilities, and shopping areas, and in accordance with Section 5.9.2.

5.9.3.9 Natural Drainage: Whenever possible, rain gardens and bioswales shall be installed to infiltrate runoff from streets and other impervious surfaces. Turf grass shall be replaced with native plant perennial landscapes placed lower than walkways to serve as natural filters for stormwater runoff.

5.9.3.10 Street Trees: With all new street development or redevelopment, street trees shall be planted thirty (30) feet apart, below the grade of the sidewalk and roadway, in cells with structural soils and sufficient root space.

5.9.3.11 Application Review: The Zoning Administrator shall review and send to the appropriate road authority for review and comment, the plans of a new public street. If the application is rejected, the reasons for the rejection and any requirements for approval shall be given in writing to the applicant.

PROOFS

5.9.3.12 The Zoning Administrator shall arrange for inspections by the appropriate road authority during construction of, and upon completion of, the new street. No building permit shall be issued for a structure along any new public street until such street is given final approval by the Village of Ontonagon.

SECTION 5.10. ENVIRONMENTAL PROTECTION PROVISIONS

The protection of areas of environmental concern, such as wetlands, high risk erosion areas, floodplains, or steep slopes, must be considered in conjunction with development, and such areas must be developed in conformance with the following regulations of state and county agencies and the following Village regulations as applicable:

5.10.1. *Sensitive Environmental Areas.*

5.10.1.1 *Wetlands*. Defined by degree of soil wetness, generally including those soils classified by the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Part 303, Section 324.30301 et seq as being able to support aquatic vegetation regardless of whether it has standing water or not. No activity shall be permitted on a site with regulated wetlands, unless a wetlands permit has been obtained by the applicant from the Michigan Department of Environmental Quality.

5.10.1.2 *Sensitive riverine areas*. Defined as areas on each side of streams that could be subject to flooding or erosion and alterations of land, these areas may require a soil erosion and sedimentation control permit under Part91, Section 324.9101 et seq of the Michigan Natural Resources & Environmental Protection Act, Public Act 451 of 1994, (formerly, PA 346 of 1972). See also Flood Plain Areas below.

5.10.1.3. *Floodplains*.

5.10.1.3.A *National regulation of floodplain areas*. Defined as low areas adjacent to inland lakes and streams subject to flooding according to the one hundred (100) year flood hazard boundary map as administered by the Federal Emergency Management Agency (FEMA) or an Intermediate Regional Flood map prepared by the Army Corps of Engineers. A structure proposed within a floodplain shall not be erected until after receipt of a permit from the Michigan Dept. of Environmental Quality pursuant to Part 31 of the Michigan Natural Resource & Environmental Protection Act, Public Act 451 of 1994. The objectives of these regulations include:

(1) The protection of human life, health, and property from the dangerous and damaging effects of flood conditions.

(2) The minimization of public expenditures for flood control of projects, rescue and relief efforts, repair of damaged public facilities and utilities, and the costs of redevelopment.

(3) The prevention of private and public economic loss and social disruption.

(4) The maintenance of stable development patterns not subject to the blighting influence of flood damage.

(5) To preserve the ability of floodplains to carry and discharge a base flood.

5.10.1.3.B *Local regulation of floodplain areas*. These regulations will be certified by a registered engineer.

(1) Where permitted, any structure built within a floodplain shall have its lowest occupied level one foot above the base flood elevation.

(2) Accessory structures and uses permitted with a principle use shall meet the standards of this Ordinance, and the following:

a. The structure will not cause an increase in water surface elevation, obstruct flow, or reduce the impoundment capacity of the floodplain.

PROOFS

b. All equipment and structures shall be anchored to prevent flotation and lateral movement.

(3) The following uses are permitted within a floodplain if these uses are also allowed in the applicable zoning district:

a. Harvesting of a native or wild crop permitted by law such as wild rice, marsh hay, berries, and seeds.

b. Harvesting of trees

c. Parks, picnic areas, playgrounds, playfields, athletic fields, golf courses, bridle paths, nature paths, trails, day camps, outdoor recreational clubs, golf courses, and public open land

d. Wildlife preserves, conservation areas, arboretum or botanical gardens

e. Historic sites and structures

f. Swimming beaches, fishing and boating docks in accord with Part 301 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended

g. Required open space or yard for landward structural uses

h. Agriculture and nurseries

5.10.1.4 *Steep slopes*. When the proposed building site has slopes in excess of fifteen (15) percent, questionable soils stability, or evidence of erosion, the Zoning Administrator shall require the applicant to obtain a site analysis and conform with the applicable requirements of this Section.

5.10.1.5 *Retaining wall permit*. No shoreline retaining wall shall be erected without first having obtained a permit from the Michigan Department of Environmental Quality.

5.10.1.6. *Stormwater management.*

5.10.1.6.A *General provisions.*

(1) When any land in the Village is developed or altered in any way which affects stormwater runoff, the owner shall detain such stormwater from runoff onto adjacent properties, including roads and other rights-of-way, in such a manner which shall result in the maximum amount of stormwater runoff not exceeding that which existed prior to the development or improvement of the property, and in accord with the requirements of the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Part 91, Section 324.9101 et. seq. In addition, all development shall conform to the County Soil Erosion, Sedimentation and Stormwater Control Resolution and any general rules or administrative guidelines.

(2) Special attention shall be given to proper site drainage so that runoff of stormwater shall not adversely affect neighboring properties or the water quality of the Village's rivers and streams. Stormwater control mechanisms, such as retention/detention basins, vegetative buffers, swales, and infiltration trenches, shall be required to ensure that the peak rate of stormwater runoff after development does not exceed the rate prior to development.

(3) The final grade surface of ground areas remaining after the construction of a building or structure, and any earth changes made in connection with use of land, shall be designed and landscaped such that surface water flows away from the building or structure and is collected or managed in a manner which avoids any increase in surface water discharge onto adjacent properties or public roads, the erosion of or filling of any road ditch, the blockage of any natural or public watercourse, the creation of standing water over a private sewage disposal drainage field, and any unnecessary impoundment of surface water. The provisions of this section shall be administered and enforced pursuant to the

PROOFS

site plan review provisions of Section 14, when applicable. In all other cases, the Zoning Administrator shall determine whether the provisions of this section are met. When it is determined that inadequate surface water control exists, no Certificate of Zoning Compliance shall be issued until the situation is corrected and approved by the Zoning Administrator.

5.10.1.6.B *Creation of ponds*. For purposes of this Ordinance, a pond is defined as a manmade excavation or impoundment of surface water designed to retain or detain water with a surface area of at least one-thousand (1,000) square feet. Ponds are subject to the following regulations:

(1) No person shall commence the excavation, dredging, or construction of a dam that is designed, intended, or results in the creation or enlargement of a pond without first making application for and receiving a Certificate of Zoning Compliance approving the specific plans for a pond.

(2) An application for a Certificate of Zoning Compliance for a pond shall be made pursuant to Article 14 of this Ordinance.

(3) Proposed ponds of less than one (1) acre in size shall be considered under a minor site plan.

(4) Applications for ponds larger than one (1) acre and/or ponds which are located within five-hundred (500) feet of a lake, river, stream, or open Village drain shall be required to be submitted to the Michigan Department of Environmental Quality to determine the extent to which the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, apply to the proposal.

(5) Ponds (or manmade lakes) in excess of 5 acres shall be considered major site plans under Article 14.

(6) Plans for ponds shall indicate the size, depth, and proposed finished grade of the land both above and below water level, any proposed fencing location and specifications. In addition, the applicant shall indicate sources of water being used to supply the pond (such as stream impoundment, surface water runoff, springs, and wells).

(7) No pond shall be closer than fifty (50) feet from any property line, easements for egress, dwelling units, septic drainage fields and domestic wells.

(8) Ponds on parcels of less than 20 acres in size that are not enclosed by a four feet high fence shall be required to provide and maintain one or more safety stations in compliance with the following:

a. U.S. Coast Guard approved ring buoys securely connected to forty feet of rope mounted on posts located at 500 feet intervals around the perimeter of the pond.

b. A twelve feet long pole shall be attached to one safety station.

(9) Ponds under five (5) acres are permitted without regard to the eight (8) previous subsections if:

a. On a bonafide commercial agriculture or horticulture operation;

b. The pond is approved by the National Resources Conservation Service as being in conformance with their existing pond design standards.

5.10.1.7 *Environmental nuisance prevention.* Every use shall be so conducted and operated so that it is not detrimental to the health, safety, or welfare of persons or property, or obnoxious by reason of heat, glare, fumes, odors, dust, noise, smoke, water runoff, light, ground vibration or other nuisance beyond the lot on which the use is located. It shall be unlawful to carry on or permit to be carried on any activity or operation of use of any land, building, or equipment that produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to

PROOFS

be the maximum permissible hazards to humans or to human activity. All proceedings of the Planning Commission, Zoning Board of Appeals, and Village Council shall be conducted, and all decisions shall be made with due consideration given to the maintenance of reasonable circumstances regarding: emission and transmission of injurious or obnoxious noise, fire or explosive hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress and egress, ease of police and fire protection, drainage, lateral land support, blighting influence, effect on property values, adequate light and air, overcrowding of persons, sanitation, general appearance of the area, surface and groundwater quality, and other similar considerations having an effect on public health, safety and general welfare of the people of the surrounding area.

5.10.1.7.A *Dangerous explosive and flammable materials.*

(1) No use of a building or premises shall in any way represent a fire or explosion hazard to a use on adjacent property or to the public on a public street. All buildings, above or below ground storage, and handling areas where dangerous chemicals, salts, flammable materials, or hazardous substances are regularly used, moved or stored shall conform to all applicable local, County, State, and Federal regulations and requirements; including the maintenance of any clear zone and/or containment structures required by government authorities. Failure to disclose such materials to fire, emergency services agencies and the Michigan Department of Environmental Quality as may be required by State or Federal laws, is also a violation of this Ordinance.

(2) All outdoor above or below ground handling area and storage facilities for dangerous chemicals, explosive or flammable materials, fuels and other hazardous substances in excess of fifty (50) gallons or one-hundred fifty (150) pounds per month, shall:

a. Be constructed and maintained in compliance with:

1. All applicable Michigan Department of Environmental Quality, Michigan Department of Agriculture, State Fire Marshal and U.S. EPA Standards;

2. The Stille- DeRossett- Hale Single State Construction Code Act, Public Act 230 of 1972, being MCL 125.1501, et seq., and

3. All applicable County, local Fire Code and "Right-to-Know" laws.

4. A Pollution Incidence Prevention Plan (PIPP) if required under state law.

b. Be located on a lot at least one-half (½) acre in size.

c. Not store fuel in above or below ground tanks closer than seventy-five (75) feet to a building unless it is liquefied petroleum gas or heating fuel in an approved tank, in which case it shall not be closer to a building than the distance allowed by the State Mechanical Code.

d. Secondary containment structures shall be required to protect the environment from accidental spills of all hazardous liquids. Hazardous liquids shall include all "hazardous wastes" as defined by Act 64 of 1979, that are in liquid form. Secondary containment structures shall include structures such as but not limited to dikes and berms surrounding transfer and storage areas, enclosed structures, and interior storage rooms with sills and no floor drains. All secondary containment structures shall be at least large enough to hold the capacity of the largest drum or tank in the transfer or storage area. Secondary containment structures shall be covered, but if flammable, not fully enclosed, with a satisfactory dewatering plan to prevent leaks and spills from entering drains, sewers, surface or groundwater.

e. No floor drains shall be permitted in any areas involving the transfer or disposal of hazardous liquids unless all hazardous liquids are collected and properly treated or disposed of offsite.

PROOFS

f. If the quantity of material in Section 5.10.1.7.A.2 above is less than the regulatory threshold of the Michigan Department of Environmental Quality, the Michigan Department of Agriculture, State Fire Marshal or U.S. EPA Standards then the secondary containment structures required above shall conform with standards prepared by the Zoning Administrator and adopted by the Planning Commission.

g. The owner shall supply the Zoning Administrator, Police and Sheriff's Department, and Emergency Services Coordinator with the name and phone number of persons responsible for materials on the site and who is available 24 hours in case of a leak or spill.

5.10.1.7.B *JUNK*. No person shall store, place, abandon, or permit to be stored, placed, abandoned, or allow to remain in any district a dismantled, partially dismantled, unlicensed, or inoperable motor vehicle or farm machinery, junk, rubbish, or litter upon any premises, except as provided for in Article 9, or in the case of motor vehicles or inoperable farm machinery, unless confined in a wholly enclosed structure.

SECTION 5.11. GENERAL MISCELLANEOUS REGULATIONS

5.11.1. *Building materials*. New buildings are strongly encouraged to mimic designs and materials indigenous to the area and long recognized as part of the character of the Village of Ontonagon.

5.11.2 *Accessory open storage*. The accessory use of open yard space for storage of major recreational equipment such as utility trailers, boat trailers, boats, recreational vehicles and similar major recreational equipment may be stored in the open subject to the following provisions:

5.11.2.1 Dead storage only is allowable, and no connection to any permanent power, water, or sewer facilities is allowed.

5.11.2.2 Such equipment shall not be used for human occupancy nor used as business, recreational, or housekeeping purposes, except as provided for by Section 5.2.6.2.

5.11.2.3 Such equipment must be in usable and in safe condition except for periods when necessary repairs or alterations are being conducted.

5.11.2.4 Such equipment shall be stored in the side or rear yard provided accessory building setbacks are met, unless it is stored in an existing garage or carport.

5.11.2.5 No such equipment shall be parked or stored on a public street or right-of-way or in such manner or in such location in the lot or parcel as to create a dangerous or unsafe condition.

5.11.3 *Outdoor Lighting.*

5.11.3.1 *Intent*. The intent of these regulations is to:

5.11.3.1.A Promote safety through properly designed lighting that reduces unsafe glare and does not negatively affect visibility.

5.11.3.1.B Conserve natural resources through improved energy efficiency.

5.11.3.1.C Reduce the trespass of light or glare over property lines.

5.11.3.1.D Reduce light pollution of the night sky.

5.11.3.2 *Lighting standards*.

5.11.3.2.A Commercial outdoor lighting shall be used for safe pedestrian passage and property identification, and otherwise shall be extinguished no later than one half hour after the close of business.

5.11.3.2.B Lighting that is designed for the external illumination of buildings, so as to feature said buildings, shall be located and shielded so as not to project upward above the building, or to interfere with the vision of persons on adjacent roads and streets or adjacent property.

5.11.3.2.C All outdoor lighting above 70 watts, including illuminated signs, shall be placed, and shielded,

PROOFS

to reduce glare and reflect light away from adjacent residential districts and adjacent dwelling units as well as to prevent interference with the vision of persons on adjacent highways.

5.11.3.2.D All freestanding outdoor lighting shall be fully shielded and directed downward with a full cutoff to prevent off-site glare; and shall not exceed sixteen (16) feet in height except to light a public athletic field or public street lights.

5.11.3.2.E Canopy lighting shall be fully recessed.

5.11.3.2.F Fixtures shall be located no closer to the property line than four (4) times the mounting height of the fixture, and shall not exceed the height of adjacent structures. Exceptions to this rule may be approved by the Planning Commission for large parking areas, non-residential uses adjacent to highways, or for fixtures with greater cut off shielding.

5.11.3.2.G Interior lighting shall be designed so that it does not illuminate the outdoors. After close of business, interior lighting that extends outdoors shall be extinguished by the use of shut-off timers.

5.11.3.2.H The intensity of light within a site shall not exceed ten (10) footcandles within any part of the site and one (1) footcandle at any property line, except where it abuts a Residential Use where a maximum of one half (0.5) footcandle is permitted.

ARTICLE 6. SCHEDULE OF REGULATIONS – TRADITIONAL ZONING DISTRICTS

SECTION 6.1. R-1 RESIDENTIAL DISTRICT (R-1)

6.1.1 *Intent and guiding principles (R-1).* The R-1 Residential district (R-1) provides for single-family residential development and open space preservation development (also conservation subdivision and cluster development) in areas that transition to open and wooded areas in the neighboring Township. This district is meant to support a more rural setting preserving natural landscape features and open space. This district encourages cluster development preserving at least twenty (20) percent of the site as dedicated open space (and preferably more). This District also allows for food production and limited agricultural pursuits close to urban areas to enhance food security.

6.1.2 *District use standards (R-1).* Use standards for the R-1 district are illustrated in Table 6-1. Uses not listed but of the same general character as those permitted will be interrupted by the Zoning Board of Appeals. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

PROOFS

Table 6-1 Permitted Uses in the R-1 Residential District, Page 1 of 3

R-1 Residential District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Agricultural Service Establishments			Animal Services: with Unenclosed Outdoor Confinement	Special Use: See Article 9
Commercial Agriculture or Horticulture	Al l listings in Table 4-1 except large scale composting or industrial/intensive agriculture	Conditions: See Article 9		
Small Scale Food Production & Urban	Accessory apiary; Farmer's Markets – Whole Food Stands	Conditions: See Article 9		

Agriculture	Gardens and Orchards in a required yards; Green houses and aquaculture systems; Community and Urban Gardens	Permitted		
Commercial & Commercial Services	Bed & Breakfast Establishments – Tourist Homes	Conditions: See Article 9		
	Organized Camps and Campgrounds	Conditions: See Article 9	Outdoor Commercial Recreation & Entertainment per Table 4-1	Special Use: See Article 9
	Home Occupations	Conditions: See Article 9	Resorts	Planned Unit Development
Institutional	Educational Institutions	Conditions: See Article 9		
	Social Institutions per Table 4-1	Conditions: See Article 9		

Table 6-1 Permitted Uses in the R-1 Residential District, Page 2 of 3

R-1 Residential District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Public	Essential Services	Permitted	Public Buildings & Related Facilities, including Trails (except roadside parks, public parks, and playgrounds)	Special Use: See Article 9
	Public Parks including Roadside Parks and playgrounds	Permitted		
			Light Utility and Public Service Installations (does not include heavy)	Special Use: See Article 9
			WECS towers up to and including 80 feet in height	Special Use: See Article 9
Residential Services	Single Family Housing Types	Permitted	Mobile Home Park, Manufactured Housing Community	
	Temporary Dwellings	Conditions: See Article 9 and Article 5	Planned Unit Development	Special Use: See Article 9
	Seasonal Cabins and Camps for Single- Family Occupancy	Permitted	ECHO Units (Accessory dwelling units)	Special Use: See Article 10

PROOFS

	Small child care centers, family and group child care homes, adult foster care family and group homes, foster family group homes, state licensed residential facility.	Permitted	Open Space Preservation & Cluster Developments	Special Use: See Article 9

Table 6-1 Permitted Uses in the R-1 Residential District, Page 3 of 3

R-1 Residential District				
Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Accessory Uses	Decks, Patios, Gazebos; Freestanding Flagpoles; Greenhouses or Aquaculture Systems; Garages or Carports; Outdoor fi replaces; Storage or Service Buildings or Sauna	Permitted according to standards contained in Article 5 and District Standards	Accessory Dwelling Units	Special Use: See Article 9
	Amateur radio & TV Antennae; gardens and orchards in required yards	Conditions: See Article 5		
	Accessory apiary; Bus Shelters; Food Stands; Accessory; Home Occupations; Pole barns; Outdoor Swimming Pools	Conditions: See Article 5		

PROOFS

6.1.3 *Development requirements (R- 1).*

6.1.3.1 *Lot configuration standards (R- 1).*

6.1.3.1.A *Minimum lot size*. Minimum lot size in the R-1 district is as follows:

- Single-lot development –23,500 square feet
- Qualifying Open Space Preservation Development – 10,000 square feet (presuming an appropriate water and wastewater treatment system is approved, and all standards of Section 5.4.6 and Section 9.3.6.2.B are met).

6.1.3.1.B *Minimum lot width*. Minimum lot width in the R-1 district is as follows:

- Single-lot development – one-hundred (100) feet
- Qualifying Open Space Preservation Development – Seventy-five (75) feet

6.1.3.1.C *Front setback*. Minimum front setback in the R-1 district is twenty (20) feet. There is no maximum front setback in the R-1 district for a single-lot development. Qualifying Open Space Preservation Developments have a maximum setback of thirty (30) feet.

6.1.3.1.D *Side yard*. Minimum side yard in the R-1 district is eight (8) feet.

6.1.3.1.E *Rear yard*. Minimum rear yard in the R-1 district is as follows:

- Single-lot development – Twenty-five (25) feet
- Qualifying Conservation Development – Twenty (20) feet

The Zoning Administrator may authorize an administrative departure for up to five (5) feet in a rear yard setback to accommodate individual site conditions, such as mature trees, topography, or other similar physical condition.

6.1.3.1.F *Maximum lot coverage*. Maximum lot coverage in the R-1 district is as follows:

- Single-lot development – Twenty-five (25) percent
- Qualifying Open Space Preservation Development – Thirty-five (35) percent

6.1.3.1.G *Maximum impervious surface coverage*. Maximum impervious surface coverage in the R-1 district is as follows:

- Single-lot development – Forty (40) percent
- Qualifying Open Space Preservation Development – Fifty (50) percent

6.1.3.2 *Principle structure standards (R- 1).*

6.1.3.2.A *Maximum height*. Maximum permitted height in the R-1 district is two and a half (2.5) stories or thirty-five (35) feet.

6.1.3.2.B *Minimum floor area per unit*. Minimum floor area in the R-1 district is as follows:

- Single-lot development – 1,100 square feet per single unit
- Qualifying Open Space Preservation Development – 900 square feet per single unit

6.1.3.3 *Accessory structure standards (R-1).*

6.1.3.3.A *Maximum height*. The maximum permitted height of accessory structures in the R-1 district is twenty-four (24) feet with the minimum setbacks as listed in Section 6.1.3.3.B below. However, an accessory structure with an accessory dwelling unit in the R-1 district may be up to thirty-five (35) feet in height, provided that the structure is setback from all lot lines an additional foot for each foot in height over twenty-four (24) feet.

6.1.3.3.B *Minimum setback from lot lines.*

(1) Front Lot Line – Accessory structures shall be setback at least ten (10) feet front the front lot line.

(2) Side Lot Lines – Accessory structures must be placed a minimum distance of eight (8) feet from the side lot line.

(3) Rear Lot Line – Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line.

6.1.3.3.C *Miscellaneous accessory provisions*. No detached accessory structure shall be closer than ten (10) feet to a principle structure.

6.1.4 *Miscellaneous provisions (R-1).*

6.1.4.1 *Riparian protection standards (R-1).*

6.1.4.1.A *Setbacks adjacent to lake superior*. For properties adjacent to Lake Superior, the following setback requirements shall apply (this does not apply to pump houses, recreational docks, stormwater and erosion control devices, picnic tables, benches, recreational watercraft, wooden stairways, and unpaved walkways):

(1) No structure shall be allowed within seventy-five (75) feet of the ordinary high water mark;

(2) On lots with coastal wetlands, a setback of seventy-five (75) feet shall be maintained from the wetland's edge.

PROOFS

(3) If a greater setback is required under the provisions of any state or federal law than is required by this section, then such greater setback requirement shall apply.

(4) Where the imposition of the setbacks above precludes the location of a dwelling or other primary structure, the applicant may request a variance according to the procedures in Article 14, however, no variance shall be granted for any use or structure in violation of the intent and purpose of this Section.

6.1.4.1.B *Setbacks from riparian (river or stream) systems*. For properties adjacent to rivers and streams in this district, structures shall be setback seventy-five (75) feet from the edge of the active channel of the water course.

6.1.4.1.C *Special use standards*. The following land uses are designated as potential water pollution hazards, and must be set back from any stream or waterbody by the specified distance, provided they are a permitted use in this district (see additional standards for conditional or special uses in Article 9):

(1) Storage of hazardous substances – Setback one-hundred fifty (150) feet

(2) Above ground or underground petroleum storage facilities – Setback one-hundred fifty (150) feet

(3) Drain fields from onsite sewage disposal and treatment systems (i.e., septic systems) – Setback one-hundred (100) feet

(4) Raised septic systems – Setback two-hundred fifty (250) feet

(5) Solid waste landfills or junkyards – Setback three-hundred (300) feet

(6) Subsurface discharges from a wastewater treatment plant – Setback one-hundred (100) feet

(7) Land application of biosolids – Setback one-hundred (100) feet

(8) Compost piles and manures/fertilizers shall not be located within the prescribed waterfront setback.

6.1.4.1.D *Riparian buffer zones*. A riparian buffer for a stream or river system shall consist of a vegetated strip of land at least fifty (50) foot wide extending along both sides of the water course, and including adjacent wetlands or steep slopes. The buffer shall consist of two distinct zones, configured as follows:

(1) Zone 1: Streamside Zone

The Streamside Zone begins at the edge of the active channel of the water course and extends twenty- five (25) feet landward plus any extensions as specified in Section 6.1.4.1.E below.

Permitted uses include:

a. Flood control structures

b. Utility right-of-ways

c. Unpaved footpaths

d. Road crossings where permitted

Prohibited uses include:

a. Soil disturbance (grading, stripping, filling, dumping), except minor filling or grading for the establishment of shoreline access paths.

b. Use of pesticide or fertilizer (except for management of invasive species as approved by the planning commission in consultation with the appropriate agency)

c. Presence of livestock

d. Use of motor vehicles

PROOFS

e. Construction of permanent structures

Vegetation shall not be altered, compacted, or built upon in this area, except that individual trees that must be cut due to disease shall be replaced.

(2) Zone 2: Outer Zone

Zone 2: Outer Zone, begins at the outer edge of the Streamside Zone and extends twenty-five (25) feet landward plus any extensions as specified in Section 6.1.4.1.E below.

Permitted uses include:

a. Flood control structures

b. Utility right-of-ways

c. Unpaved footpaths

d. Road crossings where permitted

e. Surfaced biking or hiking paths

f. Approved stormwater management facilities

g. Approved recreation facilities

Prohibited uses include:

a. Soil disturbance (grading, stripping, filling, dumping), except minor filling or grading for the establishment of shoreline access paths.

b. Use of pesticide or fertilizer (except for management of invasive species as approved by the planning commission in consultation with the appropriate agency)

c. Presence of livestock

d. Use of motor vehicles

e. Construction of permanent structures

Mature tree cover may be removed, however, the shrub and herbaceous ground cover layers shall be retained to allow infiltration of run-off.

6.1.4.1.E *Extensions to riparian buffer zones*. The fifty (50) foot combined buffer zone above shall be extended to include wetlands or steep slopes as follows:

(1) *Wetlands*. When wetlands are present, the width of the Streamside Zone shall be increased beyond the standards in Section 6.1.4.1.D.1 to include the extent of the wetland plus twenty (20) feet beyond the wetland edge.

(2) *Percent slope*. The riparian buffer width shall be modified if steep slopes are within close proximity to the stream and drain into the stream system. The following extensions shall be added to the standard fifty (50) foot buffer in relation to slope.

a. Slopes of fifteen (15) to seventeen (17) percent, add ten (10) feet for a total buffer width of sixty (60) feet.

b. Slopes of eighteen (18) to twenty (20) percent, add thirty (30) feet for a total buffer width of eighty (80) feet.

c. Slopes of twenty-one (21) percent or more, add fifty (50) feet for a total buffer width of one-hundred (100) feet.

6.1.4.1.F *Lighting standards*.

(1) Lighting shall not be directed into the riparian buffer area so that natural migrating, feeding, and breeding habits of wildlife shall not be disrupted.

(2) Paths or gardens shall be lighted sparingly with the lowest amount of light necessary to see foliage and terrain, bulbs will be shielded, and lights will be turned off when the area is not

PROOFS

in use.

6.1.4.1.G *Public faculties and use standards.*

(1) Except for unpaved footpaths for public access to a water body, trails shall not be placed between the tops of banks of water bodies.

(2) The placement of breakwalls, seawalls, bulkheads, broken concrete or other rubble, rock riprap, or other shoreline hardening along the shorelines shall be prohibited. The installation and use of bioengineering and biotechnical shoreline stabilization approaches with pervious surfaces for boat ramps is encouraged.

SECTION 6.2. R- 2 RESIDENTIAL DISTRICT (R-2)

6.2.1 *Intent and guiding principles (R-2).* The R-2 Residential district (R-2) provides for single-family residential development in the transition areas between denser urban neighborhoods and the outlying rural residential areas. The district is intended to preserve the existing character of the neighborhoods and to guide redevelopment in a manner which is consistent and compatible with this form. Although less urban in nature, pedestrian infrastructure, whether sidewalks or trail systems, is important to connect these neighborhoods to amenities and services.

6.2.2 *District use standards (R-2).* Use standards for the R-2 district are illustrated in Table 6-2. Uses not listed but of the same general character as those permitted will be interrupted by the Zoning Board of Appeals. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

TABLE 6-2. PERMITTED USES IN THE R- 2 RESIDENTIAL DISTRICT, PAGE 1 OF 3

R-2 Residential District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Small Scale Food Production & Urban Ag	Accessory gardens and orchards in required yards; Accessory greenhouses and aquaculture systems; Community gardens and urban gardens as principle use	Permitted		
Commercial & Commercial Services	Bed & Breakfast Establishments; Tourist Homes	Conditions: See Article 9		
	Home Occupations	Conditions: See Article 9		
Institutional	Educational Institutions	Conditions: See Article 9		
Public	Essential Services	Permitted	Public Buildings &	Special Use: See Article

PROOFS

	Public Parks including Roadside Parks	Permitted	Related Facilities, including Trails (except roadside parks, public parks, and playgrounds)	9
			Light Utility and Public Service Installations (does not include heavy)	Special Use: See Article 9

TABLE 6-2. PERMITTED USES IN THE R-2 RESIDENTIAL DISTRICT, PAGE 2 OF 3

R-2 Residential District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Residential Services	Multi-Family Dwellings	Conditions: See Article 9	ECHO Units (accessory dwelling unit)	Special Use: See Article 9
	Single Family Housing Types	Permitted		
	Temporary Dwellings	Conditions: See Article 5		
	Small child care centers, family and group child care homes, adult foster care family and group homes, foster family group homes, state licensed residential facility.	Permitted		
	Tourist Homes/Bed & Breakfast	Conditions: See Article 9		
	Two-Family Dwellings	Permitted		

TABLE 6-2. PERMITTED USES IN THE R-2 RESIDENTIAL DISTRICT, PAGE 3 OF 3

R-2 Residential District
Permitted By-Right, With Conditions, or as a Special Land Use

PROOFS

Uses	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or(PUD) *As defined by Table 4-1	Development Requirements
Accessory Uses	Decks, Patios, Gazebos; Freestanding Flagpoles; Accessory Greenhouses or Aqua culture Systems; Garages or Carports; Outdoor fireplaces; Storage or Service Buildings or Sauna	Permitted according to standards contained in Section 5.2, 5.3	Accessory Dwelling Units	Special Land Use: See Section 9.4.1
	Amateur radio & TV Antennae;	Conditions: See Section 5.2, and 5.4		
	Bus Shelters; Home Occupations; Outdoor Swimming Pools	Conditions: See Section 9		

6.2.3 *Development requirements (R-2).*

6.2.3.1 *Lot configuration standards (R-2).*

6.2.3.1.A *Minimum lot size*. Minimum lot size in the R-2 district varies according to use as follows:

(1) Single-Family Residential – Five-thousand (5,000) square feet

(2) Duplexes – Eight-thousand (8,000) square feet

(3) Multi-Family Residential – Ten-thousand (10,000) square feet

(4) Non-Residential or Mixed-Use – Five-thousand (5,000) square feet

6.2.3.1.B *Minimum lot width*. Minimum lot width in the R-2 district varies according to use as below:

(1) Single-Family Residential – Fifty (50) feet

(2) Duplexes – Seventy-five (75) feet

(3) Multi-Family Residential – Seventy-five (75) feet

(4) Non-Residential or Mixed-Use – Fifty (50) feet

6.2.3.1.C *Front setback*.

Minimum front setback in the R-2 district is twenty (20) feet. Maximum front setback in the R-2 district is thirty-five (35) feet.

When the existing front setback of all adjacent principle structures facing the same street are greater than the maximum front setback, then the maximum front setback shall be no greater than the average of the existing front setback of the adjacent principle structures.

6.2.3.1.D *Side yard*. Minimum side yard in the R-2 district varies according to use as below:

(1) Single-Family Residential and Duplexes– Five (5) feet

(2) Multi-Family Residential – Eight (8) feet

(3) Non-Residential or Mixed-Use – Eight (8) feet

6.2.3.1.E *Rear yard*. Minimum rear yard in the R-2 district varies according to use as below:

PROOFS

(1) Single-Family Residential and Duplexes– Twenty (20) feet

(2) Multi-Family Residential – Twenty-five (25) feet

(3) Non-Residential or Mixed-Use – Twenty (20) feet

The Zoning Administrator may authorize an administrative departure for up to five (5) feet in a rear yard setback to accommodate individual site conditions, such as mature trees, topography, or other similar physical condition.

6.2.3.1.F *Maximum lot coverage*. Maximum lot coverage in the R-2 district varies according to use as below:

(1) Single-Family Residential and Duplexes– Thirty-five (35) percent

(2) Multi-Family Residential – Forty (40) percent

(3) Non-Residential or Mixed-Use – Fifty (50) percent

6.2.3.1.G *Maximum impervious surface coverage*. Maximum impervious surface coverage in the R-2 district varies according to use as below:

(1) Single-Family Residential and Duplexes– Fifty (50) percent

(2) Multi-Family Residential – Fifty-five (55) percent

(3) Non-Residential or Mixed-Use – Sixty-five (65) percent

6.2.3.2 *Principle structure standards (R-2).*

6.2.3.2.A *Maximum height*. The maximum permitted height in the R-2 district varies per use as follows:

(1) Single-family residential and duplexes – Two and a half (2.5) stories or thirty-five (35) feet

(2) All other uses – Two (2) stories or thirty-five (35) feet

6.2.3.2.B *Minimum floor area per unit*. The minimum floor area per unit in the R-2 district varies per use as follows:

(1) Single-family residential – Nine-hundred (900) square feet per single unit

(2) Duplex – Eight-hundred (800) square feet per single unit

(3) Multi-Unit Dwelling – Seven-hundred (700) feet per single unit

(4) There is no minimum floor area per unit for non-residential or mixed uses.

6.2.3.3 *Accessory structure standards (R-2).*

6.2.3.3.A *Maximum height*. The maximum permitted height of accessory structures in the R-2 district is twenty-four (24) feet with the minimum setbacks as listed in Section 6.2.3.3.B below. However, accessory structures with accessory dwelling units in the R-2 district may be up to thirty-five (35) feet in height, provided that the structure is setback from all lot lines an additional foot for each foot in height over twenty-four (24) feet.

6.2.3.3.B *Minimum setback from lot lines.*

(1) Front Lot Line – Accessory structures are not allowed in the front setback area. The front setback of accessory structures must be equal to or greater than that of the principle structure on the site.

(2) Side Lot Lines – Accessory structures must be placed a minimum distance of three (3) feet from the side lot line.

(3) Rear Lot Line – Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line, except that they may be located as close as three (3) feet to a rear lot line when the rear lot line is co-terminus with an alley.

6.2.3.3.C *Maximum size of accessory structures*. Accessory structures in the R-2 district shall be no larger than the building footprint of the principle dwelling.

PROOFS

6.2.3.3.D *Miscellaneous accessory provisions*. No detached accessory structure shall be closer than eight (8) feet to a principle structure.

6.2.4 *Miscellaneous provisions (R-2).*

6.2.4.1 *Off-street parking and loading zone standards (R-2).* All mixed-use developments which provide automobile parking facilities shall provide bicycle parking facilities (racks) at a ratio of at least one (1) bicycle parking space for every five (5) automobile parking spaces.

6.2.4.2 *Streetscape standards (R-2).*

6.2.4.2.A Proposed developments that create new streets shall place utility lines underground.

6.2.4.2.B The developer shall install sidewalks according to Village standards. Sidewalks shall be separated from the roadway to protect pedestrians from the spray of slush and water from passing cars.

6.2.4.3 *Riparian protection standards (R-2).*

6.2.4.3.A *Setbacks adjacent to lake superior*. For properties adjacent to Lake Superior, the following setback requirements shall apply (this does not apply to pump houses, recreational docks, stormwater and erosion control devices, picnic tables, benches, recreational watercraft, wooden stairways, and unpaved walkways):

(1) No structure shall be allowed within seventy-five (75) feet of the ordinary high water mark;

(2) On lots with coastal wetlands, a setback of seventy-five (75) feet shall be maintained from the wetland's edge.

(3) If a greater setback is required under the provisions of any state or federal law than is required by this section, then such greater setback requirement shall apply.

(4) Where the imposition of the setbacks above precludes the location of a dwelling or other primary structure, the applicant may request a variance according to the procedures in Article 14, however, no variance shall be granted for any use or structure in violation of the intent and purpose of this Section.

6.2.4.3.B *Setbacks from riparian (river or stream) systems*. For properties adjacent to rivers and streams in this district, structures shall be setback seventy-five (75) feet from the edge of the active channel of the water course.

6.2.4.3.C *Special use standards*. The following land uses are designated as potential water pollution hazards, and must be set back from any stream or waterbody by the specified distance, provided they are a permitted use in this district (see additional standards for conditional or special uses in Article 9):

(1) Storage of hazardous substances – Setback one-hundred fifty (150) feet

(2) Above ground or underground petroleum storage facilities – Setback one-hundred fifty (150) feet

(3) Drain fields from onsite sewage disposal and treatment systems (i.e., septic systems) – Setback one-hundred (100) feet

(4) Raised septic systems – Setback two-hundred fifty (250) feet

(5) Solid waste landfills or junkyards – Setback three-hundred (300) feet

(6) Subsurface discharges from a wastewater treatment plant – Setback one-hundred (100) feet

(7) Land application of biosolids – Setback one-hundred (100) feet

(8) Compost piles and manures/fertilizers shall not be located within the prescribed waterfront setback.

6.2.4.3.D *Riparian buffer zones*. A riparian buffer for a stream or river system shall consist of a

PROOFS

vegetated strip of land at least fifty (50) foot wide extending along both sides of the water course, and including adjacent wetlands or steep slopes. The buffer shall consist of two distinct zones, configured as follows:

(1) Zone 1: Streamside Zone

The Streamside Zone begins at the edge of the active channel of the water course and extends twenty-five (25) feet landward plus any extensions as specified in Section 6.2.4.3.E below.

Permitted uses include:

a. Flood control structures

b. Utility right-of-ways

c. Unpaved footpaths

d. Road crossings where permitted

Prohibited uses include:

a. Soil disturbance (grading, stripping, filling, dumping), except minor filling or grading for the establishment of shoreline access paths.

b. Use of pesticide or fertilizer (except for management of invasive species as approved by the planning commission in consultation with the appropriate agency)

c. Presence of livestock

d. Use of motor vehicles

e. Construction of permanent structures

Vegetation shall not be altered, compacted, or built upon in this area, except that individual trees that must be cut due to disease shall be replaced.

(2) Zone 2: Outer Zone

Zone 2: Outer Zone, begins at the outer edge of the Streamside Zone and extends twenty-five (25) feet landward plus any extensions as specified in Section 6.2.4.3.E below.

Permitted uses include:

a. Flood control structures

b. Utility right-of-ways

c. Unpaved footpaths

d. Road crossings where permitted

e. Surfaced biking or hiking paths

f. Approved stormwater management facilities

g. Approved recreation facilities

Prohibited uses include:

a. Soil disturbance (grading, stripping, filling, dumping), except minor filling or grading for the establishment of shoreline access paths.

b. Use of pesticide or fertilizer (except for management of invasive species as approved by the planning commission in consultation with the appropriate agency)

c. Presence of livestock

d. Use of motor vehicles

e. Construction of permanent structures

PROOFS

Mature tree cover may be removed, however, the shrub and herbaceous ground cover layers shall be retained to allow infiltration of run-off.

6.2.4.3.E *Extensions to riparian buffer zones*. The fifty (50) foot combined buffer zone above shall be extended to include wetlands or steep slopes as follows:

(1) *Wetlands.* When wetlands are present, the width of the Streamside Zone shall be increased beyond the standards in Section 6.2.4.3.D.1 to include the extent of the wetland plus twenty (20) feet beyond the wetland edge.

(2) *Percent Slope*. The riparian buffer width shall be modified if steep slopes are within close proximity to the stream and drain into the stream system. The following extensions shall be added to the standard fifty (50) foot buffer in relation to slope.

a. Slopes of fifteen (15) to seventeen (17) percent, add ten (10) feet for a total buffer width of sixty (60) feet.

b. Slopes of eighteen (18) to twenty (20) percent, add thirty (30) feet for a total buffer width of eighty (80) feet.

c. Slopes of twenty-one (21) percent or more, add fifty (50) feet for a total buffer width of one-hundred (100) feet.

6.2.4.3.F *Lighting standards*.

(1) Lighting shall not be directed into the riparian buffer area so that natural migrating, feeding, and breeding habits of wildlife shall not be disrupted.

(2) Paths or gardens shall be lighted sparingly with the lowest amount of light necessary to see foliage and terrain, bulbs will be shielded, and lights will be turned off when the area is not in use.

6.2.4.3.G *Public facilities and use standards*.

(1) Except for unpaved footpaths for public access to a water body, trails shall not be placed between the tops of banks of water bodies.

(2) The placement of break walls, seawalls, bulkheads, broken concrete or other rubble, rock riprap, or other shoreline hardening along the shorelines shall be prohibited. The installation and use of bioengineering and biotechnical shoreline stabilization approaches with pervious surfaces for boat ramps is encouraged.

PROOFS

SECTION 6.3. WATERFRONT MIXED-USE DISTRICT (W-MU)

6.3.1 *Intent and guiding principles (W-MU).* This District maintains, foremost, a connection with the public waterfront while serving as a link between Downtown and Village neighborhoods. Also it will provide uniform uses on both sides of the waterfront. As such, development must respect, maintain, and enhance public access to the waterfront and be carried out in a way to avoid negative impact on the environment. Development is compact and oriented to the pedestrian, and illustrates a moderately dense, urban form consistent with Downtown, yet unique in the preservation of connected open space and view corridors.

6.3.2 *District use standards (W-MU).* Use standards for the W-MU District are illustrated in Table 6-3. Uses not listed but of the same general character as those permitted will be interrupted by the Zoning Board of Appeals. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

Table 6-3 Permitted Uses in the Waterfront Mixed-Use District, Page 1 of 4

Waterfront Mixed-Use District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements

Agricultural Service Establishments	Animal Services: Completely indoor facilities. Animal Hospitals or shelters, commercial kennels, veterinary services.	Conditions: See Article 9	Animal Services: with unenclosed outdoor confinement. Animal Hospitals or shelters, commercial kennels, veterinary services.	Special Use: See Article 9
Commercial Agriculture or Horticulture	All listing in Table 4-1 except large scale composting or industrial scale/intensive agriculture.	Conditions: See Article 9		
Small Scale Food Production & Urban Ag	Accessory gardens and orchards in required yards; Greenhouses and aquaculture systems; Community gardens and urban gardens as principal use	Permitted		
	Accessory apiary; Farmer's Markets-Food Stands	Conditions: See Article 9		
Commercial & Commercial Services	Business Service Establishments	Permitted	Resorts	Planned Unit Development
	Convenience Retail Establishments	Permitted	Large Scale Retail Establishments, Building Materials Sales, Warehouse Store or mobile and manufactured home sales.	Special Use: See Article 9
	Food and Drink Establishments	Permitted		
	Al l General Retail Establishments except Large Scale Retail Establishments, Building Materials Sales, Warehouse Store or mobile and manufactured home sales.	Permitted	Al l Outdoor Commercial Recreation & Entertainment Establishments except Animal Racing, Automobile, go-kart, snowmobile and Motorcycle Race Tracks and events.	Special Use: See Article 9
	Indoor Entertainment Establishments	Permitted		
	Bed and Breakfast Establishments, Tourist Homes	Permitted		
	Organized Camps and Campgrounds	Conditions: See Article 9		

PROOFS

Table 6-3 Permitted Uses in the Waterfront Mixed-Use District, Page 2 of 4

Waterfront Mixed-Use District
Permitted By-Right, With Conditions, or as a Special Land Use

Uses	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Commercial & Commercial Services	Hotels, Motels, Auto Courts, Residence Inns.	Permitted		
	Medical Service Establishments except large: Hospitals.	Permitted	Al l Motorized Vehicle Sales and Service Establishments (EXCEPT sales/rental of new and used vehicles, motor homes, and recreational vehicles and trailers; and gasoline and auto service station)	Special Use: See Article 9
	Mixed-Use Developments	Permitted		
	Office Establishments	Permitted		
	Home Occupations	Conditions: See Article 9		
	Al l Personal Service Establishments EXCEPT Funeral Services, Crematoria, and Marihuana Related Businesses	Permitted		
	Light and Medium Repair Services	Permitted		
	Research & Development Establishments	Permitted		
	Tourist Service Establishments	Permitted		
Industrial & Warehousing Uses			Boat works, Custom Building, Repair, Storage	Special Use: See Article 9
			Light and Heavy Manufacturing Establishments	Special Use: See Article 9
			Self-Service Storage Facilities and Rental Storage Units.	Special Use: See Article 9

PROOFS

Table 6-3 Permitted Uses in the Waterfront Mixed-Use District, Page 3 of 4

Waterfront Mixed-Use District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Institutional	Educational Institutions	Conditions: See Article 9		

	Religious Institutions	Conditions: See Article 9		
Public	Essential Services	Permitted	Public Buildings & Related Facilities including Trails (except roadside parks, public parks, and playgrounds)	Special Use: See Article 9
	Public Parks including Roadside Parks and playgrounds	Permitted		
	WECS towers up to 80 feet in height	Conditions: See Article 9	Light Utility and Public Service Installations (does not include heavy)	Special Use: See Article 9
Residential Services	Institutions for Human Care & Habitation	Conditions: See Article 9	ECHO Units	Special Use: See Article 9
	Community Residential Care Facilities	Conditions: See Article 9		
	Multi-Family Dwellings	Conditions: See Article 9	Open Space Preservation & Cluster Developments	Special Use: See Article 5, Article 9, and District Standards
	Single Family Housing Types	Permitted		
	Temporary Dwellings	Conditions: See Article 9		

Table 6-3 Permitted Uses in the Waterfront Mixed-Use District, Page 4 of 4

Waterfront Mixed-Use District				
Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Residential Services	Small child care centers, family and group child care homes, adult foster care family and group homes, foster family group homes, state licensed residential facility.	Permitted	Planned Unit Development	Special Use: See Article 10
	Tourist Home/Bed & Breakfast Establishments	Permitted		
	Two-Family Dwellings	Permitted		
Accessory Uses	Boathouses and Hoists; gardens and orchards in required yards; Accessory Greenhouses or Aquaculture Systems; Decks, Patios, Gazebos; Freestanding Flagpoles; Garages or Carports; Outdoor fireplaces;	Permitted according to standards contained in Article 5 and District Standards	Accessory Dwelling Units	Special Use: See Article 9

PROOFS

	Outdoor Food & Beverage Service; Shelter for Domestic Animals; Storage or Service Buildings or Sauna			
	Amateur radio & TV Antennae; Accessory apiary;	Conditions: See Article 5		
	Bus Shelters; Outdoor Display and Sales Areas; Food Stands; Home Occupations; Pole Barns; Outdoor Swimming Pools	Conditions: See Article 9		

6.3.3 *Development requirements (W-MU).*

6.3.3.1 *Lot configuration standards (W-MU).*

6.3.3.1.A *Minimum lot size*. Minimum lot size in the W-MU district varies according to use as below:

(1) Single-Family Residential – Three-thousand seven hundred and fifty (3,750) square feet

(2) Duplexes –Five-thousand (5,000) square feet

(3) Multi-Family Residential – Five-thousand (5,000) square feet

(4) Non-Residential or Mixed-Use – Four-thousand (4,000) square feet

6.3.3.1.B *Minimum lot width*. Minimum lot width in the W-MU district varies according to use as below:

(1) Single-Family Residential – Fifty (50) feet

(2) Duplexes – Seventy-five (75) feet

(3) Multi-Family Residential – Fifty (50) feet

(4) Non-Residential or Mixed-Use – Forty (40) feet

6.3.3.1.C *Front setback.*

Minimum front setback in the W-MU district varies according to use as below:

(1) Single-Family Residential and Duplexes– Ten (10) feet from the street right-of-way and fifty (50) feet from the Ordinary High Water Mark.

(2) Multi-Family Residential – Ten (10) feet from the street right-of-way and fifty (50) feet from the Ordinary High Water Mark.

(3) Non-Residential or Mixed-Use – There is no minimum front setback from the street right-of-way and a fifty (50) feet setback from the Ordinary High Water Mark.

The maximum front setback in the W-MU district for all uses is twenty (20) feet from the street right-of-way, except that when the existing front setback of all adjacent principle structures facing the same street are greater than the maximum front setback, then the maximum front setback shall be no greater than the average of the existing front setback of the adjacent principle structures.

There is no maximum front setback from the Ordinary High Water Mark.

6.3.3.1.D *Side yard*. Minimum side yard in the W-MU district is eight (8) feet (this does not apply to attached buildings).

PROOFS

6.3.3.1.E *Rear yard*. Minimum rear yard in the W-MU district varies according to use as below:

(1) Single-Family Residential and Duplexes– Fifteen (15) feet

(2) Multi-Family Residential – Fifteen (15) feet

(3) Non-Residential or Mixed-Use – Ten (10) feet

The Zoning Administrator may authorize an administrative departure for up to five (5) feet in a rear yard setback to accommodate individual site conditions, such as mature trees, topography, or other similar physical condition.

6.3.3.1.F *Maximum lot coverage*. Maximum lot coverage in the W-MU district varies according to use as below:

(1) Single-Family Residential and Duplexes– Sixty (60) percent

(2) Multi-Family Residential – Seventy (70) percent

(3) Non-Residential or Mixed-Use – Seventy-five (75) percent

6.3.3.1.G *Maximum impervious surface coverage*. Maximum impervious surface coverage in the W-MU district varies according to use as below:

(1) Single-Family Residential and Duplexes– Seventy (70) percent

(2) Multi-Family Residential – Eighty (80) percent

(3) Non-Residential or Mixed-Use – Eighty (85) percent

6.3.3.2 *Principal structure standards (W-MU).*

6.3.3.2.A *Maximum height*. The maximum permitted height in the W-MU district varies per use as follows:

(1) Single-family residential and duplexes – Two and a half (2.5) stories or thirty-five (35) feet

(2) All other uses – Two (2) stories or thirty-five (35) feet

6.3.3.2.B *Minimum floor area per unit*. The minimum floor area per unit in the W-MU district varies per use as follows:

(1) Single-family residential – Eight-hundred (800) square feet per single unit

(2) Duplex – Nine-hundred (900) square feet per single unit

(3) Multi-Unit Dwelling – Five-hundred (500) feet per single unit

(4) There is no minimum floor area per unit for non-residential or mixed uses.

6.3.3.3 ACCESSORY STRUCTURE STANDARDS (W-MU).

6.3.3.3.A *Maximum height*. The maximum permitted height of accessory structures in the W-MU district is twenty-four (24) feet with the minimum setbacks as listed in Section 6.2.3.3.B below. However, accessory structures with accessory dwelling units in the W-MU district may be up to thirty-five (35) feet in height, provided that the structure is setback from all lot lines an additional foot for each foot in height over twenty-four (24) feet.

6.3.3.3.B *Minimum setback from lot lines*.

(1) Front/Rear Lot Line – Accessory structures are allowed in the front setback area that is not adjacent to the shoreline, preferably as close to a road as possible to reduce the amount of impervious surfaces. Accessory structures must be placed a minimum distance of fifty-five (55) feet from a shoreline in the front yard area.

(2) Side Lot Lines – Accessory structures must be placed a minimum distance of eight (8) feet from the side lot line.

(3) Rear Lot Line – Accessory structures in rear yards (for properties not adjacent to the shore) must be placed a minimum distance of ten (10) feet from the rear lot line, except that they

PROOFS

may be located as close as three (3) feet to a rear lot line when the rear lot line is co-terminus with an alley.

6.3.3.3.C *Maximum size of accessory structures*. Accessory structures in the W-MU district shall be no larger than the building footprint of the principle dwelling.

6.3.3.3.D *Miscellaneous accessory provisions*. No detached accessory structure shall be closer than eight (8) feet to a principle structure.

6.3.4 *Miscellaneous provisions (W-MU).*

6.3.4.1 *Off-street parking and loading zone standards (W-MU).* All mixed-use developments which provide automobile parking facilities shall provide bicycle parking facilities (racks) at a ratio of at least one (1) bicycle parking space for every five (5) automobile parking spaces.

6.3.4.2 *Streetscape standards (W-MU).*

6.3.4.2.A Proposed developments that create new streets shall place utility lines underground.

6.3.4.2.B The developer shall install sidewalks according to Village standards. Sidewalks shall be separated from the roadway to protect pedestrians from the spray of slush and water from passing cars.

6.3.4.3 *Riparian protection standards (W-MU).*

6.3.4.3.A *Setbacks adjacent to Lake Superior*. For properties adjacent to Lake Superior, the following setback requirements shall apply (this does not apply to pump houses, recreational docks, stormwater and erosion control devices, picnic tables, benches, recreational watercraft, wooden stairways, and unpaved walkways):

(1) No structure shall be allowed within seventy-five (75) feet of the ordinary high water mark;

(2) On lots with coastal wetlands, a setback of seventy-five (75) feet shall be maintained from the wetland's edge.

(3) If a greater setback is required under the provisions of any state or federal law than is required by this section, then such greater setback requirement shall apply.

(4) Where the imposition of the setbacks above precludes the location of a dwelling or other primary structure, the applicant may request a variance according to the procedures in Article 14, however, no variance shall be granted for any use or structure in violation of the intent and purpose of this Section.

6.3.4.3.B *Setbacks from riparian (river or stream) systems*. For properties adjacent to rivers and streams in this district, structures shall be setback seventy-five (75) feet from the edge of the active channel of the water course.

6.3.4.3.C *Special use standards*. The following land uses are designated as potential water pollution hazards, and must be set back from any stream or waterbody by the specified distance, provided they are a permitted use in this district (see additional standards for conditional or special uses in Article 9):

(1) Storage of hazardous substances – Setback one-hundred fifty (150) feet

(2) Above ground or underground petroleum storage facilities – Setback one-hundred fifty (150) feet

(3) Drainfields from onsite sewage disposal and treatment systems (i.e., septic systems) – Setback one-hundred (100) feet

(4) Raised septic systems – Setback two-hundred fifty (250) feet

(5) Solid waste landfills or junkyards – Setback three-hundred (300) feet

(6) Subsurface discharges from a wastewater treatment plant – Setback one-hundred (100) feet

PROOFS

(7) Land application of biosolids – Setback one-hundred (100) feet

(8) Compost piles and manures/fertilizers shall not be located within the prescribed waterfront setback.

6.3.4.3.D *Riparian buffer zones*. A riparian buffer for a stream or river system shall consist of a vegetated strip of land at least fifty (50) foot wide extending along both sides of the water course, and including adjacent wetlands or steep slopes. The buffer shall consist of two distinct zones, configured as follows:

(1) Zone 1: Streamside Zone

The Streamside Zone begins at the edge of the active channel of the water course and extends twenty-five (25) feet landward plus any extensions as specified in Section 6.3.4.3.E below.

Permitted uses include:

a. Flood control structures

b. Utility right-of-ways

c. Unpaved footpaths

d. Road crossings where permitted

Prohibited uses include:

a. Soil disturbance (grading, stripping, filling, dumping), except minor filling or grading for the establishment of shoreline access paths.

b. Use of pesticide or fertilizer (except for management of invasive species as approved by the planning commission in consultation with the appropriate agency)

c. Presence of livestock

d. Use of motor vehicles

e. Construction of permanent structures

Vegetation shall not be altered, compacted, or built upon in this area, except that individual trees that must be cut due to disease shall be replaced.

(2) Zone 2: Outer Zone

Zone 2: Outer Zone, begins at the outer edge of the Streamside Zone and extends twenty-five (25) feet landward plus any extensions as specified in Section 6.3.4.3.E below.

Permitted uses include:

a. Flood control structures

b. Utility right-of-ways

c. Unpaved footpaths

d. Road crossings where permitted

e. Surfaced biking or hiking paths

f. Approved stormwater management facilities

g. Approved recreation facilities

Prohibited uses include:

a. Soil disturbance (grading, stripping, filling, dumping), except minor filling or grading for the establishment of shoreline access paths.

b. Use of pesticide or fertilizer (except for management of invasive species as approved by the planning commission in consultation with the appropriate agency)

PROOFS

c. Presence of livestock

d. Use of motor vehicles

e. Construction of permanent structures

Mature tree cover may be removed, however, the shrub and herbaceous ground cover layers shall be retained to allow infiltration of run-off.

6.3.4.3.E *Extensions to riparian buffer zones*. The fifty (50) foot combined buffer zone above shall be extended to include wetlands or steep slopes as follows:

(1) *Wetlands*. When wetlands are present, the width of the Streamside Zone shall be increased beyond the standards in Section 6.3.4.3.D.1 to include the extent of the wetland plus twenty (20) feet beyond the wetland edge.

(2) *Percent slope*. The riparian buffer width shall be modified if steep slopes are within close proximity to the stream and drain into the stream system. The following extensions shall be added to the standard fifty (50) foot buffer in relation to slope.

a. Slopes of fifteen (15) to seventeen (17) percent, add ten (10) feet for a total buffer width of sixty (60) feet.

b. Slopes of eighteen (18) to twenty (20) percent, add thirty (30) feet for a total buffer width of eighty (80) feet.

c. Slopes of twenty-one (21) percent or more, add fifty (50) feet for a total buffer width of one-hundred (100) feet.

6.3.4.3.F *Lighting standards*.

(1) Lighting shall not be directed into the riparian buffer area so that natural migrating, feeding, and breeding habits of wildlife shall not be disrupted.

(2) Paths or gardens shall be lighted sparingly with the lowest amount of light necessary to see foliage and terrain, bulbs will be shielded, and lights will be turned off when the area is not in use.

6.3.4.3.G *Public facilities and use standards*.

(1) Except for unpaved footpaths for public access to a water body, trails shall not be placed between the tops of banks of water bodies.

(2) The placement of breakwalls, seawalls, bulkheads, broken concrete or other rubble, rock riprap, or other shoreline hardening along the shorelines shall be prohibited. The installation and use of bioengineering and biotechnical shoreline stabilization approaches with pervious surfaces for boat ramps is encouraged.

PROOFS

SECTION 6.4. GENERAL INDUSTRIAL DISTRICT (I)

6.4.1 *Intent and guiding principles (I).* This area includes industrial service, manufacturing, bulk commodities, and marine uses which engage in intense scale or volume of activity and may store materials or vehicles outdoors. Few customers, especially the general public, come to the site. These areas are characterized by the presence of heavy machinery, building materials, and raw materials for processing and storage, and the utilization of chemicals and intense processes. Appropriate landscape buffers are very important in transition areas around the perimeter of these uses. The planting of trees is encouraged to soften the impact of buildings of large scale or bulk and outdoor storage areas. This development needs access to minor arterials and collector roads. Roads will be designed to reflect heavier loads and expanded turning radii. Standards for appropriate screening, buffering and reducing fugitive dust materials will be incorporated.

6.4.2 *District use standards (I).* Use standards for the I district are illustrated in Table 6-5. Uses not listed but of the same general character as those permitted will be interrupted by the Zoning Board of Appeals. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

Table 6-5 Permitted Uses in the General Industrial District, page 1 of 2

I General Industrial District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Agricultural Service Establishments	All Agricultural Service Establishments	Permitted		
Commercial Agriculture or Horticulture	All Commercial Agriculture or Horticulture EXCEPT Large Scale Composting or Industrial Scale Intensive Agriculture	Conditions: See Article 9	Large Scale Composting or Industrial Scale Intensive Agriculture	Special Use: See Article 9
Commercial & Commercial Services	Food and Drink Establishments	Permitted	Outdoor archery, rifle, skeet trap shooting ranges; Animal racing; automobile, go-kart, snowmobile and motorcycle race tracks and events	Special Use: See Article 9
	All Forest Management	Permitted		
	Large scale retail development; building material sales; warehouse store or mobile and manufactured home sales.	Permitted		
	Indoor Entertainment Establishments	Permitted		
	Repair Services and Research and Development	Permitted		
	Sexually-Oriented Business	Conditions: See Article 9	Marihuana Related Businesses	Special Use: See Article 9
	All Motorized Vehicle Sales and Service Establishments EXCEPT Gasoline and Auto Service Station	Permitted	Gasoline and Auto Service Station	Special Use: See Article 9
Industrial & Warehousing	Boatworks and Light and Medium Industrial Service Establishments	Permitted	Dangerous Chemicals and Fuels Manufacturing, Storage, and/or Distribution	Special Use: See Article 9
	Light Manufacturing Establishments	Permitted	Extractive Industries	Special Use: See Article 9
	All Warehousing and Wholesale Trade Establishments	Permitted	Heavy Industrial Service Establishments	Special Use: See Article 9
			Heavy Manufacturing Establishments	Special Use: See Article 9

PROOFS

Table 6-5 Permitted Uses in the General Industrial District, page 2 of 2

I General Industrial District				
Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Public	Essential Services	Permitted	Public Buildings & Related Facilities, including Trails (except roadside parks, public parks, and cemeteries)	Special Use: See Article 9
	Public Parks including Roadside Parks, and Cemeteries	Permitted		
	WECS towers up to 80 feet in height	Conditions: See Article 9	Light and Heavy Utility and Public Service Installations, Buried 345kv electric transmission lines.	Special Use: See Article 9
			WECS Towers over 80 feet in height	Special Use: See Article 9
Residential Services	Company-Sponsored Daycare On-Site	Permitted		
	Temporary Dwellings	Conditions: See Article 5 and 9		
Accessory Uses	Bus Shelters; Decks, Patios, Gazebos; Freestanding Flagpoles; Garages or Carports; Greenhouses and aquaculture systems; Outdoor fireplaces; Outdoor display and sales areas; Pole Barns; Storage or Service Buildings or Sauna; Shipping containers for storage.	Permitted according to standards contained in Article 5 and District Standards		
	Amateur radio & TV Antennae	Conditions: See Article 5		
	Temporary or Permanent Sawmill	Conditions: See Article 9		

PROOFS

6.4.3 *Development requirements (I).*

6.4.3.1 *Lot configuration standards (I).*

6.4.3.1.A *Minimum lot size.* Minimum lot size in the I district is one (1) acre or 43,560 square feet.

6.4.3.1.B *Minimum lot width.* Minimum lot width in the I district is one-hundred fifty (150) feet.

6.4.3.1.C *Front setback.* Minimum front setback in the I district is twenty (20) feet. Maximum front setback in the I district is sixty-five (65) feet (allowing for only one row of appropriately screened front parking in this district).

6.4.3.1.D *Side yard*. Minimum side yard in the I district is twenty (20) feet.

6.4.3.1.E *Rear yard*. Minimum rear yard in the I district is thirty (30) feet, except that the Zoning Administrator may authorize an administrative departure for up to ten (10) feet in a rear yard setback to accommodate individual site conditions, such as mature trees, topography, or other similar physical condition.

6.4.3.1.F *Maximum lot coverage*. The maximum lot coverage in the I district is seventy (70) percent.

6.4.3.1.G *Maximum impervious surface coverage*. The maximum impervious surface coverage in the I district is eighty (80) percent.

6.4.3.2 Principle Structure Standards (I)

6.4.3.2.A *Maximum height*. The maximum permitted height in the I district is sixty (60) feet.

6.4.3.2.B *Minimum floor area per unit*. There is no minimum floor area per unit in the I district.

6.4.3.3 Accessory Structure Standards (I)

6.4.3.3.A *Maximum height*. Accessory structures in the I district shall be no taller than the principle structure.

6.4.3.3.B *Minimum setback from lot lines.*

(1) Front Lot Line – Accessory structures are not allowed in the front setback area. The front setback of accessory structures must be equal to or greater than that of the principle structure on the site.

(2) Side Lot Lines – Accessory structures must be placed a minimum distance of twenty (20) feet from the side lot line.

(3) Rear Lot Line – Accessory structures must be placed a minimum distance of thirty (30) feet from the rear lot line.

6.4.3.3.C *Maximum size of accessory structures*. Accessory structures in the I district shall be no larger than the building footprint of the principle structure.

6.4.3.3.D *Miscellaneous accessory provisions*. No detached accessory structure shall be closer than twenty (20) feet to a principle structure.

6.4.4 *Miscellaneous provisions (I).*

6.4.4.1 *Off-street parking and loading zone standards*. All non-residential developments which provide automobile parking facilities shall provide bicycle parking facilities (racks) at a ratio of at least one (1) bicycle parking space for every ten (10) automobile parking spaces.

6.4.4.2 *Additional landscaping standards*. Native pines and other trees or shrubs as listed in Section 5.6.6 shall be planted along expanses of long walls with no windows (over a 50 foot span) to achieve a fifty (50) percent opacity along the entire wall.

PROOFS

ARTICLE 7. FORM-BASED ZONING DISTRICTS

SECTION 7.1. INTRODUCTION TO FORM-BASED ZONING

Form district regulations govern the design framework of the built environment with attention to appropriate scale, bulk, and relationship to public space. The Form-Based Districts use clear and simple graphics to illustrate building form, site layout, and streetscapes that define the public spaces. Form is derived from historic context, yet is sensitive to modern conditions and needs. Standards are meant to retain distinctive form, reduce negative environmental impact, support transit and pedestrian environments, reduce auto dependence, encourage adaptive reuse and investment, ensure compatibility of development, and create more affordable and sustainable neighborhoods. These districts integrate commerce, residential, and civic uses to promote independence for people who don't have access to cars. Development is meant to reinforce the public domain without sacrificing the diverse character of individual buildings. Pedestrians are reintroduced into a mixed-use, human-scaled, compact setting. Modern activities are accommodated without sacrificing timeless traditions.

SECTION 7.2. COMPONENTS OF THE FORM-BASED CODE

7.2.1 *Building form standards*. The intent of the Building Form Standards is to shape the specific physical form and functional character of the built environment in order to frame the street-space in accordance with community goals. The standards are designed to reflect the minimum level of control necessary to accomplish this intent. The Building Form Standards establish basic parameters governing building form, including the envelope for building placement (in three dimensions) and certain permitted/required building elements, such as window and door openings, roof types, building materials, porches and stoops, and balconies. The Building Form Standards establish both the boundaries within which development may occur and specific elements that may or shall be present. This produces a coherent street-space.

7.2.2 *Site layout standards*. This section provides understanding of the relationship between the public space and a building/lot, and how primary and secondary structures and parking can be configured on the site. Illustrations detail typical layouts.

7.2.3 *Miscellaneous provisions*. This section includes standards that are unique to the particular form district, and may include special standards for parking, landscaping or buffering, street space, and development incentives.

7.2.4 *Use standards*. Form-based use standards are intended to provide some flexibility over time within a consistently managed built environment. However, certain uses are still subject to conditional or special use standards as detailed in Article 9.

SECTION 7.3. GENERAL INTRODUCTION TO FORM-BASED DISTRICTS

7.3.1 *DOWNTOWN 3 (DT3).* The Downtown 3 District generally includes River Street and Brass Street from Tin Street to River's end at the lakeshore. This District is designed to foster infill redevelopment in a sustainable mixed-use pattern as part of a vibrant, diverse urban area in the core of the Village. Standards are intended to promote traditional urban form and a lively mix of uses, allowing for shopfronts, sidewalk cafes, and other commercial uses at the street level, with wide sidewalks and canopy shade trees, overlooked by upper story residences and offices. Physical access and a sense of connection to water resources are very important to the future of the historic Downtown.

7.3.2 *Downtown 2 (DT2).*

This District contains the area of north of Downtown that provides a transition between the commercial core and the traditional neighborhoods. It also includes a transition area southeast of Downtown containing both gateway entrances to Downtown north of the M-38 and M-64 corridors. It continues east to the Village boundary, taking in the area north of the Gateway Corridor district.

The most important function of this District is to provide expansion of mixed-use in a transition area between residential areas, the highway corridor, and downtown. Standards are designed to foster sustainable infill redevelopment in a vibrant, mixed-use, pedestrian-friendly pattern that encourages diverse and compact development. Building Form Standards encourage high quality

buildings that respect their urban context and compliment Downtown. The inclusion of pedestrian and non-motorized pathways and connections is of primary importance in positioning this District as a hub of activity.

7.3.3 *GATEWAY CORRIDOR (GC).* This District includes the M-38 and M-64 corridors through the Village of Ontonagon and the clustered development along Giesau Drive adjacent to the corridor. The corridor contains a variety of mixed-use activities and clustered commercial activity at important community intersections. Because this District bisects the northern and southern portions of the Village, and also provides a gateway into Downtown, it is important to enhance the connectivity of this District to all others. Form-based standards are intended to support the ability of this District to provide an appealing and welcoming image for the Village. Both regional and neighborhood-scale activities are integrated with residences, creating a diverse mixed-use environment. The inclusion of pedestrian and non-motorized pathways and connections is essential to facilitate multi-modal connections between Districts. Access Management standards are incorporated to facilitate efficient and effective transportation services.

SECTION 7.4. STANDARDS APPLYING TO ALL FORM-BASED DISTRICTS

PROOFS

7.4.1 *General layout and orientation.*

7.4.1.1 *Intent for general layout and orientation.*

7.4.1.1.A Development should adequately accommodate vehicles, but also encourage multi-modal transportation options.

7.4.1.1.B New development in the Village of Ontonagon form-based districts should integrate the built environment (street, buildings, and infrastructure); social environment (public spaces); and the natural environment (open spaces and natural features) in a harmonious pattern.

7.4.1.2 *Standards for general layout and orientation*.

7.4.1.2.A Setbacks necessary to comply with conditional or special land use requirements set forth in Article 9, or landscaping/screening requirements in Section 5.6, shall supersede form-based district requirements.

7.4.1.2.B All site plans for redevelopment or new construction shall include provisions for on-site stormwater management, using appropriate techniques such as rain gardens, green roofs, rain barrels collection system, or other bio-filtration methods to minimize storm water run-off.

7.4.2 *Connectivity and access.*

7.4.2.1 *Intent for connectivity and access*.

7.4.2.1.A Standards are intended to create and enhance a safe and welcoming pedestrian environment within a multi-modal transportation network; to decrease dependence on the automobile; and improve streetscapes and connections to make walking and biking in the Form Districts easy, safe, convenient, and desirable.

7.4.2.1.B Standards are intended to reinforce traditional development patterns with street patterns that offer multiple connections whenever possible.

7.4.2.2 *Standards for connectivity and access.*

7.4.2.2.A All non-residential developments which provide automobile parking facilities shall provide bicycle parking facilities (racks) at a ratio of at least one (1) bicycle parking space for every five (5) automobile parking spaces. Multi-family developments shall provide these facilities at a ratio of at least one (1) bicycle parking space for every five (5) multi-family units.

7.4.2.2.B Clearly defined, safe pedestrian pathways or sidewalks shall be provided from adjacent public rights-of-way through off-street parking areas or front yards/landscaped areas to non-residential building entrances (at least one per site).

7.4.2.2.C Proposed developments that create new streets shall place utility lines underground.

7.4.3 *Buildings*.

7.4.3.1 *Intent for buildings*.

7.4.3.1.A Buildings should reflect local history and context, and should preserve historic resources to affirm the continuity of the community.

7.4.3.1.B Buildings should allow their inhabitants to experience the geography and climate through energy efficient design that contributes to long-term economic viability and sustainability.

7.4.3.1.C Preferred exterior building materials include concrete, masonry, tile, stone, and wood.

7.4.3.1.D A variety of rooflines are encouraged to reduce the massive scale of large buildings and to complement the character of roofs within the Form Districts.

7.4.3.2 *Standards for buildings*. These standards apply to new or infill development:

7.4.3.2.A Building facades are the public "face" of every building, therefore, the streetside facade of a building shall not consist of a blank wall or an unbroken series of garage doors.

PROOFS

7.4.3.2.B Building facades that exceed one-hundred (100) feet in length shall have variations in roofline or rooftop parapet to reduce the perception of bulk and monotony.

7.4.3.2.C Each facade shall include at least one functioning, primary street-space entry.

7.4.3.2.D All sides of a building facing a public street shall display a similar quality of materials and workmanship.

7.4.3.2.E Accessory structures shall not be located in front of the primary building.

7.4.4 *Parking*.

7.4.4.1 *Intent for parking*.

7.4.4.1.A Fragmented, uncoordinated, inefficient, single-purpose reserved parking should be discouraged, and shared parking and access drives should be encouraged.

7.4.4.1.B The number of large, open parking areas that create unpleasant, windswept spaces for pedestrians should be reduced.

7.4.4.1.C The amount of impervious surfaces that contribute to water pollution and/or excessive stormwater runoff should be minimized.

7.4.4.1.D Parking should be included for both automobiles and other forms of transportation such as bicycles.

7.4.4.1.E Parking should be less visible from the public street-space by locating the majority of parking beside or behind buildings or screening buffers.

7.4.4.1.F Smaller parking lots including vegetation are preferred to create a better microclimate for pedestrians, reduce stormwater run-off, and provide more opportunities for snow storage.

7.4.4.2 *Standards for parking*. These standards apply to new or infill development:

7.4.4.2.A Shared parking shall be designated by appropriate signage and markings.

7.4.4.2.B Landscape screening, landscaping, and tree canopy requirements for surface parking areas as provided for in Section 5.6 of this Ordinance's regulations shall be required upon construction of any new surface parking area, or shall be required for any existing surface parking area when fifty (50) percent or more of the lot is resurfaced.

7.4.5 *Winter design considerations*.

7.4.5.1 *Intent for winter design*.

7.4.5.1.A Standards are intended to create a better winter pedestrian environment by mitigating climate related effects.

7.4.5.1.B Buildings or landscaped areas should be located to protect designated pedestrian facilities or public gathering areas from prevailing winter winds.

7.4.5.1.C Public spaces for winter use should not be located in areas that are shaded from the sun.

7.4.5.1.D It is preferred that snow be stored in a number of smaller sites, rather than one large area in order to speed up the melting process.

7.4.5.2 *Standards*. These standards apply to new or infill development:

7.4.5.2.A All buildings shall be designed to minimize the shedding of snow and rain runoff unto the pedestrian portion of the street-space. This can be accomplished with proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.

7.4.5.2.B Handrails shall be provided for all public and private walkways that exist on slopes greater than 1:20.

7.4.5.2.C All site plans for redevelopment or new construction shall provide for on-site snow storage and winter maintenance of pedestrian walkways and parking facilities.

PROOFS

SECTION 7.5. DOWNTOWN 3 (DT3)

7.5.1 *Intent and guiding principles (DT3).*

7.5.1.1 It is intended that this District promote a pedestrian-friendly environment with non-motorized mobility options to support viable businesses, public spaces, and urban living.

7.5.1.2 Standards are intended to preserve and ensure compatibility with the traditional urban form and allow for a lively mix and transition of uses.

7.5.1.3 The arrangement of the built environment should contribute to the view of streets as civic places. For example, streets are intended to be fronted by porches, balconies, and entries rather than parking lots and garage doors.

7.5.1.4 Buildings are intended to frame the public space not in a regimented way, but in a coherent way. The front facade shall exist within a Required Building Zone defined by distance from the public right-of-way. This prescribed zone is based on the existing context of traditional urban form oriented to the pedestrian.

7.5.1.5 Buildings frame and overlook the majority of the street-space with facades that are closely related in orientation, position, and scale for an agreeable public space.

7.5.1.6 Buildings oversee the street-space with visually active fronts including transparent elements and gathering areas such as front porches or stoops. This overview of the street-space contributes to vital and safe public space and enhances the pedestrian environment.

7.5.1.7 Building standards are created around the idea that building facades are the public "face" of the Downtown, and are therefore related to overall public impression and the protection of Downtown investment.

7.5.1.8 The public space shall encourage and facilitate outdoor public interaction and commerce and all-season use. Wide sidewalks and canopy shade trees promote use of the public space.

7.5.1.9 Within this District, infill mixed-use development is a priority to increase viability of the overall District and protect property values.

7.5.1.10 Streets are narrow to encourage traffic calming while accommodating on-street parking.

7.5.1.11 Parking standards are designed to enable convenient parking and access to a variety of uses through shared parking and the reduction of fragmented, uncoordinated, inefficient, single-purpose, and excessive reserved parking.

7.5.1.12 On-street parking is intended to be maximized whenever possible. This will help create a buffer between pedestrians and moving traffic, support businesses, and provide residential visitor parking.

7.5.1.13 It is intended that auto-dependent uses and infrastructure will not dominate the public space.

7.5.1.14 Whenever practical, bicycle accommodations should be added to streets to encourage multi-modal access.

7.5.1.15 It is intended that access be maintained to a working waterfront in this District.

7.5.1.16 It is intended that public access to important water resources is maintained.

7.5.2 *Uses & development requirements.* Use standards for the Downtown 3 District are illustrated in Table 7-1. Uses not listed but of the same general character as those permitted will be interrupted by the Zoning Board of Appeals. Conditional and Special Land Uses are located in Article 9 and in Article 14.

TABLE 7-1. PERMITTED USES IN THE DOWNTOWN 3 DISTRICT

Downtown 3 Form District
Permitted By-Right, With Conditions, or as a Special Land Use

PROOFS

Uses	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Small Scale Food Production & Urban Agriculture	Greenhouses and aquaculture systems; Community gardens and urban gardens as principle use	Conditions: See Article 9		
	Farmer's Markets-Food Stands	Permitted		
Commercial & Commercial Services	Business Service Establishments	Permitted		
	Convenience Retail Establishments	Permitted		
	Drive-Through and Food and Drink Establishments	Permitted		
	All General Retail Establishments EXCEPT Large Scale Retail Establishments, Building Materials Sales, Warehouse Store or mobile and manufactured home sales.	Permitted	Public swimming pool, swimming club, tennis clubs/courts, batting cages, skateboard parks, outdoor ice rinks.	Special Use: See Article 9
	Indoor Entertainment Establishments	Permitted	Amusement and water parks; theme parks, miniature golf facilities, amphitheaters, drive-in theater, zoos; transient amusement enterprises.	Special Use: See Article 9
	Bed and Breakfast Establishments; Tourist homes	Permitted		
	Hotels, Motels, Auto Courts, Residence Inns, Tourist Homes.	Permitted	Medium Repair Services	Special Use: See Article 9
	Medical Service Establishments EXCEPT large: Hospitals.	Permitted	Sales or rental of new and used motorcycles, snowmobiles, ATV's and other small personal motorized sporting goods.	Special Use: See Article 9
	Mixed-Use Developments	Permitted		
	Office Establishments except Home Occupations	Permitted		

PROOFS

Downtown 3 Form District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	*Uses by Right and with conditions (P) & (C) *As defined in Table 4-1*	*Development Requirements*	*Special Land Uses (S) or (PUD) *As defined by Table 4-1*	*Development Requirements*
Commercial & Commercial Services, continued	Home Occupations	Conditions: See Article 9		
	All Personal Service Establishments EXCEPT Funeral Services/Crematoria and Marihuana Related Businesses	Permitted		
	Drive-Through Establishments	Conditions: See Article 9		
	Light Repair Services	Permitted		
	Research & Development Establishments	Permitted		
	Tourist Service Establishments	Permitted		
Industrial & Warehousing			Boatworks, Custom Building, Repair, Storage	Special Use: See Article 9
Institutional	Educational Institutions	Conditions: See Article 9		
	Religious Institutions	Conditions: See Article 9		
	Social Institutions	Conditions: See Article 9		

Downtown 3 Form District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	*Uses by Right and with conditions (P) & (C) *As defined in Table 4-1*	*Development Requirements*	*Special Land Uses (S) or (PUD) *As defined by Table 4-1*	*Development Requirements*
Public	Essential Services	Permitted	Public Buildings & Related Facilities, including Trails (except roadside parks, public parks, and cemeteries)	Special Use: See Article 9
	Public Parks including Roadside Parks and playgrounds	Permitted		

PROOFS

	WECS towers under 35 feet in height	Conditions: See Article 9	Light Utility and Public Service Installations (does not include heavy)	Special Use: See Article 9
Residential Services	Institutions for Human Care & Habitation	Conditions: See Article 9		
	Community Residential Care Facilities	Conditions: See Article 9		
	Multi-Family Dwellings	Conditions: See Article 9		
	Child Care Center/Day Care Center with fewer than 7 children; Family Child Care Homes; Group Child Care Homes; Adult Foster Care Family Home; Adult Foster Care Small and Large Group Homes; Foster Family Home; Foster Family Group Home; State Li censed Residential Facility	Permitted		
	Temporary Dwellings	Conditions: See Article 9		
	Tourist Homes/Bed & Breakfast Establishments	Permitted		
	Two-Family Dwellings	Permitted		

Downtown 3 Form District				
Uses				
Uses	*Uses by Right and with conditions (P) & (C) *As defined in Table 4-2*	*Development Requirements*	*Special Land Uses (S) or (PUD) *As defined by Table 4-2*	*Development Requirements*
Accessory Uses	Decks, Patios, Gazebos; Freestanding Flagpoles; Garages or Carports; Outdoor fireplaces; Storage or Service Buildings or Sauna	Permitted according to standards contained in Article 5 and District Standards		
	Amateur radio & TV Antennae	Conditions: See Article 5		
	Food Stands; Home Occupations; Outdoor Display and Sales Area s; Outdoor Food & Beverage Service; Outdoor Swimming Pools	Conditions: See Article 9		

PROOFS

7.5.3 *Building form standards (DT3).*

7.5.3.1 *Principle building height (DT3).*

7.5.3.1.A Each principle building shall be at least two (2) stories in height, but no greater than three (3) stories in height except as provided below. The entire structure shall not exceed forty-two (42) feet in height.

7.5.3.1.B If the building satisfies at least three (3) of the incentive provisions of Section 7.5.6, the principle building may have an additional story provided that the façade located above the first three (3) stories is recessed a minimum of eight (8) feet behind the front façade of the lower stories for at least eighty (80) percent of the length of the façade. The entire structure shall not exceed forty-eight (48) feet in height.

7.5.3.1.C An attic story shall not count against the maximum story height.

7.5.3.1.D An additional tower story is allowed above the maximum building story height within the following parameters:

(1) The footprint of the tower shall not exceed three-hundred (300) square feet.

(2) No horizontal façade dimension of the tower shall exceed twenty (20) feet.

(3) No attic story is permitted above a tower story.

7.5.3.2 *Accessory structure height (DT3).*

7.5.3.2.A Accessory structures shall be no greater than one and a half (1.5) story or twenty-four (24) feet.

7.5.3.3 *Interior height (DT3).*

7.5.3.3.A Non-residential uses shall have a maximum ground story finished floor elevation of eighteen (18) inches above the exterior elevation at the required building line.

7.5.3.3.B Residential uses shall have a maximum ground story finished floor elevation of seven (7) feet above the exterior elevation at the required building line.

7.5.3.3.C For non-residential uses, the minimum ground story clear interior height (floor to ceiling) in the front twenty-five (25) feet of the building shall be ten (10) feet. This does not include parking structures. The maximum ground story clear interior height (floor to ceiling) is twenty (20) feet.

7.5.3.3.D For residential uses, the minimum ground story clear interior height (floor to ceiling) shall be eight (8) feet. The maximum ground story clear interior height (floor to ceiling) is twelve (12) feet.

7.5.3.3.E For stories other than ground stories, at least eighty (80) percent of each upper story shall have a minimum clear interior height (floor to ceiling) of eight (8) feet. The maximum clear interior height (floor to ceiling) is twelve (12) feet.

7.5.3.4 *Principle building features (DT3).*

7.5.3.4.A *Snow management*. All buildings shall be designed to minimize the shedding of snow and rain runoff into the public space.

7.5.3.4.B *Facades.*

(1) The building façade shall be located parallel with the street and sidewalk.

(2) Blank lengths of wall exceeding twenty (20) linear feet are prohibited on all required building lines (RBL).

7.5.3.4.C *Windows/transparency*.

(1) At least thirty (30) percent and no more than ninety (90) percent of ground story facades shall be transparent (as measured between floor levels).

PROOFS

(2) At least twenty (20) percent but no more than seventy-five (75) percent of the upper story facades shall be transparent (as measured between floor levels).

7.5.3.4.D *Entry features*.

(1) At least one (1) functioning entry door shall be provided along the ground story façade of each building and at intervals not greater than sixty (60) linear feet.

(2) Doors that swing out must be recessed into the façade so as not to swing past the front facade.

7.5.3.4.E *Roof type*. Where the roof is not hidden from the adjacent street space by a parapet wall, its pitch shall be between 4:12 and 12:12.

7.5.3.4.F *Mezzanines*. Mezzanines having a floor area greater than one-third (1/3) of the floor area of the story in which the mezzanine is situated shall be counted as full stories.

7.5.3.4.G *Projections.*

(1) Each residential ground floor unit shall include a stoop a maximum of five (5) feet deep, or a front porch a maximum of ten (10) feet deep. Balconies, stoops, and porches shall not project closer than five (5) feet to a common lot line. At least five (5) feet of unobstructed space shall be provided between ground projections and the curb.

(2) No part of any building, except overhanging eaves, awnings, bay windows, and upper story projections such as balconies shall encroach into the public right-of-way. A projection shall be located no closer than two (2) feet to the vertical plane of the face of a street curb or closer than three (3) feet to the edge of the street (if there is no curb).

(3) Awnings that project over the sidewalk portion of a street space shall maintain a clear height of at least ten (10) feet and shall be a minimum of six (6) feet wide. A public access easement at least five (5) feet wide must be provided between the nearest building projection and any support posts. Support posts shall not be located closer than two (2) feet to the vertical plane of the face of a street curb or closer than three (3) feet to the edge of the street (if there is no curb).

7.5.3.4.H *Building materials*. Building materials shall be masonry, concrete, tile, stone, and wood. Glass curtain walls and reflective glass are prohibited due to the undesirable blinding effect compounded by snow.

7.5.3.4.I *Drive-through service windows*. Drive-through service windows are permitted only where accessible from an alley entrance and exit.

7.5.3.5 *Accessory building features (DT3).*

7.5.3.5.A Garage entries shall have a clear height no greater than fourteen (14) feet and a clear width no greater than sixteen (16) feet.

7.5.4 *Site layout (DT3).*

7.5.4.1 *Buildable area (DT3).*

7.5.4.1.A The minimum lot size in the DT3 district is three-thousand (3,000) square feet.

7.5.4.1.B The minimum lot width in the DT3 district is thirty (30) feet.

7.5.4.1.C The maximum lot coverage in the DT3 district is eighty-five (85) percent.

7.5.4.1.D The maximum impervious surface coverage in the DT3 district is ninety-five (95) percent.

7.5.4.2 *Principal building placement (DT3).*

7.5.4.2.A The Required Building Line (RBL) is computed in one of two ways as follows:

(1) As the average of the front setbacks of existing principle buildings located on the adjacent two (2) lots on both sides of the lot in question (provided they are in the same district and provided their setback doesn't exceed ten (10) feet from the right-of-way) or;

PROOFS

(2) On a line that lies between a distance of zero (0) and ten (10) feet from the public right-of-way (within the Required Building Zone or RBZ).

7.5.4.2.B A minimum of seventy-five (75) percent of the front façade must be located on the RBL, and the entire front façade must be located within the RBZ.

7.5.4.2.C The building façade shall be built to the RBL (or at zero setback within the RBZ) within thirty (30) feet of a block corner. The ground floor façade, within seven (7) feet of the block corner, may be chamfered to form a corner entry.

7.5.4.2.D There are no side yard requirements for attached structures. Detached structures shall maintain a minimum side yard of five (5) feet, except for detached multiple family structures which shall maintain a minimum side yard of ten (10) feet.

7.5.4.2.E The minimum rear yard is ten (10) feet except that zero rear yard is required with alley access.

7.5.4.3 *Accessory building placement (DT3).*

7.5.4.3.A Accessory structures shall be located only in the rear yard area behind the principle building.

7.5.4.3.B Garages may be sited in one of two ways –in the rear accessed from an alley; in the rear accessed by a side drive.

7.5.4.3.C Accessory structures shall be no closer than ten (10) feet from the principle building or one another.

7.5.4.3.D Accessory structures must be placed a minimum distance of five (5) feet from the side lot line.

7.5.4.3.E Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line, except this distance may be reduced to a minimum of three (3) feet when the rear lot line is co-terminus with an alley.

7.5.4.3.F Garage entries or driveways shall be located at least twenty-five (25) feet away from any block corner.

7.5.5 *Miscellaneous provisions (DT3).*

7.5.5.1 *Parking requirements (DT3).*

7.5.5.1.A Where a parking structure is within forty (40) feet of any principle building, that portion of the structure shall not exceed the building's eave or parapet height.

7.5.5.1.B All commercial parking that is visible from the street shall be screened by a fence or masonry wall at least four (4) feet in height, or a bermed, landscaped area at least three (3) feet high and five (5) feet deep of at least fifty (50) percent opacity. Height is measured from the adjacent public sidewalk or, when not adjacent to a sidewalk, from the adjacent ground elevation once construction is complete.

7.5.5.1.C A vehicle parking area on private property shall be at least eight (8) feet behind the RBL, except where parking is provided inside or below the building (these requirements are not applicable to on-street parking).

7.5.5.1.D Shared driveways are encouraged to reduce impervious surfaces and disruptions of the building line.

7.5.5.2 *Landscaping/screening/buffering (DT3).*

7.5.5.2.A Privacy fences or a street wall no more than eight (8) feet in height may be constructed along that portion of a common lot line not otherwise occupied by a building.

7.5.5.3 *Street space specifications (DT3).*

7.5.5.3.A This Ordinance prohibits the vacation or closure of currently functioning alleyways and streets in the DT3 district. Alleys shall be developed within the rear setback as part of a redevelopment project and in accordance with the following:

PROOFS

(1) Alleys shall be constructed to meet the Village construction standards in order to be suitable for emergency and service vehicle access.

(2) The specific configuration of alleys may include shared parking areas and other uses so long as reasonable service access is relatively unimpeded.

(3) Where an alley does not exist and is not feasible to construct at the time of redevelopment of any property, the applicant is required to maintain the area within the rear setback by, at a minimum:

a) The placement of sod or seeding and provision of routine landscape maintenance to the area

b) Keeping the area clear of debris, stored materials, vehicles, and structures.

7.5.5.3.B Proposed developments that create new streets shall place utility lines underground.

7.5.5.3.C Where not already provided, the developer shall install sidewalks according to Village standards.

7.5.5.3.D Street trees shall be included at the time of new development or redevelopment as follows:

(1) The tree planting zone is located immediately adjacent to the curb and shall be continuous. Standards follow those as outlined in Section 5.6.6.8.

(2) This area may also be used for the placement of street furniture including utility poles, waste receptacles, fire hydrants, traffic signs, newspaper vending boxes, bus shelters, bicycle racks and similar elements in a manner that does not obstruct pedestrian access or motorist visibility as determined by the Planning Commission.

7.5.6 *Incentive provisions (DT3).* Buildings in the DT3 district may include a fourth story, provided at least three (3) of the following incentive items are provided in the development:

7.5.6.1 At least forty (40) percent of the units are considered affordable (see definitions in Article 15).

7.5.6.2 All residential units meet current ADA standards for accessibility.

7.5.6.3 The building utilizes passive solar design and a super-insulated building envelope in all units.

7.5.6.4 The building utilizes solar hot water heating systems.

7.5.6.5 The building utilizes photovoltaic panels to provide a portion as renewable energy production.

7.5.6.6 All appliances meet Energy Star requirements.

7.5.6.7 All of the stormwater runoff is collected and recycled on-site utilizing approved biological systems.

7.5.6.8 The development provides an outdoor area receiving full solar access for the communal or individual growing of food in raised beds or containers.

SECTION 7.6. DOWNTOWN 2 (DT2)

7.6.1 *Intent and guiding principles (DT2).*

7.6.1.1 It is intended that this District will provide an appropriate gateway from the highway corridor to the Downtown and surrounding neighborhoods.

7.6.1.2 Standards are intended to preserve the traditional urban form and ensure future development compatibility in promoting a lively mix of uses.

7.6.1.3 The arrangement of buildings, landscaping, pedestrian/bicycle infrastructure, and parking areas should contribute to the view of streets as civic places. For example, streets are intended to be fronted by porches, balconies, and entries rather than parking lots, garage doors, and wide driveways.

7.6.1.4 Buildings are intended to frame the public space not in a regimented way, but in a coherent way. The front facade shall exist within a Required Building Zone defined by distance from the public right-of-way. This prescribed zone is based on the existing context of traditional urban form oriented to the pedestrian.

PROOFS

7.6.1.5 Buildings oversee the street-space with visually active fronts including transparency and gathering areas such as front porches or stoops. This overview of the street-space contributes to vital and safe public space and enhances the pedestrian environment.

7.6.1.6 As a mobility corridor, it is intended that this District shall promote a pedestrian-friendly environment with non-motorized mobility options.

7.6.1.7 It is intended that this area utilize compact development patterns and encourage infill mixed-use development to ensure greater neighborhood sustainability.

7.6.1.8 Streets are narrow to encourage traffic calming while accommodating on-street parking.

7.6.1.9 Parking standards are designed to enable convenient parking and access to a variety of uses through shared parking and the reduction of fragmented, uncoordinated, inefficient, single-purpose, and excessive reserved parking.

7.6.1.10 On-street parking is intended to be maximized whenever possible. This will help create a buffer between pedestrians and moving traffic, support businesses, and provide residential visitor parking.

7.6.1.11 It is intended that auto-dependent uses and infrastructure will not dominate the public space.

7.6.1.12 Whenever practical, bicycle accommodations should be added to streets to encourage multi-modal access.

7.6.2 *Uses and development requirements (DT2).* Use standards for the Downtown 2 District are illustrated in Table 7-2. Uses not listed but of the same general character as those permitted will be interrupted by the Zoning Board of Appeals. Conditional and Special Land Uses are located in Article 9 and in Article 14.

TABLE 7-2. PERMITTED USES IN THE DOWNTOWN 2 DISTRICT, PAGE 1 OF 4

Downtown 2 Form District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	*Uses by Right and with conditions (P) & (C) *As defined in Table 4-1*	*Development Requirements*	*Special Land Uses (S) or (PUD) *As defined by Table 4-1*	*Development Requirements*
Agricultural Service Establishments	Animal Services: Completely indoor facilities. Animal hospitals or shelters, commercial kennels, veterinary services.	Conditions: See Section 9	Animal Services: with unenclosed outdoor confinement. Animal hospitals or shelters, commercial kennels, veterinary services.	Special Use: See Section 9
Small Scale Food Production & Urban Agriculture	Accessory private gardens & orchards within any required yards; Accessory greenhouses or aquaculture systems; Farmer's Markets-Whole Food Stands	Permitted		

PROOFS

	Community gardens and urban gardens as principle use	Conditions: See Section 9.3.1.4.A		
Commercial & Commercial Services	Business Service Establishments	Permitted	Large Scale Retail Establishments, Building Materials Sales, Warehouse Store or mobile and manufactured home sales.	Special Use: See Section 9.3.2.2.A
	Convenience Retail Establishments	Permitted	Public swimming pool, swimming club, tennis clubs/courts, batting cages, skateboard parks, outdoor ice rinks.	Special Use: See Section 9.3.2.2.B
	Drive-Through and Food and Drink Establishments	Permitted	Amusement and water parks; theme parks, miniature golf facilities, amphitheaters, drive-in theater, zoos; transient amusement enterprises.	Special Use: See Section 9.3.2.2.B
	All General Retail Establishments EXCEPT Large Scale Retail Establishments, Building Materials Sales, Warehouse Store or mobile and manufactured home sales.	Permitted		
	Indoor Entertainment Establishments	Permitted		
	Bed and Breakfast Establishments	Permitted		

PROOFS

TABLE 7-2. PERMITTED USES IN THE DOWNTOWN 2 DISTRICT, PAGE 2 OF 4

Downtown 2 Form District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	*Uses by Right and with conditions (P) & (C)*As defined in Table 4-1*	*Development Requirements*	*Special Land Uses (S) or (PUD) *As defined by Table 4-1*	*Development Requirements*
Commerc	Organized camps and	Conditions:	Large Hospitals	Special Use: See Section

ial & Commercial Services	campgrounds for tents or recreational vehicles	See Section 9.3.2.2.D		9.3.2.2.E
	Hotels, Motels, Auto Courts, Residence Inns	Permitted	Medium Repair Services	Special Use: See Section 9.3.2.2.H
	Medical Service Establishments EXCEPT large: Hospitals.	Permitted		
	Mixed-Use Developments	Permitted		
	Office Establishments EXCEPT Home Occupations	Permitted		
	Home Occupations	Conditions: See Section 9.4.4	Marine sales and service, including short-term outdoor storage	Special Use: See Section 9.3.2.2.K
	All Personal Service Establishments EXCEPT Funeral Services/Crematoria and Marihuana Related Businesses.	Permitted		
	Funeral Services and Crematoria	Conditions: See Section 9.3.2.2.F		
	Light & Medium Repair Services	Permitted		
	Research & Development Establishments	Permitted		
	Tourist Service Establishments	Permitted		
	Sales or rental of new and used motorcycles, snowmobiles, ATV's and other small personal motorized sporting goods; Sales or rental of new and used automobiles, light and medium trucks; motor homes; and recreational vehicles and trailers	Permitted		
Industrial & Warehousing	Boatworks, Custom Building, Repair, Storage	Permitted		
	Light Industrial Services	Permitted		
	Medium Industrial Services	Conditions: See Section 9		
	Self Service Storage facilities, also known as	Conditions: See Section 9		

PROOFS

	mini-warehouses and rental storage units.			

Downtown 2 Form District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	*Uses by Right and with conditions (P) & (C) *As defined in Table 4-1*	*Development Requirements*	*Special Land Uses (S) or (PUD) *As defined by Table 4-1*	*Development Requirements*
Institutional	Educational Institutions	Permitted		
	Religious Institutions	Permitted		
	Including military schools; business, trade and vocational schools (not construction equipment or large vehicles); art, music and dance schools; drivers' training (not large or CDL vehicles); institutions for higher education.	Permitted		
	Facilities to house charitable or philanthropic organizations such as United Way, Red Cross, Salvation Army, as well as centers for social activities such as neighborhood, community or senior centers; auditoriums and other places for public assembly.	Conditions: See Article 9		
Public	Essential Services	Permitted	Trails, trail easements (motorized and non-motorized)	Special Use: See Article 9
	Libraries, museums, township hall, county courthouse, police station, fire station, public works, schools, publicly owned tourist information centers, and other public buildings similar to and compatible with the above uses, and any publicly-owned "Utility and Public Service Installations".	Permitted		
	Public Parks including Roadside Parks and playgrounds	Permitted		
	WECS towers up to 80 feet in height	Conditions: See Article 9	Light Utility and Public Service Installations (does not include heavy)	Special Use: See Article 9

PROOFS

Residential Services	Institutions for Human Care & Habitation	Permitted	Group Housing	Special Use: See Article 9
	Community Residential Care Facilities	Permitted	ECHO Unit	Special Use: See Article 9
	Multi-Family Dwellings	Conditions: See Article 9		
	Single Family Housing Types	Permitted		
	Temporary Dwellings	Conditions: See Article 9		

Downtown 2 Form District				
Uses				
Uses (See Article 4, Section 4.4)	*Uses by Right and with conditions (P) & (C) *As defined in Table 4-1*	*Development Requirements*	*Special Land Uses(S) or (PUD) *As defined by Table 4-1*	*Development Requirements*
Residential Services	Child Care Center/Day Care Center with fewer than 7 children; Family Child Care Homes; Group Child Care Homes; Adult Foster Care Family Home; Adult Foster Care Small and Large Group Homes; Foster Family Home; Foster Family Group Home; State Licensed Residential Facility	Permitted		
	Two-Family Dwellings	Permitted		
Accessory Uses	Decks, Patios, Gazebos; Freestanding Flagpoles; Greenhouses and Aquaculture Systems; Garages or Carports; Outdoor fireplaces; Storage or Service Buildings or Sauna; Bus Shelters; Outdoor Display and Sales Area s; Outdoor Food & Beverage Service;	Permitted according to standards contained in Article 5 and District Standards	Accessory Dwelling Units	Special Land Use: See Article 9
	Amateur radio & TV Antennae	Conditions: See Article 5		
	Food Stands; Home Occupations; Outdoor Swimming Pools	Conditions: See Article 9		

PROOFS

7.6.3 *Building form standards (DT2).*

7.6.3.1 *Building height (DT2).*

7.6.3.1.A Each principle building shall be at least one (1) story in height, but no greater than two and a half (2.5) stories in height except as provided below. The entire structure shall not exceed thirty-five (35) feet in height.

7.6.3.1.B If the building satisfies at least three (3) of the incentive provisions of Section 7.6.6, the principle building may have an additional story. The entire structure shall not exceed forty-two (42) feet in height.

7.6.3.1.C An attic story shall not count against the maximum story height.

7.6.3.1.D An additional tower story is allowed above the maximum building story height within the following parameters:

(1) The footprint of the tower shall not exceed three-hundred (300) square feet.

(2) No horizontal façade dimension of the tower shall exceed twenty (20) feet.

(3) No attic story is permitted above a tower story.

7.6.3.2 *Accessory structure height (DT2).*

7.6.3.2.A Accessory structures shall be no greater than one and a half (1.5) story or twenty-four (24) feet, and shall meet the setback requirements of Section 7.6.4.3. However, accessory structures with accessory dwelling units may be up to thirty-five (35) feet in height, provided that the structure is setback from all lot lines an additional foot for each foot in height over twenty-four (24) feet.

7.6.3.3 *Interior height (DT2).*

7.6.3.3.A The minimum ground story clear interior height (floor to ceiling) shall be eight (8) feet. The maximum ground story clear interior height (floor to ceiling) is twelve (12) feet.

7.6.3.3.B For stories other than ground stories, at least eighty (80) percent of each upper story shall have a minimum clear interior height (floor to ceiling) of eight (8) feet. The maximum clear interior height (floor to ceiling) is twelve (12) feet.

7.6.3.4 *Principal building features (DT2).*

7.6.3.4.A *Snow management.* All buildings shall be designed to minimize the shedding of snow and rain runoff into the public space.

7.6.3.4.B *Facades*.

(1) The building façade shall be located parallel with the street and sidewalk.

(2) Blank lengths of wall exceeding twenty (20) linear feet are prohibited on all required building lines (RBL).

7.6.3.4.C *Windows/transparency*.

(1) At least thirty (30) percent and no more than ninety (90) percent of ground story facades shall be transparent (as measured between floor levels).

(2) At least twenty (20) percent but no more than seventy-five (75) percent of the upper story facades shall be transparent (as measured between floor levels).

7.6.3.4.D *Entry features*. At least one (1) functioning entry door shall be provided along the ground story façade of each building and at intervals not greater than sixty (60) linear feet.

7.6.3.4.E *Roof type*. Where the roof is not hidden from the adjacent street space by a parapet wall, its pitch shall be between 4:12 and 12:12.

7.6.3.4.F *Mezzanines*. Mezzanines having a floor area greater than one-third (1/3) of the floor area of the story in which the mezzanine is situated shall be counted as full stories.

7.6.3.4.G *Projections*

(1) Balconies, stoops, and porches shall not project closer than five (5) feet to a common lot line. At least five (5) feet of unobstructed space shall be provided between ground projections and the curb.

(2) No part of any building, except overhanging eaves, awnings, bay windows, and upper story projections such as balconies shall encroach into the public right-of-way. A projection shall

PROOFS

be located no closer than two (2) feet to the vertical plane of the face of a street curb or closer than three (3) feet to the edge of the street (if there is no curb).

(3) Awnings that project over the sidewalk portion of a street space shall maintain a clear height of at least ten (10) feet and shall be a minimum of six (6) feet wide. A public access easement at least five (5) feet wide must be provided between the nearest building projection and any support posts. Support posts shall not be located closer than two (2) feet to the vertical plane of the face of a street curb or closer than three (3) feet to the edge of the street (if there is no curb).

7.6.3.4.H *Building materials*. Building materials shall be masonry, concrete, tile, stone, wood, or vinyl; glass curtain walls and reflective glass are prohibited due to the undesirable blinding effect compounded by snow.

7.6.3.4.I *Drive-through service windows*. Drive-through service windows are permitted only where accessible from an alley or side entrance and/or exit.

7.6.4 *Site layout (DT2).*

7.6.4.1 *Buildable area (DT2).*

7.6.4.1.A The minimum lot size in the DT2 district is four-thousand (4,000) square feet.

7.6.4.1.B The minimum lot width in the DT2 district is forty (40) feet.

7.6.4.1.C The maximum lot coverage in the DT2 district is eighty (80) percent.

7.6.4.1.D The maximum impervious surface coverage in the DT2 district is ninety (90) percent.

7.6.4.2 *Principal building placement (DT2).*

7.6.4.2.A The Required Building Line (RBL) is computed in one of two ways as follows:

(1) As the average of the front setbacks of existing principal buildings located on the adjacent two (2) lots on both sides of the lot in question (provided they are in the same district and provided their setback doesn't exceed thirty (30) feet from the right-of-way) or;

(2) On a line that lies between a distance of zero (0) to thirty (30) feet from the public right-of-way (within the Required Building Zone or RBZ).

7.6.4.2.B A minimum of seventy-five (75) percent of the building façade must be located on the RBL, and the entire front façade must be located within the RBZ.

7.6.4.2.C There are no side yard requirements for attached structures. Detached structures shall maintain a minimum side yard of five (5) feet, except for detached multiple family structures which shall maintain a minimum side yard of ten (10) feet.

7.6.4.2.D The minimum rear yard is ten (10) feet except that zero yard is required with alley access.

7.6.4.3 *Accessory building placement (DT2).*

7.6.4.3.A Accessory structures are not allowed in the front setback area. The front setback of accessory structures shall be at least eight (8) feet behind the front façade of the principal structure.

7.6.4.3.B Accessory structures must be placed a minimum distance of five (5) feet from the side lot line.

7.6.4.3.C Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line, except this distance may be reduced to a minimum of three (3) feet when the rear lot line is co-terminus with an alley.

7.6.4.3.D Accessory structures shall be no closer than ten (10) feet from the principle building or one another.

7.6.4.3.E Detached garages may be sited in one of three ways—in the rear accessed from an alley; in the rear accessed by a side drive; or to the side recessed behind the principle building façade by at least eight (8) feet.

PROOFS

7.6.4.3.F An attached, front loaded garage with access from the primary street may be used when there is no alley access, however, garages shall comprise no more than fifty (50) percent of the total linear feet of the front facade of the principle building.

7.6.4.3.G Garage entries or driveways shall be located at least twenty-five (25) feet away from any block corner.

7.6.4.3.H Garage entries shall have a height no greater than fourteen (14) feet and a width no greater than sixteen (16) feet.

7.6.4.3.I One (1) carport is permitted per residential dwelling unit. The carport shall not exceed four-hundred (400) square feet in roofed area or be higher than ten (10) feet. Carports shall maintain a side yard setback of five (5) feet from any property line.

7.6.5 *Miscellaneous provisions (DT2).*

7.6.5.1 *Parking requirements (DT2).*

7.6.5.1.A Where a parking structure is within forty (40) feet of any principle building, that portion of the structure shall not exceed the building's eave or parapet height.

7.6.5.1.B Vehicle parking area on private property shall be at least eight (8) feet behind the RBL, except where parking is provided inside or below the building (these requirements are not applicable to on-street parking).

7.6.5.1.C Shared driveways are encouraged to reduce impervious surfaces and disruptions of the building line.

7.6.5.2 *Street space specifications (DT2).*

7.6.5.2.A Proposed developments that create new streets shall place utility lines underground.

7.6.5.2.B Where not already provided, the developer shall install sidewalks according to Village standards.

7.6.5.2.C Street trees may be included at the time of new development or redevelopment as determined by the Planning Commission:

(1) The tree planting zone is located immediately adjacent to the curb and shall be continuous. Standards follow those as outlined in Section 5.6.6.8.

(2) This area may also be used for the placement of street furniture including utility poles, waste receptacles, fire hydrants, traffic signs, newspaper vending boxes, bus shelters, bicycle racks and similar elements in a manner that does not obstruct pedestrian access or motorist visibility as determined by the Planning Commission.

7.6.6 *Incentive provisions (DT2).* Buildings in the DT2 district may include a third story provided at least three (3) of the following incentive items are provided in the development:

7.6.6.1 At least forty (40) percent of the units are considered affordable (see definitions in Article 15).

7.6.6.2 All residential units meet current ADA standards for accessibility.

7.6.6.3 The building utilizes passive solar design and a super-insulated building envelope in all units.

7.6.6.4 The building utilizes solar hot water heating systems.

7.6.6.5 The building utilizes photovoltaic panels to provide a portion as renewable energy production.

7.6.6.6 All appliances meet Energy Star requirements.

7.6.6.7 All of the stormwater runoff is collected and recycled on-site utilizing approved biological systems.

7.6.6.8 The development provides an outdoor area receiving full solar access for the communal or individual growing of food in raised beds or containers.

SECTION 7.7. GATEWAY CORRIDOR (GC)

PROOFS

7.7.1 *Intent and guiding principles (GC).*

7.7.1.1 It is intended that this District will provide an aesthetically pleasing entrance into the Village.

7.7.1.2 Standards are intended to ensure future development compatibility in promoting a lively mix of uses.

7.7.1.3 As a mobility corridor, it is intended that this District shall promote a pedestrian-friendly environment with non-motorized mobility options in addition to efficient vehicular access.

7.7.1.4 Because this is the gateway to the Village, motorized access will be carefully designed and more intense activities will be carefully screened to place emphasis on the main building entrances.

7.7.1.5 The standards shall reflect the community's desire to enhance the visual quality of the district while promoting amenities necessary to attract businesses, residents, and visitors.

7.7.1.6 Non-residential activity is intended to be organized into clusters at important intersections, and not to be formatted as placeless strip development.

7.7.2 *Uses & development requirements (GC).* Use standards for the Gateway Corridor District are illustrated in Table 7-3. Uses not listed but of the same general character as those permitted will be interrupted by the Zoning Board of Appeals. Conditional and Special Land Uses are located in Article 9 and in Article 14.

TABLE 7-3. PERMITTED USES IN THE GATEWAY CORRIDOR DISTRICT, PAGE 1 OF 5

Gateway Corridor Form District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	*Uses by Right and with conditions (P) & (C) *As defined in Table 4-1*	*Development Requirements*	*Special Land Uses (S) or (PUD)*As defined by Table 4-1*	*Development Requirements*
Agricultural Service Establishments	Farm Feed and small equipment sales; fertilizer, herbicide and pesticide sales (limited outdoor storage)	Permitted	Animal Services: with Unenclosed Outdoor Confinement	Special Use: See Article 9
	Animal Services: Completely Indoor Facilities	Conditions: See Article 9		
Small Scale Food Production & Urban Ag	All Small Scale Production and Urban Agriculture in Table 4-1 EXCEPT Community and Urban gardens	Permitted		
	Community gardens and Urban gardens as a principle	Conditions: See Article 5 and 9		

PROOFS

	use.			
Commercial & Commercial Services	Business Service, Convenience Retail, Drive-Through, Food and Drink Establishments	Permitted	Resorts	Planned Unit Development-See Article 10
	All General Retail Establishments EXCEPT Large Scale Retail Establishments, Building Materials Sales, Warehouse Store or mobile and manufactured home sales.	Permitted	Large Scale Retail Establishments, Building Materials Sales, Warehouse Store or mobile and manufactured home sales.	Special Use: See Article 9
	Indoor Entertainment Establishments	Permitted	Fairgrounds; golf driving ranges; golf courses and country clubs; nordic ski resorts; playground; park; arboretum.	Special Use: See Article 9

PROOFS

TABLE 7-3. PERMITTED USES IN THE GATEWAY CORRIDOR DISTRICT, PAGE 2 OF 5

Gateway Corridor Form District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	*Uses by Right and with conditions (P) & (C) *As defined in Table 4-1*	*Development Requirements*	*Special Land Uses (S) or (PUD)*As defined by Table 4-1*	*Development Requirements*

Commercial & Commercial Services, continued	Bed & Breakfast Establishments and Tourist Homes	Permitted	Public swimming pool, swimming club, tennis clubs/courts, batting cages, skateboard parks, Outdoor ice rinks.	Special Use: See Article 9
	Organized Camps and Campgrounds	Conditions: See Article 9	Amusement and water parks; theme parks, miniature golf facilities, amphitheaters, drive-in theater, zoos; transient amusement enterprises	Special Use: See Article 9
	Hotels, Motels, Auto Courts, Residence Inn	Permitted	Animal racing; automobile, go-kart, snowmobile and motorcycle racing and events.	Special Use: See Article 9
	All Medical Service Establishments	Permitted	Marihuana Related Businesses	Special Use: See Article 9
	All Office Establishments EXCEPT Home Occupations	Permitted	Marine sales and service, including short term outdoor storage; Gasoline and auto service stations	Special Use: See Article 9
	Home Occupations	Conditions See Article 9		

PROOFS

	Personal Service (EXCEPT Marihuana Related Businesses), Repair Services, Research and Development, Tourist Service	Permitted		
	ALL Motorized Vehicle Sales and Service Establishments (EXECPT Marine sales and service or Gasoline and auto service stations)	Permitted		
Industrial Service Establishments	Boatworks,-Custom building/repair/storage; Light and Medium Industrial Service Establishments (Not including Heavy)	Permitted		

PROOFS

TABLE 7-3. PERMITTED USES IN THE GATEWAY CORRIDOR DISTRICT, PAGE 3 OF 5

Gateway Corridor Form District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	*Uses by Right and with conditions (P) & (C) *As defined in Table 4-1*	*Development Requirements*	*Special Land Uses (S) or (PUD)*As defined by Table 4-1*	*Development Requirements*

Warehousing & Wholesale Trade Establishments	Self-service storage facilities, also known as mini-warehouses and rental storage units	Conditions: See Article 9		
Institutional	Educational Institutions	Permitted		
	Religious Institutions	Permitted		
	Social Institutions	Permitted		
Public	Essential Services	Permitted	Trails, trail easements (motorized and non-motorized)	Special Use: See Article 9
	Public Buildings & Related Facilities (EXCEPT Trails, trail easements (motorized and non-motorized))	Permitted		
	WECS towers up to 35 feet in height	Conditions: See Article 9	Light and Heavy Utility and Public Service Installations, Buried 345kv or larger overhead electric transmission lines.	Special Use: See Article 9

TABLE 7-3. PERMITTED USES IN THE GATEWAY CORRIDOR DISTRICT, PAGE 4 OF 5

Gateway Corridor Form District				
Permitted By-Right, With Conditions, or as a Special Land Use				
Uses	*Uses by Right and with conditions (P) & (C) *As defined in Table 4-1*	*Development Requirements*	*Special Land Uses (S) or (PUD)*As defined by Table 4-1*	*Development Requirements*
Residential Services	Institutions for Human Care & Habitation	Permitted	Group Housing	Special Use: See Article 9
	Community Residential Care Facilities	Permitted	Mobile Home Park & Manufactured Housing Community	Special Use: See Article 9
	Multi-Family Dwellings	Conditions: See Article 9	ECHO Units	Special Use: See Article 9
	Single Family Dwellings	Permitted	Planned Unit Development	Special Use: See Article 10
	Temporary Dwellings	Conditions: See Article 9		
	Child Care Center/Day Care Center with fewer than 7 children; Family Child Care Homes; Group Child Care Homes; Adult Foster	Permitted	Open Space Preservation & Cluster Developments	Special Use: See Article 5, 9, and District Standards

PROOFS

	Care Family Home; Adult Foster Care Small and Large Group Homes; Foster Family Home; Foster Family Group Home; State Licensed Residential Facility			
	Tourist Homes/Bed & Breakfast Establishments	Permitted		
	Two-Family Dwellings	Permitted		
Accessory Uses	Bus Shelters; Decks, Patios, Gazebos; Freestanding Flagpoles; Garages or Carports; Home Greenhouses and Aquaculture Systems; Outdoor fireplaces; Outdoor Display and Sales Areas; Outdoor Food & Beverage Service; Storage or Service Buildings or Sauna	Permitted according to standards contained in Article 5 and District Standards	Accessory Dwelling Units	Special Land Use: See Article 9
	Amateur radio & TV Antennae	Conditions: See Article 5		
	Food Stands; Home Occupations; Outdoor Swimming Pools; Shipping Containers for Storage	Conditions: See Article 9		

PROOFS

7.7.3 *Building form standards (GC).*

7.7.3.1 *Building height (GC).*

7.7.3.1.A Each principle building shall be at least one (1) story in height, but no greater than three (3) stories in height except as provided below. The entire structure shall not exceed forty-two (42) feet in height.

7.7.3.1.B If the building satisfies at least four (4) of the incentive provisions of Section 7.7.6, the principle building may have an additional story provided that the façade located above the first three (3) stories is recessed a minimum of eight (8) feet behind the front façade of the lower stories for at least eighty (80) percent of the length of the façade. The entire structure shall not exceed forty-eight (48) feet in height.

7.7.3.1.C An attic story shall not count against the maximum story height.

7.7.3.1.D An additional tower story is allowed above the maximum building story height within the following parameters:

(1) The footprint of the tower shall not exceed three-hundred (300) square feet.

(2) No horizontal façade dimension of the tower shall exceed twenty (20) feet.

(3) No attic story is permitted above a tower story.

7.7.3.2 *Accessory structure height (GC).*

7.7.3.2.A Accessory structures shall be no greater than one and a half (1.5) story or twenty-four (24) feet, and shall meet the setback requirements of Section 7.7.4.3. However, accessory structures with accessory dwelling units may be up to thirty-five (35) feet in height, provided that the structure is setback from all lot lines an additional foot for each foot in height over twenty-four (24) feet.

7.7.3.3 *Interior height (GC).*

7.7.3.3.A The minimum ground story clear interior height (floor to ceiling) shall be eight (8) feet.

7.7.3.3.B For stories other than ground stories, at least eighty (80) percent of each upper story shall have a minimum clear interior height (floor to ceiling) of eight (8) feet.

7.7.3.4 *Principal building features (GC).*

7.7.3.4.A *Snow management*. All buildings shall be designed to minimize the shedding of snow and rain runoff into the public space.

7.7.3.4.B *Facades*. Blank lengths of wall exceeding thirty (30) linear feet are prohibited on all required building lines (RBL).

7.7.3.4.C *Windows/transparency*.

(1) At least thirty (30) percent and no more than ninety (90) percent of ground story facades shall be transparent (as measured between floor levels).

(2) At least twenty (20) percent but no more than seventy-five (75) percent of the upper story facades shall be transparent (as measured between floor levels).

(3) The transparency requirement may also be satisfied by the substitution of visually distinct, artistic forms or design elements to enhance the façade and provide visual interest in the same proportions as above. Perennially maintained living "green" walls also qualify.

(4) Blank walls may also be mitigated by provision of outdoor public space amenities such as parks or plazas with seating, trees, landscaping, public art, or other amenities that provide visual interest and enhance the pedestrian or employee outdoor environment.

7.7.3.4.D *Entry features*. At least one (1) functioning entry door shall be provided along the ground story façade of each building and at intervals not exceeding seventy-five (75) linear feet.

7.7.3.4.E *Roof type*. Where the roof is not hidden from the adjacent street space by a parapet wall, its pitch shall be between 4:12 and 12:12.

7.7.3.4.F *Mezzanines*. Mezzanines having a floor area greater than one-third (1/3) of the floor area of the story in which the mezzanine is situated shall be counted as full stories.

7.7.3.4.G *Projections*. No part of any building except overhanging eaves, balconies, bay windows, stoops and porches shall encroach beyond the Required Building Line. No projections shall encroach onto the public right-of-way.

7.7.4 *Site layout (GC).*

7.7.4.1 *Buildable area (GC).*

7.7.4.1.A The minimum lot size in the GC district is ten-thousand (10,000) square feet on lots with public sewer facilities, and twenty-three thousand five hundred (23,500) square feet on lots without public sewer facilities. This may reduced accordingly to accommodate a qualified Open Space Preservation Development (See Section 5.4.6 and Section 9.3.6.2.B).

7.7.4.1.B Minimum lot width in the GC district varies according to use as below:

(1) Single-Family Residential and Duplexes – One-hundred (100) feet

(2) Multi-Family Residential – Three-hundred (300) feet

(3) Non-Residential or Mixed-Use – Three-hundred (300) feet

PROOFS

This may be reduced accordingly to accommodate a qualified Open Space Preservation Development (See Section 5.4.6 and Section 9.3.6.2.B).

7.7.4.1.C The maximum lot coverage in the GC district is seventy (70) percent.

7.7.4.1.D The maximum impervious surface coverage in the GC district is eighty-five (85) percent.

7.7.4.2 *Principal building placement (GC).*

7.7.4.2.A The Required Building Line (RBL) is computed in one of two ways as follows:

(1) As the average of the front setbacks of existing principal buildings located on the adjacent two (2) lots on both sides of the lot in question (provided they are in the same district) or;

(2) On a line that is setback a minimum of fifty (50) foot.

(3) This may reduced accordingly to accommodate a qualified Open Space Preservation Development (See Section 5.4.6 and Section 9.3.6.2.B) provided a fifty (50) foot front setback for new development shall be maintained from the state highway.

7.7.4.2.B The minimum side yard is ten (10) feet. This may be reduced accordingly to accommodate a qualified Open Space Preservation Development (See Section 5.4.6 and Section 9.3.6.2.B).

7.7.4.2.C The minimum rear yard is twenty-five (25) feet.

7.7.4.3 *Accessory building placement (GC).*

7.7.4.3.A Accessory structures are not allowed in the front setback area. The front setback of accessory structures shall be equal to or greater than that of the principal structure on the site.

7.7.4.3.B Accessory structures must be placed a minimum distance of ten (10) feet from the side lot line.

7.7.4.3.C Accessory structures must be placed a minimum distance of fifteen (15) feet from the rear lot line.

7.7.4.3.D Accessory structures shall be no closer than ten (10) feet from the principle building or one another.

7.7.4.3.E Garage entries or driveways shall be located at least fifty (50) feet away from any intersection.

7.7.4.3.F Garage entries shall have a height no greater than fourteen (14) feet and a width no greater than sixteen (16) feet.

7.7.4.3.G One (1) carport is permitted per residential dwelling unit. The carport shall not exceed four-hundred (400) square feet in roofed area or be higher than ten (10) feet. Carports shall maintain a side yard setback of five (5) feet from any property line.

7.7.5 *Miscellaneous provisions (GC).*

7.7.5.1 *Parking requirements (GC).*

7.7.5.1.A The front setback of on-site parking shall be equal to or greater than that of the principle structure on the site (placed either to the side or rear of the principle structure.

7.7.5.1.B Shared driveways are encouraged to reduce impervious surfaces and disruptions of the building line.

7.7.5.2 *Street space specifications (GC).*

7.7.5.2.A Proposed developments that create new streets shall place utility lines underground.

7.7.5.2.B Where not already provided, the developer shall install sidewalks according to Village standards.

7.7.5.2.C Abutting non-residential uses shall provide for vehicular and pedestrian circulation between their sites through parking lot or alley connections, hard surface walkways, and similar measures in order to reduce traffic and to allow customers to visit multiple establishments without moving

PROOFS

their vehicles. Upon redevelopment of properties, connectors of this type shall be connected or stubbed in for future connection. Connectors for pedestrian use shall be at least 5 feet wide, and shall be separated from vehicles by a change in grade (4 inch minimum) or landscaping, and will be delineated by striping or contrasting pavement materials.

7.7.5.2.D Street trees shall be included at the time of new development or redevelopment as determined by the Planning Commission:

(1) Street trees shall separate pedestrians from vehicular traffic. Standards follow those as outlined in Section 5.6.6.8.

(2) This area may also be used for the placement of street furniture including utility poles, waste receptacles, fire hydrants, traffic signs, newspaper vending boxes, bus shelters, bicycle racks and similar elements in a manner that does not obstruct pedestrian access or motorist visibility as determined by the Planning Commission.

7.7.6 *Incentive provisions (GC).* Buildings in the GC district may include a fourth story provided at least four (4) of the following incentive items are provided in the development:

7.7.6.1 At least forty (40) percent of the units are considered affordable (see definitions in Article 15).

7.7.6.2 All residential units meet current ADA standards for accessibility.

7.7.6.3 The building utilizes passive solar design and a super-insulated building envelope in all units.

7.7.6.4 The building utilizes solar hot water heating systems.

7.7.6.5 The building utilizes photovoltaic panels to provide a portion as renewable energy production.

7.7.6.6 All appliances meet Energy Star requirements.

7.7.6.7 All of the stormwater runoff is collected and recycled on-site utilizing approved biological systems.

7.7.6.8 The development provides an outdoor area receiving full solar access for the communal or individual growing of food in raised beds or containers.

ARTICLE 8. RESERVED FOR FUTURE USE

ARTICLE 9. CONDITIONAL AND SPECIAL LAND USE REGULATIONS

SECTION 9.1. BASIS FOR REGULATIONS

As provided in the Michigan Zoning Enabling Act, PA 110 of 2006, site plans for Conditional Land Uses, Special Land Uses, Planned Unit Developments, condominium projects, variances, or other discretionary decisions may be approved with reasonable conditions that are necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; to protect the natural environment and conserve natural resources and energy; to ensure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements:

- Be designed to protect the air, water and other natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents, and landowners adjacent to the proposed land use or activity, and the community as a whole.
- Be related to the valid exercise of the police power, and to the proposed use or activity.
- Be necessary to meet the intent and purpose of the zoning requirements; be related to the standards established in this Ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.
- Be in compliance with the conditions of any permits and approvals issued for the project by other jurisdictions or agencies.

SECTION 9.2. PURPOSE

PROOFS

The purpose of this Article is to establish criteria that shall be applied in the determination of requests for Conditional and Special Land Uses, as explained in Article 4 and identified in Tables 4-1 and 4-2. Application, review, and approval procedures can be found in Article 14. The criteria for decision and requirements set forth in this Article shall be in addition to those required elsewhere in this Ordinance applying to the use or location under consideration.

SECTION 9.3. STANDARDS FOR PRINCIPAL CONDITIONAL AND SPECIAL LAND USES

The following standards apply to Conditional and Special Land Uses permitted in this Ordinance, in addition to any other applicable standards or regulations, such as those in Article 5 and Article 14.

9.3.1 *Agricultural uses*. The purpose of these regulations includes supporting local food production for the purpose of enhanced food security, increased sustainability of the local food supply, more resilient local economy, and improved health and safety of residents. These regulations help ensure the compatibility of agriculture with other uses. It is the intent of these regulations to encourage the use of public spaces such as residential front, side and rear yards; parks; church and school yards; rights-of-way; conservation easements; jointly owned spaces within developments; recreation areas; campuses; and vacant lots for local food production. This may be in the form of private gardens, fruit and nut trees, community gardens, edible landscaping, and limited small animal production. Development regulations seek to preserve solar access, control waste products, and mitigate potential nuisance impacts.

9.3.1.1 *Animal services establishments*. Animal Services Establishments (with completely indoor facilities) permitted by Conditional Land Use Permit in the DT-2, GC, W-MU, and I-1 Districts, and Animal Services Establishments (with unenclosed, outdoor confinement) permitted by Special Land Use Permit in the DT-2, GC, R-1, W-MU, and I-1 Districts, shall meet the following requirements:

9.3.1.1.A Odors or similar objectionable characteristics such as waste incident thereto shall not be discernible beyond the boundaries of the lot or premises.

9.3.1.1.B The kennel facility shall have waste disposal systems adequate to handle all animal waste generated by the facility at its maximum capacity without utilizing outdoor storage of wastes.

9.3.1.1.C The kennel facility shall be designed, constructed, operated, and maintained in such a manner as to at all times provide humane, clean, dry, and sanitary conditions for each animal kept on the premises, including sufficient square footage for each animal, in accordance with applicable state laws and regulations, and the recommendations of the U.S. Department of Agriculture and the American Kennel Club.

9.3.1.1.D A fully-enclosed kennel facility without any outside animal runs shall be located at least fifty (50) feet from all boundary lines of any residential uses or districts.

9.3.1.1.E Animal services facilities or kennels with outdoor (not fully enclosed) facilities must meet the following additional requirements:

(1) Must be located at least one-hundred (100) feet from all boundary lines of any residential uses or districts (other than the kennel owner or caretaker).

(2) Outside animal runs and/or outside dog exercise areas shall be sufficiently monitored such that any dog(s) engaging in repetitive barking shall be promptly brought inside.

(3) A privacy fence six (6) feet in height meeting the standards of Section 5.6.9 shall be installed to screen all the outdoor, unenclosed kennel facilities and exercise runs from view. This can be satisfied by a Buffer that includes a fence of this type as applied from Section 5.6.

9.3.1.2 *Commercial agriculture or horticulture*. Refers to the commercial production, harvesting, and storage of farm products on a farm, and the farm operations typically attendant thereto, as "farm" is defined in the Michigan Right to Farm Act. Includes but is not limited to commercial nurseries, greenhouses, and aquaculture systems, etc. (Composting and industrial scale or intensive

PROOFS

agricultural activities see Section 9.3.1.3) Commercial Agriculture and Horticulture operations permitted by Conditional Land Use Permit in the R-1, W-MU, I Districts shall meet the following requirements:

9.3.1.2.A Generally accepted agricultural and management practices (GAAMPs) according to policy determined by the Michigan Commission of Agriculture per the Michigan Right to Farm Act, P.A. 93 of 1981, as amended.

9.3.1.2.B Applicable provisions of the Michigan Right to Farm Act, P.A. 93 of 1981, as amended.

9.3.1.2.C Applicable provisions of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, MCL 324.101 to 324.90106.

9.3.1.2.D Applicable standards of the Health Department and MDNR/MDEQ.

9.3.1.2.E No outdoor storage or loading activities shall be permitted within one hundred (100) feet of any lot line.

9.3.1.2.F Site shall be designed and maintained so that all wastes shall not drain onto adjacent property.

9.3.1.3 *Composting*. Composting as a principal use of land (multiple users) and other industrial scale or intensive agricultural activity permitted by Special Land Use Permit in the I District shall meet the following requirements:

9.3.1.3.A All Standards of Section 9.3.1.2 and the following as applicable;

9.3.1.3.B The site shall be at least ten (10) acres and have access from a paved road or gravel road that is maintained in a high quality condition.

9.3.1.3.C Compost piles shall be managed using contemporary best management practices that include measures to minimize odor, dust and windblown debris, rodents, and other nuisance animals.

9.3.1.3.D No site shall be located closer than five hundred (500) feet to any dwelling unit, church, school, other public gathering space or residential district.

9.3.1.3.E There shall be a plan for controlling water-ponding and runoff approved by the County Soil Erosion and Sedimentation Control officer.

9.3.1.4 *Small scale food production and urban agriculture*.

9.3.1.4.A *Community gardens and urban gardens as a principal use*. Community Gardens shall consist of land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. Such land may include available public land. Community Gardens permitted by Conditional Land Use Permit in DT3, DT2, and GC districts, shall meet the following requirements:

(1) The land shall be served by a water supply sufficient to support the cultivation practices used on the site.

(2) Site users shall use raised beds with new soil or provide a Phase 1 Environmental Site Assessment (ESA). Any historical sources of contamination identified in the ESA must be tested to determine type and level of contamination; and appropriate remediation procedures must be undertaken to ensure that soil is suitable for gardening. Raised beds shall also be used if the ESA finds the proposed site to be contaminated.

(3) Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; and a garden coordinator to coordinate the management of the community gardens. Garden plots must be assigned in a fair and impartial manner according to the operating rules established for that garden. The name and telephone

PROOFS

number of the garden coordinator and a copy of the operating rules shall be kept on file with the Village.

(4) The site shall be designed and maintained so that water and fertilizer shall not drain onto adjacent property.

(5) There shall be no retail sales, except for produce grown on the site.

(6) The urban garden use shall be maintained, including necessary watering, pruning, pest control, and removal of dead or diseased plant material.

(7) Structures incidental to the urban garden use, such as accessory storage or utility buildings, greenhouses, gazebos, trellis, or accessory greenhouse structures are permitted subject to compliance with all applicable accessory structure regulations in Section 5.3 and the applicable district standards. The combined area of all accessory buildings or structures shall not exceed fifteen (15) percent of the garden site lot areas.

(8) Other permitted accessory structures include the following:

a. Seasonal farm stands (DT3, DT2, GC, R-1, and W-MU districts only subject to the requirements of Section 9.5.1);

b. Fences meeting the requirements of Section 5.6.9;

c. Benches; bike racks; picnic tables; garden art; rain barrel systems; and children's play areas;

d. Raised/accessible planting beds;

e. Small compost piles or waste bins.

(9) Beekeeping is allowed as accessory to the urban garden use (R-1 and W-MU districts only) provided the requirements of Section 9.4.8 are met.

9.3.1.4.B *Farmer's markets*. Farmer's Markets permitted by Conditional Land Use Permit in the R-1, and W-MU districts shall meet the following requirements:

(1) All Farmer's Markets and their vendors shall receive all required operating and health permits, and these permits (or copies) shall be in the possession of the Farmers' Market Manager or the vendor, as applicable, on the site of the Farmer's Market during all hours of operation.

(2) All Farmer's Markets shall meet all Health Department, MDNR/MDEQ, and public safety standards, as applicable.

(3) All Farmer's Markets shall comply with the Generally Accepted Agricultural and Management Practices (GAAMPs) for Farm Markets established by the Michigan Department of Agriculture.

9.3.2 *Commercial and commercial services uses*.

9.3.2.1 *Auto-oriented commercial uses*. These uses are typically characterized by the dominance of motor vehicles in the landscape. Typical layouts of auto-oriented uses include large front parking or vehicular storage areas, gasoline canopies, and structures or lot layouts that are inconsistent with the scale, form, or function of a traditional neighborhood. There are typically few precedents or provisions for safe pedestrian or bicycle access. The following requirements are intended to fulfill the public and market needs for these uses while controlling the amount, spacing, and design of such uses so as to more effectively integrate them into the traditional fabric of the community. It is intended that these uses be located where such development most adequately serves the needs of the community's residents without creating excessive continuous strip development.

9.3.2.1.A *Gasoline and auto service station*. Gasoline and Auto Service Stations permitted by Special Land Use Permit in the GC, and I districts shall meet the following requirements:

PROOFS

(1) All uses and services, except fuel dispensing, are conducted within a completely enclosed building.

(2) The service station building or buildings shall not be located closer than twenty-five (25) feet to any property line in a residential district.

(3) Buffer Type D1 as described in Section 5.6.5.4 shall apply along all adjacent property lines abutting a residential use or district and not abutting a public street. Buffer Type D2 as described in Section 5.6.5.4 shall apply along all other property lines including those abutting a public street.

(4) No more than two (2) driveways shall be permitted.

(5) Driveways shall be located as far from street intersections as practical, but no less than fifty (50) feet.

(6) Driveway widths shall not exceed thirty-six (36) feet measured at the property line.

(7) No driveway or curb cut for a driveway shall be located within fifteen (15) feet of an adjoining property line, unless it is a shared driveway.

(8) Canopies shall not exceed sixteen (16) feet in height.

(9) Exterior lighting shall be so arranged that light is down-shining and is deflected away from adjacent properties and roadways. Lighting that is part of the underside of the canopy shall be recessed so as not to protrude below the canopy ceiling surface.

9.3.2.2 *Other commercial uses.*

9.3.2.2.A *Large scale retail development.* This development is characterized by a free-standing structure of at least ten-thousand (10,000) square feet with primary use as a retail sales facility, whether with one or multiple tenants. The purpose of these regulations is to ensure the development of commercial areas that are safe, comfortable, and attractive to pedestrians that provide good connections between traffic corridors and neighborhoods, and between adjacent businesses along highway corridors so as to preserve good access and mobility. Standards address a basic level of design, scale, and layout to promote compatibility and to mitigate potential negative impacts. These standards are also intended to ensure that buildings incorporate architectural features and patterns that provide visual interest at the pedestrian scale and reduce the massive scale of large buildings which, without supplication of these standards, would be incompatible with the Village's traditional and desired character. Large scale retail development permitted by Special Land Use Permit in the DT2, GC, and W-MU Districts shall meet the following requirements:

(1) Any application for a large-scale retail development shall include a traffic assessment, a fiscal impact assessment, and an environmental impact assessment as required by the Planning Commission, along with the required permit application forms.

(2) All buildings subject to this section shall have their principle entrance opening to a street, square, plaza, or sidewalk, and not to the interior of blocks or to parking lots or garages so as to facilitate safe pedestrian access.

(3) Surface parking shall be oriented behind or to the side of a building, with access from shared driveways, service roads, or alleys when possible. Surface parking shall not be on street corners.

(4) Pedestrian access from the public sidewalk or street right-of-way to the principle structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.

(5) Where a proposed parking lot is adjacent to an existing parking lot of a similar use, there shall be a vehicular connection between the two parking lots where physically feasible,

PROOFS

as determined by the Planning Commission. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection.

(6) These facilities shall provide for multi-modal transportation facilities to link the use with the remainder of the community. Bus stops, and drop-off and pick-up points shall be integrated with traffic patterns on the site. Bicycle racks shall be provided near entrances.

(7) Whenever possible, on-site snow storage shall be accommodated in a number of smaller sites, rather than one large area, to speed up the melting process.

(8) Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.

(9) Ground floor uses shall be visible from and/or accessible to the street through the use of windows and doors on at least fifty (50) percent of the length of the first-floor street frontage. Where windows are used, they shall be transparent.

(10) Facades greater than one-hundred (100) feet in length shall incorporate wall plane projections or recesses having a depth of at least three (3) percent of the length of the façade and extending at least twenty (20) percent of the length of the façade. No uninterrupted length of any façade shall exceed one-hundred (100) horizontal feet.

(11) Smooth-faced concrete block, tilt-up concrete panels, or pre-fabricated steel panels are prohibited as the predominant exterior building materials.

(12) The maximum setback requirements may be waived by the review body/official for an area not to exceed ninety (90) percent of the frontage in order to accommodate courtyards.

(13) Doors shall be recessed into the face of the building to provide a sense of entry, protection from the elements, and variety to the streetscape.

(14) Canopies, awnings, and similar appurtenances shall be constructed at the entrance to any building, subject to the criteria established in the building code, to create transition areas at building entrances for patrons to shed snow prior to entering the building.

(15) Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.

(16) Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent structure.

9.3.2.2.B *Entertainment and recreation oriented commercial use*. Outdoor Commercial Entertainment and Recreation Establishments permitted by Special Land Use Permit in the DT3, DT2, GC, R-1, W-MU and I districts (refer to Table 4-1 for specific uses and districts) shall meet the following requirements:

(1) The property shall be of sufficient size to accommodate the activity with on-site auto stacking and on-site parking. Reinforced turf shall be used for overflow parking areas to reduce the amount of paved surfaces.

(2) No building shall be located closer than fifty (50) feet to any property line in a residential district.

(3) If the use is located within two-hundred (200) feet of a Residential Zone District, outdoor public address systems and all types of amplified music or sound devices are prohibited.

PROOFS

(4) Facilities which have a capacity for greater than two-hundred (200) people must have favorable letters of review from public safety, the Fire Chief, and the County Road Commission or MDOT (as applicable).

(5) Operating hours shall be determined by the Planning Commission based on the nature of the use.

(6) All archery, rifle, skeet, and trap shooting ranges shall be carefully designed to prevent safety or nuisance noise problems on abutting property. To that end, each application shall be accompanied with a written description of all the design characteristics and operational measures to be taken to ensure safety and prevent unwanted noise impacts on nearby property. Such measures shall be consistent with the most current MDNR and National Rifle Association guidelines as directly referenced in the application.

9.3.2.2.C *Bed and breakfast establishments and tourist homes*. Bed & Breakfast establishments and Tourist Houses/Homes are permitted by Conditional Land Use Permit in the R-1 and R-2 Districts shall meet the following requirements:

(1) The applicant shall provide a scaled floor plan of the premises as part of the Tier 2 Conditional Land Use application.

(2) The exterior appearance of the structure shall be harmonious with the character of the surrounding District.

(3) A fire escape plan shall be developed and graphically displayed in each guest room.

(4) A minimum of one (1) fire extinguisher, in proper working order, shall be located on each floor, in a place readily accessible to guests.

(5) The establishment shall contain at least two (2) exits to the outdoors.

(6) There shall be a minimum of one (1) off street parking space per sleeping room, plus one additional space.

(7) No guest room shall be located in a basement or cellar.

(8) No transient occupant shall reside on the premises for more than ninety (90) days in any calendar year.

(9) Lavatories and bathing facilities shall be available to all persons using the premises.

(10) Guest/sleeping rooms shall have a minimum size of one-hundred (100) square feet for each two (2) occupants, excluding bathrooms, with an additional thirty (30) square feet for each additional occupant, to a maximum of four (4) occupants per room.

(11) Bed and Breakfast must be the primary dwelling unit for the owner, who must operate and occupy the structure. The Bed and Breakfast facility may have up to six (6) bedrooms used for transient guests for compensation. No separate or additional kitchen facilities shall be provided for the guests. Meals shall not be served to the public at large but only to registered guests.

(12) Tourist Home shall not be rented to host receptions, private parties or other activities; except for those only involving registered guests.

(13) The maximum occupancy of a Tourist Home shall be determined by the capacity of the sleeping rooms.

(14) Occupancy of a Tourist Home shall be limited to one group of guests at a time.

(15) The owner, agent or designated responsible party for the Tourist Home shall reside within 50 miles. A Tourist Home shall graphically display Emergency Contact Information, the contact information of the owner, agent or designated responsible party for the property, the Rules of Use and other information in a place readily accessible and observable to guests.

PROOFS

(16) Retail sales are not permitted beyond those activities serving the registered overnight patrons.

(17) State of Michigan Use Tax collection is required.

9.3.2.2.D *Organized camps and campgrounds*. Organized camps and campgrounds for tents, recreational vehicles and tiny houses/homes are permitted by Conditional Land Use Permit in the DT2, GC, R-1, and W-MU districts shall meet the following requirements:

(1) Campgrounds of five (5) or more sites shall meet the following conditions:

a. Campgrounds shall not be used as permanent residences except for the owner or manager and permanent maintenance personnel.

b. Sites shall be a minimum of ten (10) acres.

c. Developments shall comply with the provisions of the Public Health Code, P.A. 368 of 1978, as amended.

d. Management headquarters, recreational facilities, toilets, showers, laundry facilities, and other uses and structures customarily incidental to the operation of a travel trailer park are permitted as accessory uses in the districts in which trailer parks are allowed, provided that:

(a). Such establishments and the parking area primarily related to their operations shall not occupy more than ten (10) percent of the area of the park.

(b). Such establishments shall be restricted in their use primarily to occupants of the park.

(c). Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.

e. No space shall be so located that any part intended for occupancy is within one hundred (100) feet of a residential district.

f. In addition to meeting the above requirements, the site plan shall be subject to the review and approval of the Health Department.

(2) Campgrounds of not more than four (4) sites shall meet the following conditions:

a. Campground shall not be used for a permanent residence except for the owner or manager.

b. Primitive campgrounds or tent camping is not permitted.

c. Shall be located on a lot of not less than two (2) acres in size with a minimum lot width of 200 feet. Sites with an occupied permanent residence or dwelling unit shall require a minimum of five (5) acres with a minimum lot width of 300 feet.

d. Shall provide each site with full hookup services to include electrical, water and sewage disposal.

e. Camping sites shall be not less than fifty (50) feet from any property line.

f. Accessory storage structures shall not exceed a cumulative 400 square feet in size.

9.3.2.2.E *Large medical service establishments*. Large Medical service establishments such as Hospitals permitted by Special Land Use Permit in the DT2 and R-1 districts shall meet the following requirements:

(1) Surface parking shall be oriented behind or to the side of a building, with access from shared driveways, service roads, or alleys when possible. Surface parking shall not be on street corners.

PROOFS

(2) Pedestrian access from the public sidewalk or street right-of-way to the principle structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.

(3) Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.

(4) Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.

(5) Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.

(6) Any dumpsters used by a medical office shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate so that it shall not be visible from lot lines. Any disposal of bio-hazardous waste shall be in conformance with state and local requirements.

9.3.2.2.F *Crematoria*. Crematorium, defined as a facility for the burning of corpses, human or animal, to ashes either as a principle use or as an accessory use, permitted by Conditional Land Use Permit in the DT3 and DT2 districts shall meet the following requirements:

(1) Prior to the issuance of a Certificate of Zoning Compliance for any crematorium, the operator shall provide documentation to the Village that all applicable federal, state, and local permits have been obtained, and all manufacturer's specifications for construction, installation, operation, and maintenance shall have been provided to the appropriate review body/official.

(2) Crematoriums shall be constructed, installed, operated, and maintained in accordance with all manufacturers' specifications and all applicable federal, state, and local permits. The Village shall have the right to enter and inspect the operations of the crematoriums to determine compliance with this provision.

(3) Crematoriums shall be entirely within an enclosed building.

(4) Crematoriums shall be located such that the retort vents are no closer than five-hundred (500) feet to the nearest residence and shall be sited, using topography and landscaping, so that the retort vents and delivery entrance cannot be seen from any public right-of-way. If the building can be seen from any public right-of-way, crematoriums shall be incorporated into the design of buildings such as chapels and mausoleums so that the cremation aspect is not apparent.

9.3.2.2.G *Marihuana related businesses*. Marihuana Related Businesses are permitted by Special Land Use Permit in the GC and I districts only. They shall meet the following requirements:

(1) The proposed use must meet all applicable written and duly promulgated regulations of Village and or other governmental agencies having jurisdiction, including the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, or the Michigan Regulation and Taxation of Marihuana Act and must, to the extent required, have the approval of these governments and/or governmental agencies or be reasonably assured of such approval.

(2) The location shall be monitored at all times by closed circuit video recording system for security purposes. The camera and recording system must be of adequate quality, color rendition, and resolution to allow the ready identification of any individual committing a crime anywhere on the site, and recordings kept for at least thirty (30) days.

(3) The location shall have a centrally-monitored alarm system.

PROOFS

(4) Interior and exterior lighting must be of sufficient foot-candles and color rendition so as to allow the ready identification of any individual committing a crime anywhere on the site at a distance of forty (40) feet.

(5) Windows and roof hatches shall be secured overnight so as to prevent unauthorized entry, and be equipped with latches that may be released quickly from the inside to allow exit in the event of an emergency.

(6) No cultivated marijuana or dried marijuana product shall be visible from the building exterior.

(7) All marihuana facilities or businesses shall be licensed by the Michigan Marihuana Regulatory Agency and shall abide by all laws, rules, orders, and conditions imposed upon such facility or business.

(8) For marihuana facilities or businesses, no persons under the age of eighteen (18) shall be allowed on site, unless the individual is a qualified patient or person with a registry identification card and accompanied by his or her licensed attending physician, parent, or documented legal guardian.

(9) No cultivation of marihuana shall be visible with the naked eye from any public or other private property. No outdoor cultivation shall occur at a location unless it is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry.

(10) Dried marihuana shall be stored in fully enclosed and secured structures or a locked vault or safe bolted to the floor of the facility.

(11) Marihuana shall not be consumed on site.

(12) A marihuana facility or business licensed or proposed to be licensed, under the Michigan Regulation and Taxation of Marihuana Act shall only be granted a Special Use Permit if by public referendum or the lawful adoption of an ordinance by the Ontonagon Village Council.

9.3.2.2.H *Medium repair services*. These services include repair of small engines and motors, snowmobiles, boat motors, ATVs, and trail groomers. These services permitted by Special Land Use Permit in the DT3 District shall meet the following requirements:

(1) All servicing and repair activities must either be carried on within an enclosed building or screened along any property line by Buffer Type D1 as specified in Section 5.6.5.4.

(2) Outdoor public address or loudspeaker systems are prohibited.

(3) The following activities and equipment are permitted only in the rear yard and at least fifty (50) feet from a residential use or district, or mixed-use district:

a. Storage of vehicle parts and refuse

b. Temporary storage of vehicles during repair and pending delivery to the customer

c. Vacuuming, and cleaning

(4) The following activities and equipment are permitted only within an enclosed building:

a. Lubrication equipment

b. Motor vehicle washing equipment

c. Hydraulic hoists and pits

(5) Outside storage or parking of any disabled, wrecked, or partially dismantled vehicle is not permitted for a period exceeding ten (10) days during any thirty (30)-day period.

(6) Vehicles being serviced or stored for customers shall not be parked on streets, alleys, public sidewalks, or public rights-of-way.

PROOFS

(7) No building, structure, gasoline pump, or storage tank shall be located within twenty-five (25) feet of a residential use or district, or mixed-use district.

(8) Body work and painting shall be conducted within fully enclosed buildings.

(9) All discarded parts and materials shall be deposited into a completely enclosed container concealed from adjacent properties.

9.3.2.2.I *Sexually oriented businesses*. Sexually oriented businesses, as defined in Article 15, permitted by Conditional Land Use permit in the I District, shall meet the following requirements:

(1) No person shall reside in or on, or permit a person to reside in or on, a building or property occupied by a sexually oriented business.

(2) No sexually oriented business shall be established on a parcel within one-thousand (1,000) feet of any of the following, as measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the use as follows:

a. Dwelling unit;

b. Any residential lot line;

c. Any zoning district that permits residential uses;

d. Any residential planned unit development;

e. Licensed residential care facility;

f. Licensed foster family group home;

g. Nursing home;

h. School;

i. Child care organization;

j. Place of worship;

k. Public park;

l. Public library;

m. Other sexually oriented business.

(3) The proposed use shall conform with all regulations of the zoning district in which it is located unless those regulations conflict with these standards, in which case these standards shall control.

(4) Any sign or signs proposed for the sexually oriented business (whether on-site or off-site) shall not include photographs, silhouettes, drawings, or pictorial representations of any type, and otherwise shall conform with the requirements in Section 5.7.

(5) Entrance signs to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting from the business, and using lettering no less than two (2) inches in height that say:

a. "Persons under the age of 18 are not permitted to enter the premises", and

b. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."

(6) No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjacent roadway or property.

PROOFS

(7) Hours of operation shall be limited to 10:00 AM to 11:00 PM., Monday through Saturday.

(8) All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one-half hour after the business closes, and shall conform with applicable regulations of Section 5.5.

(9) Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities shall:

a. Be handicap accessible to the extent required by the Americans With Disabilities Act;

b. Be unobstructed by any door, lock, or other entrance and exit control device;

c. Have at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;

d. Be illuminated by a light bulb of wattage of no less than 25 watts;

e. Have no holes or openings in any side or rear walls not dedicated for use by a utility, or a heating, air conditioning or ventilation system.

9.3.2.2.J *(Reserved)*

9.3.2.2.K *Vehicle sales and service establishments*. Vehicle Sales and Service Establishments (except gasoline and auto service stations) permitted by Special Land Use Permit in the DT3, DT2, GC, and W-MU districts shall meet the following requirements:

(1) All automobile servicing and repair activities must either be carried on within an enclosed building or screened along any property line by Buffer Type D1 as specified in Section 5.6.5.4.

(2) Outdoor public address or loudspeaker systems are prohibited.

(3) The following activities and equipment are permitted only in the rear yard and at least fifty (50) feet from a residential use or district, or mixed-use district:

a. Storage of vehicle parts and refuse

b. Temporary storage of vehicles during repair and pending delivery to the customer

c. Vacuuming, and cleaning

(4) The following activities and equipment are permitted only within an enclosed building:

a. Lubrication equipment

b. Motor vehicle washing equipment

c. Hydraulic hoists and pits

(5) Outside storage or parking of any disabled, wrecked, or partially dismantled vehicle is not permitted for a period exceeding ten (10) days during any thirty (30)-day period.

(6) Vehicles being serviced or stored for customers shall not be parked on streets, alleys, public sidewalks, or public rights-of-way.

(7) No building, structure, canopy, gasoline pump, or storage tank shall be located within twenty-five (25) feet of a residential use or district, or mixed-use district.

(8) Body work and painting shall be conducted within fully enclosed buildings.

(9) All discarded parts and materials shall be deposited into a completely enclosed container concealed from adjacent properties.

9.3.3 *Industrial and warehousing uses*.

PROOFS

9.3.3.1 *Boat works*. Boat works permitted by Special Land Use Permit in the DT3 District shall meet the following requirements:

9.3.3.1.A All boat construction, servicing, and repair activities must either be carried on within an enclosed building or screened along any property line by Buffer Type D1 as specified in Section 5.6.5.4.

9.3.3.1.B Use shall meet all applicable municipal, state, and federal laws.

9.3.3.1.C No oils, lubricants, or other such fluids shall be disposed of on-site except in a MDEQ approved facility.

9.3.3.1.D The Boat Works facility shall not emit noise in excess of sixty (60) decibels at any adjoining property line.

9.3.3.2 *Dangerous chemicals and fuels.* Dangerous chemical and fuel manufacturing, storage, and distribution establishments permitted by Special Land Use Permit in the I District shall meet the following requirements:

9.3.3.2.A Use shall meet all applicable municipal, state, and federal standards and all provisions of Section 5.10.1.7.A.

9.3.3.2.B Minimum lot size shall be three (3) acres.

9.3.3.2.C Facilities for the storage, manufacturing, and distribution of toxic and/or hazardous materials shall be located at least five-hundred (500) feet from a residential use or zone.

9.3.3.3 *Heavy industrial service establishments*. Heavy Industrial Service Establishments permitted by Special Land Use Permit in the I District shall meet the following requirements:

9.3.3.3.A All uses shall be established and maintained in accordance with all applicable State of Michigan and federal statutes.

9.3.3.3.B The site shall be a minimum of ten (10) and a maximum of twenty (20) acres in size.

9.3.3.3.C A solid uniformly finished fence or wall at least eight (8) feet in height shall be provided along the exposed sides of the site along with landscaping meeting the requirements of Buffer B1 as described in Section 5.6.5.2. The fence height shall be great enough to screen all materials from the road and abutting properties.

9.3.3.3.D All activities, equipment, or material shall be confined within the fenced-in area and there shall be no stacking of material above the height of the fence, or wall.

9.3.3.3.E All fenced-in areas shall be set back at least one hundred (100) feet from a public street or highway right-of-way line.

9.3.3.3.F Whenever the installation abuts upon property within a residential or mixed-use district, a transition strip at least one hundred (100) feet in width shall be provided between the fence and the adjacent property. The prescribed landscaping shall occur within this area.

9.3.3.3.G No oils, lubricants or other such fluids shall be disposed of on-site except in MDEQ approved facilities.

9.3.3.3.H Burning of material shall conform to state regulations.

9.3.3.4 *Extractive industries*.

9.3.3.4.A *Intent and purpose*. The specific purpose and intent of these provisions are to:

(1) Protect the health, safety, and welfare of the citizens of the Village of Ontonagon;

(2) Protect the environment of the Village of Ontonagon and protect its residents from the harmful or hazardous effects of, or nuisances resulting from, substantial land alteration activities, quarrying, and sand or gravel excavation, including, but not limited to, degradation of air quality, stormwater run-off, ground and subsurface water quality,

PROOFS

visual quality, erosion of soils, adverse noise and vibration, explosive hazards, adverse traffic and road conditions, and any adverse effects of processing materials;

(3) Protect the natural and scenic quality of the Village of Ontonagon, its natural landscapes, environment, wildlife, and wildlife habitat, and protect its residents from significant adverse effects of excavation activities;

(4) Ensure the compatibility of the proposed excavation activities with existing development and development anticipated in the future pursuant to the Village of Ontonagon's adopted Master Plan;

(5) Assure that the required reclamation of affected areas that are disturbed by excavation activities is sufficient to provide for short-and long-term development meeting all environmental, infrastructure, and aesthetic needs of the Village of Ontonagon and of surrounding properties and neighborhoods;

(6) Assure that necessary off-site maintenance and improvements to public roads or utilities required as a result of the on-site effects of excavation activities and the off-site effects of traffic and damage to properties are adequately and fully funded and implemented;

(7) Provide for a fair and efficient system for the engineering, planning, environmental regulation, and monitoring of excavation activities, both on and off-site;

(8) Protect the long-term usefulness of adjacent properties for the permitted purposes as identified in the Village of Ontonagon Master Plan;

(9) Protect the tax base of the community;

(10) Protect the use and enjoyment of adjacent properties;

(11) Ensure the reasonable use of the limestone, sand, gravel, and other mineral resources excavated or extracted from the site or the excavation activities;

(12) Ensure that all permitted excavation activities are compatible with the Village of Ontonagon, regional, state, and federal water quality plans and stormwater management plans and adopted drainage or stormwater policies; and

(13) Ensure that all permitted excavation activities are compatible with all current and applicable municipal plans, public facility and utility plans, Village of Ontonagon policies, and the Village of Ontonagon budget and capital improvements program.

9.3.3.4.B *Applicability*. Excavation activities include a broad range of land disturbance activities which may require a grading development approval and other local, state, and federal development approvals. This section applies to quarries, sand, or gravel excavation, and substantial land alteration activities. Substantial land alteration activities include:

(1) Land-disturbing activities designed to occur for more than three (3) months;

(2) The removal from a site of more than one-hundred (100) cubic yards of earth material per acre (gross) and less than one-thousand (1,000) cubic yards of material per acre;

(3) Results at any time during or following excavation in an exposed bedrock slope steeper than 2:1 and less than 3:1;

(4) A movement of one-hundred (100) cubic yards or more of earth that involves a change in natural or preexisting grades of five (5) or more vertical feet for any portion of a parcel; or

(5) Any movement of earth on the entire parcel in excess of one-thousand (1,000) cubic yards.

9.3.3.4.C *Transfer of development approvals*.

(1) Expansion of a site with previously approved, existing excavation activity requires a complete review meeting the requirements of the original permit. Of principle concern

PROOFS

during this review shall be the additional and cumulative impacts that will be caused by the combined operations on factors such as the environment, traffic, safety, noise, air pollution, neighborhoods, and adjacent land uses.

(2) Contraction of the site on which the "excavation activity" has been approved will require a review in order to evaluate how the loss of the use will affect buffers, land-use compatibility, noise, reclamation, and reuse of the site.

(3) No permit shall be transferred to another party without review by the Village of Ontonagon Planning Commission to make sure all conditions, standards, and requirements imposed on the original applicant will continue to be met. It must also be determined that all security instruments remain in full effect and that the new owner agrees to comply in full and has the necessary financial security to hold the Village of Ontonagon harmless.

(4) If the property is sold, the permit and all of the conditions, standards, and requirements run with the land, and the new property owner is fully bound as if he/she were the original owner.

9.3.3.4.D *Standards*. Excavation activity permitted by Special Land Use Permit in the I District shall meet the following requirements:

(1) All uses shall be established and maintained in accordance with all applicable State of Michigan Statutes.

(2) The applicant may be required to file a cash bond, performance bond, or irrevocable letter of credit of sufficient amount, or other guarantees, to assure reclamation of the site following excavation. Failure to stabilize the site, failure to make necessary corrections and improvements to roadways impacted by the excavation activity, failure to reclaim the property as specified in the approved reclamation plan, and other inconsistencies between the approved operations and reclamation plans and actual activities shall, at the discretion of the Village of Ontonagon, be cause for the Village of Ontonagon to redeem the financial assurance to make the necessary corrections.

(3) The minimum lot size shall be twenty (20) acres. No machinery shall be erected, maintained, or operated within two hundred (200) feet of any property line or right-of-way.

(4) All uses shall be enclosed by a fence six (6) feet or more in height or berm with suitable buffer plantings as prescribed in Section 5.6.5. No storage of equipment or materials may be located within the buffer area.

(5) The applicant shall submit a blasting plan to the Village of Ontonagon with proof of insurance in an amount and form as approved by the Village of Ontonagon attorney. Such activity shall be conducted only by licensed, insured individuals or entities and shall be in conformance with all applicable federal, state, and local regulations.

(6) The applicant shall submit a plan for controlling stormwater run-off, erosion, and sedimentation and a statement of compatibility with any adopted Village drainage or stormwater plans applicable to the area. All slopes and banks shall be graded and treated to prevent erosion or any other potential deterioration.

(7) In no case shall the height of a stockpile exceed fifty (50) feet for permanent stockpiles and (75) feet for temporary stockpiles.

(8) No building shall be erected on the premises except as temporary shelter for machinery or field office unless specifically approved as part of the Special Land Use Permit.

(9) Routes shall be established for truck movement to and from the site in order to minimize the wear on public roads and to prevent hazards and damage to properties in the Village of Ontonagon. That portion of access roads within the area of operation shall be

PROOFS

constructed or treated to minimize dust if there are any dwelling units within one-half (1/2) mile.

(10) All installations shall be maintained in a neat, orderly condition so as to prevent injury to property, any individual, or the Village of Ontonagon in general.

(11) Proper measures shall be taken to minimize the nuisance of noise, vibration, and flying dust or rock. Such measures may include but is not limited to limitations upon the practice of stock-piling excavated materials on the site, dust control on roads, or limits on hours of operation.

(12) Final reclamation of each phase of the operation shall be completed within six (6) months of completion of each phase of the operation. No development approvals shall be issued on the property prior to completion of reclamation of the site.

(13) When excavation and removal operations are completed, the excavated area shall be graded according to an approved reclamation plan so that no gradients in disturbed earth shall be steeper than a slope of 3:1 in horizontal-vertical gradient. A layer of arable top soil shall be spread over the excavated area, in accordance with an approved contour plan furnished by the applicant. The area shall be seeded with a perennial grass, or other native soil-holding material, and maintained by the applicant until the area is stabilized.

(14) Individual excavation areas shall not exceed three (3) acres in size before reclamation.

(15) Where water bodies are created, only free-form and natural-form water bodies will be allowed. All water bodies shall include variation in shoreline and depth and shall include curvilinear shorelines. Where practical, the minimum size of water bodies fed by groundwater and not connected to streams shall be five (5) acres with a minimum average depth of twenty-four (24) to thirty (30) feet. Shallow water bodies may be considered where the applicant can provide evidence that such water body will not result in poor water quality and that it will not result in a nuisance to the area.

(16) No site shall exceed three (3) feet horizontal to one (1) foot vertical incline over a distance of thirty (30) feet. This angle of repose shall be modified to a flatter angle, but not a steeper angle, if it is shown that the site will be unstable at a 3:1 ratio or that vegetation cannot be established on the 3:1 slope.

(17) In addition to required seeding, the reclaimed site shall be landscaped. At least eight deciduous and eight evergreen trees from the Village's approved plant list are planted for each disturbed acre; and at least twenty-five (25) percent of required trees are planted near the perimeter of the site.

(18) All extraction areas in existence on the effective date of this Ordinance are considered nonconforming. Any expansion of any area is subject to the requirements of this Ordinance, including the preparation and implementation of an approved reclamation plan. Sites owned and maintained by the Village or County Road Commission are subject to these regulations, the same as any privately owned site.

9.3.3.5 *Manufacturing establishments*. Light and Heavy Manufacturing Establishments permitted by Special Land Use Permit in the W-MU and I-1 Districts and Heavy Manufacturing Districts. Establishments permitted by Special Land Use Permit in the I District shall meet the following requirements:

9.3.3.5.A Except as otherwise provided in this Ordinance, all operations shall be conducted wholly within a completely enclosed building.

9.3.3.5.B Surface parking shall be oriented behind or to the side of a building, with access from shared driveways, service roads, or alleys when possible. Surface parking shall not be on street corners.

PROOFS

9.3.3.5.C Safe pedestrian access from the public right-of-way to the principle structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of roads, drives, and parking areas.

9.3.3.5.D Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.

9.3.3.5.E Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.

9.3.3.5.F Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.

9.3.3.6 *Self-service storage facilities (mini-warehouses).* Self-service storage facilities, such as mini-warehouses and rental storage units, permitted by Conditional Land Use Permit in the DT-2 and GC Districts and by Special Land Use Permit in the W-MU District shall meet the following requirements:

9.3.3.6.A Mini-warehousing storage sites shall be no less than one (1) acre unless there is outdoor storage of boats or other recreational vehicles in which case the minimum lot size shall be five (5) acres, accessible by a year-round public maintained road.

9.3.3.6.B Drives and access roads between buildings shall be a minimum width of thirty-five (35) feet if one-way with parking allowed, or forty-five (45) feet if two-way. Where no parking is allowed, the building separation need be only twenty-five (25) feet. Traffic direction and parking shall be prominently indicated.

9.3.3.6.C No retail, wholesale, fabrication, manufacturing, or service activities shall be conducted in mini-warehousing storage units. Storage of goods shall be limited to personal property with no commercial distribution allowed.

9.3.3.6.D No storage of hazardous substances, toxic, or explosive materials shall be permitted at the facility.

9.3.3.7 *Shipping containers for storage*.

9.3.3.7.A Shipping containers are permitted as an accessory use for storage in the I District. Shipping containers shall be located in the side or rear yard areas and comply with set back requirements for accessory structures. Containers may not be located in a manner that reduces the minimum number of required parking spaces for the principal use of the property. Containers shall not occupy more than 25% of the area of the lot.

9.3.3.7.B Shipping containers are permitted as a Special Land Use permit in the GC District shall meet the following requirements:

(1) Shall be located in the side or rear yard of the lot and comply with set back requirements.

(2) Shall not be located within 100 feet of a public street or right-of-way, unless screened subject to Section 5.6.

(3) Shall not be located in a manner that reduces the required minimum number of parking spaces for the principal use.

(4) Shall not be used for the storage of any hazardous materials subject to Section 5.10.7.A or other applicable State or Federal regulations.

(5) Shall be a temporary use, not to exceed one (1) year on the site.

(6) Not more than two (2) containers may be used for storage at any one time.

9.3.4 *Institutional uses*.

9.3.4.1 *Educational institutions.* Educational Institutions permitted by Conditional Land Use Permit

PROOFS

in the DT3, R-1, R-2 and W-MU Districts shall meet the same requirements as Public Buildings in Section 9.3.5.1, and no alcohol shall be served on premises.

9.3.4.2 *Religious institutions*. Religious Institutions permitted by Conditional Land Use Permit in the DT3 and W-MU Districts shall meet the same requirements as Public Buildings in Section 9.3.5.1.

9.3.4.3 *Social institutions*. Social institutions permitted by Conditional Land Use Permit in the DT3, DT2, and R-1 districts shall meet the same requirements as Public Buildings in Section 9.3.5.1, and no alcohol shall be served on premises.

9.3.5 *Public uses*.

9.3.5.1 *Public buildings and facilities*. Public buildings and facilities include libraries, museums, government buildings, police and fire facilities, public works, schools, publicly owned tourist information centers, public boat launches/marinas, public utility and service installations, trails, and similar facilities. Public facilities permitted by Special Land Use permit in all districts shall meet the following requirements:

9.3.5.1.A If located in a residential or mixed-use district, all buildings and structures shall be designed to be compatible with the character of the surrounding neighborhood.

9.3.5.1.B All new buildings and facilities shall be in full compliance with all applicable requirements of the Americans with Disabilities Act.

9.3.5.1.C All new or redeveloped buildings and facilities shall utilize the most up-to-date design and materials for water conservation and energy efficiency.

9.3.5.1.D Surface parking shall be oriented behind or to the side of a building, with access from shared driveways, service roads, or alleys when possible. Surface parking shall not be on street corners.

9.3.5.1.E Pedestrian access from the public sidewalk or street right-of-way to the principle structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.

9.3.5.1.F Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.

9.3.5.1.G Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.

9.3.5.1.H Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.

9.3.5.1.I Trails for public use shall be owned and managed by a public entity, nonprofit land trust, nonprofit conservation organization, or a private entity approved by the Planning Commission.

9.3.5.1.J Wherever feasible, trails shall be sited to minimize negative impacts on nearby residences, churches, and schools.

9.3.5.1.K Trails shall be designed to avoid disturbance of habitat for threatened or endangered species.

9.3.5.1.L Signs along the trail advertising products, services, or businesses shall not be visible from nearby roadways.

9.3.5.1.M Trail management shall be guided by a plan prepared and adopted by the management entity. A current copy of such plan shall be filed with the Zoning Administrator.

9.3.5.2 *Utility and public service installations*.

9.3.5.2.A *Light utility and public service installations*. Light Utility and Public Service

PROOFS

Installations such as electrical substations and gas regulator stations (this does not include those that qualify as transmitter or communication towers per Section 9.3.5.2.D) permitted by Special Land Use Permit in all districts shall meet the following requirements:

(1) Buildings, structures (except for flagpoles), and uses shall be located at least thirty (30) feet from all lot lines and public rights-of-way.

(2) All new and redeveloped structures shall utilize the most up-to-date design and materials for energy efficiency.

9.3.5.2.B *Heavy utility and public service installations*. Heavy Utility and Public Service Installations permitted by Special Land Use Permit in the GC, I Districts shall meet the following requirements:

(1) Buildings, structures (except for flagpoles), and uses shall be located at least thirty (30) feet from all lot lines and street lines.

(2) If located in a residential or mixed-use district, all buildings and structures shall be designed to be compatible with the character of the surrounding neighborhood.

(3) All new buildings and facilities shall be in full compliance with all applicable requirements of the Americans with Disabilities Act.

(4) All new or redeveloped buildings and facilities shall utilize the most up-to-date design and materials for energy efficiency.

(5) Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.

9.3.5.2.C *(Reserved)*

9.3.5.2.D *Communication towers*. Communication towers permitted by Special Land Use Permit in all districts shall meet the following requirements:

(1) The location of a proposed communication tower shall not be approved unless the Zoning Administrator determines that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building located within the applicant's search radius of the proposed tower due to one or more of the following reasons:

a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

c. Existing or approved towers and buildings within the search area cannot accommodate the planned equipment at a height necessary to provide reasonable coverage and/or capacity as documented by a qualified and licensed professional engineer.

d. Other reasons that make it infeasible to locate the planned equipment upon an existing or approved tower or building, including but not limited to documented proof that the owner of such tower or building will not lease space to the applicant, that there is insufficient ground, building, roof or tower area on which equipment

PROOFS

may be installed, existing towers or buildings would not provide required setback distances, etc.

(2) Subject to the setback and other requirements of this Ordinance, a communication tower shall be located on a parcel of land so as to provide a fall zone of not less than one hundred ten percent (110%) of the height in the tower to any lot line. This fall zone shall be maintained throughout the existence of the communication tower. No land division shall be approved which would violate this provision.

(3) Communication towers shall be of a monopole or self-supporting lattice design, unless the Ontonagon Village Council finds that an alternative design will not adversely impact the surrounding area.

(4) Proposed wireless telecommunication towers of the guyed or self-supporting lattice type shall be structurally designed to accommodate both the applicant's antennas and comparable antennas for at least two additional users. Proposed monopole wireless telecommunication towers shall be structurally designed to accommodate both the applicant's antennas and comparable antennas for at least one additional user. All towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(5) The base of the tower and wire/cable supports shall be fenced with a minimum six foot (6') climb-resistant fence.

(6) Discontinuance and Abandonment: The holder of a Special Land Use Permit for a wireless telecommunications tower shall remove all discontinued communication towers and give notice of discontinuance of use of a tower within ninety (90) days of the date that the use of the tower ceases. If at any time the use of the tower is discontinued for more than three-hundred sixty-five (365) consecutive days, the Zoning Administrator may declare the tower abandoned. Notice of abandonment shall be sent by first-class mail to the applicant instructing the applicant that the tower must either be reactivated or dismantled and removed from the site within one-hundred twenty (120) days of the date the notice is sent to the applicant. If reactivation or dismantling and removal of the tower does not occur, the Village may contract to remove the tower and assess all cost on the property taxes of the owner of the tower or file a lawsuit to collect the costs plus reasonable attorney fees.

(7) Towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA). If required to be lighted, all options for lighting shall be presented to the Village Planning Commission which shall select the option with the least negative visual impact in the area, unless the FAA dictates a particular option.

(8) There shall be no display advertising or identification of any kind intended to be visible from the ground or other structures.

9.3.5.2.E *Electrical transmission lines*. 345 kv overhead electric transmission lines or larger are prohibited in Village. Buried 345 kv or larger electric transmission lines permitted by Special Land Use Permit in GC, I districts shall meet the following requirements:

(1) Siting shall conform with the requirements of the Electric Transmission Line Certification Act, PA 30 of 1995, (MCL 460.561-460.575).

(2) All 345 kv or larger electric transmission lines shall be within a right-of-way or easement which is at least six hundred-sixty (660) feet from any residential district, existing dwelling unit, church, school, or other public gathering place.

9.3.5.2.F *Reserved for future use*.

9.3.5.2.G *Wind energy conversion systems*. Wind Energy Conversion Systems (WECS) under thirty-five (35) feet in height permitted by Conditional Land Use Permit in the DT-2, GC, W-

PROOFS

MU and I districts; permitted by Special Land Use Permit in the R-1 District; and WECS between thirty-five (35) feet and eighty (80) feet in height permitted by Conditional Land Use Permit in the DT2, GC, W-MU, and I districts; permitted by Special Land Use Permit in the R-1 District; and WECS over eighty (80) feet in height permitted by Special Land Use Permit in the I District, shall meet the following requirements:

(1) In addition to the requirements of this section, the site plan of the property shall show the location of overhead electrical transmission or distribution lines, whether utilized or not, and the location of the WECS with its specific dimensions, including the entire area through which the rotor(s) may pass, the location of any guy wires or other support devices, and the location of all occupied buildings within three-hundred (300) feet of the WECS.

(2) Each application shall be accompanied by a complete set (either the original or an accurately reproduced copy) of the manufacturer's instructions which shall, at a minimum, include all the following:

a. A standard foundation and anchor design or specifications for normal soil conditions;

b. A detailed parts list;

c. Clearly written detailed instructions for the assembly, installation, check-out, operation and maintenance of the WECS on site;

d. The list of warning labels required by this section;

e. Grounding and lightning procedures protection which follow the National Electrical Code Articles 250 (Grounding) and 280 (Lightning Arresters) or any subsequent, superseding regulations;

f. Underwriters label;

g. Proof of insurance;

h. Results of avian and bat mortality analysis and measures to be taken to reduce negative impacts on birds and bats;

i. Analysis of minimum, mean, and maximum noise analysis at each property line;

j. Analysis of ice throw under minimum, mean, and maximum wind conditions.

(3) The entire WECS (including turbines, alternators, generators, and interconnect systems) shall be filtered and/or shielded to prevent the emission of generated radio frequency energy which would cause any interference with radio, and/or television broadcasting or reception, and shall comply with Federal Communication Rules, 47 CFR Parts 15 (including subparts A and F) and 18 (including subparts A,D. and H) or any subsequent, superseding regulations.

(4) The maximum level of noise permitted to be generated by any WECS shall be sixty (60) decibels, as measured on the dBA scale, and measured at the property line nearest the WECS. The WECS shall not cause human detectible vibrations at the property line.

(5) Setbacks: No WECS shall be erected such that any portion of the tower or turbine is closer to utility lines or property lines than the total distance equal to the height of the tower and rotor combined. If the ice throw distance is greater than this distance, and if there are any principle or accessory structures within reach of ice throws, then the WECS location shall be adjusted to prevent ice throw impact on all abutting property. The lowest point of the arc created by rotating blades shall be at least fifteen (15) feet above ground level.

(6) Labeling: The following information shall be provided on labels attached to the WECS tower subsystem in a visible, easily accessible location:

PROOFS

a. Equipment weight of the tower subsystem;

b. Manufacturer's name and address;

c. Model number;

d. Serial number;

e. The following tower warning label or equivalent warning, "Installation and maintenance of this product near power lines is a danger. For your safety follow the installation and maintenance instructions."

(7) WECS shall be sited and constructed of materials which use the best available technology at the time, with special consideration to minimizing noise and threats to birds and bats.

(8) WECS shall require the applicant to make application to the Federal Aviation Administration to apply for lighting standards that:

a. Are the lowest intensity allowable;

b. Avoid strobe lighting or other intermittent white lighting fixtures;

c. May be a green or red top light that does not pulsate or blink;

d. Are in compliance with legal minimums per FAA requirements.

e. A written FAA report shall be submitted to verify lighting requirements.

(9) WECS shall be secured or protected to prohibit access by unauthorized persons, and a security fence may be required if determined to be in the best interest of the community.

9.3.6 *Residential uses.*

9.3.6.1 *Dwellings.*

9.3.6.1.A *Multiple-family dwellings.* A building for multiple family dwellings permitted by Conditional Land Use Permit in the DT3, DT2, GC, R-2, W-MU and I-1 Districts shall meet the following requirements:

(1) The ingress and egress drives or roadways shall be paved to the parking lot, and shall be at least twenty-four (24) feet wide.

(2) Multi-family developments of more than ten (10) units shall include common open space for the use of all tenants in the amount of nine-hundred (900) square feet per dwelling unit. This requirement may be waived if all units are within one-thousand (1,000) feet of a public park or trail system. This does not apply to multifamily developments that area second-floor units above first-floor non-residential units.

(3) Sidewalks meeting Village standards shall be constructed to link residential buildings with other destinations such as parking, adjoining streets, mailboxes, trash disposal, adjoining sidewalks or trails, and on-site amenities.

(4) Design shall avoid monotonous "barracks" style buildings with no variation in roof lines and setbacks. Design shall include multi-faceted exterior form with articulated facades and detailing.

(5) Buildings shall not exceed one-hundred (100) feet in length.

(6) Facades greater than fifty (50) feet in length shall incorporate wall plane projections or recesses.

(7) Ground-floor facades that face public streets shall have arcades, windows, entry areas, awnings, or other such features for at least sixty (60) percent of their horizontal length.

(8) Buildings shall be arranged so that they are aligned parallel to a sidewalk or around common open space.

PROOFS

(9) Entryways shall face a street, sidewalk, or common area. Buildings shall not face the rear of other buildings on the same lot.

9.3.6.1.B *(Reserved)*

9.3.6.2 *Residential developments.*

9.3.6.2.A *Condominium subdivisions.* All condominium subdivisions shall meet the following requirements in addition to all other applicable district provisions, and shall be approved pursuant to the requirements of Article 10, Planned Unit Development Regulations.

(1) General Provisions

a. A condominium unit, including single-family detached units, shall comply with the applicable site development standards contained in the district in which it is located unless those standards are waived as part of a PUD approval pursuant to the requirements of Article 10.

b. A condominium subdivision shall comply with the requirements of the Michigan Department of Environmental Quality and the District Health Department pertaining to potable water supply and waste disposal facilities.

c. The condominium subdivision shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and stormwater runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.

d. All provisions of the condominium subdivision plan which are approved by the Village Board shall be incorporated, as approved, in the master deed for the condominium subdivision. Any proposed changes to the approved condominium subdivision plan shall be subject to review and approval by the Planning Commission as an amendment to a PUD, subject to the procedures of Article 10.

e. All streets within a condominium subdivision shall be public and shall be constructed in compliance with the construction standards of this Ordinance or as otherwise required by the Village of Ontonagon.

(2) Design and Construction

a. In addition to the materials required by Section 14.5, Site Plan Review Procedures, and other requirements of Article 10, Planned Unit Development Regulations, a PUD permit application for a condominium subdivision shall include a condominium subdivision plan containing the following information:

1. A site plan showing the location, size, shape, area, and width of all condominium units.

2. A description of the common elements of the condominium subdivision as will be contained in the master deed.

3. Proposed use and occupancy restrictions as will be contained in the master deed.

b. All condominium projects which consist in whole or in part of condominium units which are building sites shall be marked with monuments as provided below:

1. Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary

PROOFS

of the condominium subdivision if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.

2. All monuments used shall be made of solid iron or steel bars at least one half (1/2) inch in diameter and thirty six (36) inches long and completely encased in concrete at least four (4) inches in diameter.

3. Monuments shall be located in the ground at all angles in the boundaries of the condominium subdivision; at the intersection lines of streets with the boundaries of the condominium subdivision and at the intersection of alleys with the boundaries of the condominium subdivision; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.

4. If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the condominium subdivision and referenced to the true point.

5. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one half (1/2) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.

6. All required monuments shall be placed flush with the ground where practicable.

7. All lot corners shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one half (1/2) inch in diameter or other approved markers.

9.3.6.2.B *Open space preservation and cluster development.* An Open Space Preservation or Cluster Development option permitted by Special Land Use Permit in the GC, R-1, I-1, and W-MU districts shall meet the following requirements: (See also Section 5.4.6 and the appropriate District Standards)

(1) Density shall be as established in the district.

(2) For a development involving multiple lots, the applicant shall prepare a drawing to scale that divides the site into the maximum number of lots permitted under this Ordinance without clustering. That means dividing the total area of the site by the minimum lot area requirements per lot, while still conforming to minimum lot width or frontage requirements, and ensuring that each lot has sufficient area to meet District Health Department requirements for septic waste disposal, unless the site is served by public sewer, and ensuring that adequate right-of-way for a public road meeting Ontonagon County Road Commission standards is provided, and ensuring that no parcel so created for a dwelling unit violates state or federal wetland, floodplain, sand dune, or high risk erosion regulations. No existing or proposed easement shall be counted as available for development. The whole number of lots that results from this calculation is the maximum number of lots or dwelling units that may be clustered on the site, assuming all other Ordinance standards are met.

(3) At least twenty (20) percent of the buildable area of the lot in the GC, R-1, and I-1 districts, and forty (40) percent of the buildable area of the lot in the W-MU district shall be retained permanently in an undeveloped state as below:

a. The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for clustering the dwelling units.

PROOFS

b. Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application. Land in an undeveloped state means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course, but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

c. Open space is encouraged around the perimeter of a site to screen and buffer the clustered units from abutting property.

d. New development should be separated by at least one hundred (100) feet from wetlands, surface waters, or other sensitive open space.

e. Open space shall be reasonably shaped and contiguous, and located for convenient use by residents of the development.

f. The open space shall be permanently protected by recording the use restriction with the County Register of Deeds in a form approved by the Village Attorney such as by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that keeps the open space undeveloped in perpetuity.

g. The open space may be retained by the original landowner or held in common by one or more of the new landowners in the open space and cluster development.

h. Up to twenty (20) percent of the useable common open space may be used for septic drain fields for individual dwelling units, provided a homeowners association assumes liability for any problems, and if the method is approved by the District Health Department and the Michigan Department of Environmental Quality. No part of the preserved open space shall be used for an access road.

9.3.6.2.C *Mobile home park*. A development of three or more mobile homes, either on individual privately owned lots or on private elements within a condominium project, comprise a mobile home park. Mobile Home Parks permitted by Special Land Use Permit in the GC, R-1 and W-MU Districts shall meet the following requirements:

(1) All mobile home parks and subdivisions shall conform to the Mobile Home Commission Act, MCL 125.2301 et seq. ~~P.A. 96 of 1987, as amended~~.

(2) A ten acre site accessible to a major thoroughfare is required as the minimum park size.

(3) The mobile home park shall be located so that all ingress and egress driveways or roadways within the mobile home park development are connected to a major thoroughfare, except for restricted emergency exits.

(4) All mobile home park developments with more than 30 mobile homes shall provide at least two (2) points of entrance or exit from the park located no closer than 200 feet from the intersection of any two public roads. The ingress and egress drives or roadways within the park shall be paved, and for a distance of at least 100 feet from the public roads, the ingress and egress routes shall be no less than 24 feet wide.

9.3.6.3 *Residential services uses.*

9.3.6.3.A *Intent*.

(1) To develop zoning regulations applicable to housing for special populations that are humane, equitable and enforceable;

(2) To support and reinforce the viability and continuation of neighborhoods and communities that provide healthy environments for all their residents;

(3) To prevent the "institutionalization" of residential neighborhoods by concentrating

PROOFS

residential care uses and to allow all residents, including the special populations, to reap the benefits of residential surroundings;

(4) To increase location opportunities for critically needed residential care facilities, thereby helping to integrate special populations into the mainstream of society;

(5) To comply with the principles, policies, and regulations of federal and state fair housing legislation;

(6) To establish an ongoing, effective process of communication between local neighborhood residents, the operators of residential services facilities, and agencies which regulate such facilities;

(7) To promote the dispersing of facilities and beds for special populations thereby preventing individuals from being forced into neighborhoods with concentrations of treatment facilities and beds and thus perpetuating isolation resulting from institutionalization.

9.3.6.3.B *Group housing*. Group housing is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of "family" but often share a common situation, with tenancy usually arranged on a monthly or longer basis, although it may be a form of transient lodging. There is usually a common eating area for residents. This includes such uses as a monastery, seminary or convent, boarding or rooming house, fraternity or sorority, and other similar housing. Group housing does not include prisons or correctional facilities, community residential care facilities, or institutions for human care and habitation. Group housing permitted by Special Land Use Permit in the DT2 and GC Districts shall meet the following requirements:

(1) There shall be at least fifty (50) feet between buildings with dwelling units or sleeping space and abutting single-family dwellings.

(2) There shall be a written fire safety and emergency escape plan.

(3) Must conform to all other applicable Village, county, state, and federal requirements.

(4) Adequate provision shall be made for access by emergency medical and fire vehicles.

9.3.6.3.C *Institutions for human care and habitation*. Institutions for Human Care and Habitation include a broad spectrum of facilities for the diagnosis, treatment, care, rehabilitation, or training or persons who may be developmentally dependent, ill, physically disabled, mentally retarded, emotionally disturbed, or drug or alcohol dependent, such as nursing or convalescent homes, homes for the aged, assisted living facilities, orphanages, sanitariums, and halfway houses. It also includes facilities designed to meet the temporary housing needs of special populations such as the homeless or abused spouses. It does not include correctional facilities. Institutions for Human Care and Habitation permitted by Conditional Land Use Permit in the DT3 and W-MU districts shall meet the following requirements:

(1) As part of the permit review, the Planning Commission shall determine if the proposed use will generate any traffic problems, will create any undue concentration of these uses, or will in any way be incompatible with adjoining uses. The Planning Commission may approve the application, provided a finding is made that the proposed use will not adversely affect the appropriate use of adjacent property or create an undue concentration of such uses within a specific neighborhood area so as to negatively impact the residential character of the neighborhood.

(2) There shall be at least fifty (50) feet between buildings with dwelling units or sleeping space and abutting single-unit dwellings.

(3) There shall be a written fire safety and emergency escape plan.

(4) The facility must conform to all other applicable, county, state, and federal requirements.

PROOFS

(5) The applicant and the operator shall provide adequate measures for safeguarding the public and the facility residents. Such measures shall be appropriate to the special population including intake screening, supervision, and security.

(6) The proposed use shall not substantially or permanently injure the appropriate use of nearby conforming property.

(7) All facilities shall be in full compliance with all applicable requirements of the Americans with Disabilities Act.

(8) Adequate provision shall be made for access by emergency medical and fire vehicles.

(9) Safe areas for pick-up and discharge of users shall be provided that do not interfere with the free flow of traffic on adjacent streets. Accessible routes shall be provided from the pick-up/discharge areas to the facility.

(10) The following standards apply to Homeless Shelters only:

a. Number of Beds: The number of beds in the shelter shall not exceed one-hundred (100).

b. Overnight sleeping accommodations shall be in undivided sleeping space, offered for little or no financial compensation, and shall be operated in a manner that encourages short-term occupancy by residents.

c. Such facility may include accessory support services but shall not be operated in such a manner that changes its primary function to a use classified as follows: community corrections facility, hospital, assisted living facility, nursing home, rehabilitation center for the handicapped, or residence for older adults.

d. Proposed shelters for the homeless shall be located more than five hundred (500) feet from a public school.

e. Prior to opening a temporary shelter in buildings owned by a church, non-profit corporation, or governmental entity, the operator of the temporary shelter shall submit to the Planning Commission evidence (A) that the Department of Human Services is involved in the proposed temporary shelter; (B) that a public meeting relating to opening the temporary shelter was held; (C) that at least seven (7) days prior to the public meeting, notice of such public meeting was given to adjacent property owners within three hundred (300) feet of the proposed use, (D) that a community oversight committee has been created, consisting of the council member in whose district the proposed temporary shelter is located and at least two (2) persons who reside within six hundred (600) feet of the proposed temporary shelter, to address neighborhood issues relating to the ongoing operations of the temporary shelter.

f. The Zoning Administrator has the authority to suspend the terms of this Section's standards for shelters for the homeless in emergency, life threatening situations as determined by the Zoning Administrator in consultation with the Manager.

9.3.6.3.D *Large community residential care facilities.* These state-regulated facilities provide shelter and care for individuals with special needs in facilities or single-family dwellings for more than six persons. This includes large child/day care centers with over 6 children, Child Caring Institutions, Children's Therapeutic Group Homes, Adult Foster Care Facilities, and Adult Foster Care Congregate Facilities, as defined in Article 15. Large Community Residential Care Facilities permitted by Conditional Land Use Permit in the DT3 and W-MU districts shall meet the following requirements:

(1) The applicant is the owner or has written approval of the owner of the property.

(2) Prior to the issuance of any permit to operate a community residential care facility, and no later than December 31 of each subsequent year, the applicant or operator shall

PROOFS

submit to the Zoning Administrator a photocopy of a valid and current license issued by the State of Michigan. Proof of such licensing shall be required prior to the opening, and as a condition for the continued operation.

(3) The program and operational plan has been or will be approved by a licensing agency appropriate to the special population being served in the facility.

(4) The number of beds in the proposed facility, in combination with the number of existing correctional institution and residential care use beds within the affected neighborhood, regardless of compliance with the spacing and density requirements set forth in this subsection, shall not substantially or permanently injure the neighborhood or shall not cause or add to the institutionalization of residential neighborhoods which would prevent all residents, including the special populations, from being able to reap the benefits of residential surroundings.

(5) There shall be a written fire safety and emergency escape plan.

(6) The facility must conform with all other applicable Village, county, state, and federal requirements.

(7) The size and architectural style of new structures or additions to existing structures located in a residential zone shall not be substantially dissimilar from other structures in the surrounding residential neighborhood and shall comply with all other requirements of the district in which it is located.

(8) The applicant and the operator shall adequately maintain the building and grounds.

(9) Safe areas for pick-up and discharge of users shall be provided that do not interfere with the free flow of traffic on adjacent streets. Accessible routes shall be provided from the pick-up/discharge areas to the facility.

(10) All facilities shall be in full compliance with all applicable requirements of the Americans with Disabilities Act.

(11) Adequate provision shall be made for access by emergency medical and fire vehicles.

(12) For any child care center there shall be provided and maintained an outdoor area suitable for play activity and containing a minimum of two-thousand (2,000) square feet. The outdoor play area shall be immediately contiguous to the facility it is intended to serve and shall be enclosed by a protective wall or fence.

(13) Spacing, density, site and other standards: All proposed large residential care uses shall satisfy the following minimum requirements unless specifically exempt by other provisions herein. Provided, however, that the Planning Commission may approve the permit for a large residential care use in a location in violation of the spacing and density regulations of this subsection upon a determination that the spacing violation is less than ten (10) percent of the required spacing and that locating the proposed use will not substantially or permanently injure the neighborhood. Provided, further, that the Planning Commission may require up to two-hundred (200) feet of additional spacing between large residential care uses in neighborhoods with a greater than average concentration of such uses as determined by the Planning Commission.

a. A large residential care use shall be a minimum of two-thousand 2,000 feet from another such use;

b. No more than two (2) other such uses shall exist within a four-thousand (4,000) foot radius measured from the proposed use.

c. The proposed use shall have a minimum lot size of six-thousand (6,000) square feet and a minimum lot width of fifty (50) feet.

9.3.6.4 *(Reserved)*

PROOFS

SECTION 9.4. STANDARDS FOR ACCESSORY CONDITIONAL AND SPECIAL LAND USES

9.4.1 *Accessory dwelling units (echo housing).* Dwelling Units that are accessory to a principle residential use permitted by Special Land Use permit in the DT2, GC, R-1, R-2, and W-MU districts shall meet the following requirements:

9.4.1.1 The ECHO Unit may be an expansion or alteration of the principle dwelling unit or garage, or a new separate building. If a separate building, the ECHO Unit shall comply with all setback requirements and lot coverage requirements as a principle building, and shall be located not less than ten (10) feet from the existing single-family residential structure.

9.4.1.2 The property owner may reside in either the accessory (ECHO) Dwelling Unit or the principle dwelling unit.

9.4.1.3 Potable water and wastewater disposal shall be provided, as required by the District Health Department.

9.4.1.4 The ECHO Dwelling Unit shall provide adequate access for emergency vehicles.

9.4.1.5 The ECHO Dwelling Unit shall meet all applicable construction codes for a dwelling.

9.4.1.6 One (1) additional off-street parking space shall be provided.

9.4.1.7 Separate sale or ownership of the ECHO Dwelling Unit from the primary dwelling on a lot or parcel is prohibited. No person who is not a relative of the property owner shall be permitted to reside in the ECHO Unit, except for a caregiver of the ECHO Unit occupant.

9.4.1.8 If the ECHO Unit is a separate removable structure like a manufactured home, the ECHO Unit must be removed from the property within six (6) months of the ECHO Use ceasing. If the ECHO Unit is an expansion or alteration of a single-family structure, upon cessation of the ECHO use, the ECHO Unit shall no longer be considered a separate living unit and shall be considered to be incorporated into the single-family structure.

9.4.2 *Bus shelters.* The purpose of these regulations is to ensure that bus shelters do not disrupt vehicular or pedestrian traffic flow; and that advertising on bus shelters conveys advertisers' messages while being harmonious in character with the surrounding neighborhood and not contributing to visual clutter. Bus shelters permitted by Conditional Land Use permit in the R-1, R-2 and W-MU districts shall meet the following requirements:

9.4.2.1 Pertaining to advertising on the bus shelter:

9.4.2.1.A Flashing, rotating, and intermittent lighting are prohibited.

9.4.2.1.B Lighting shall be directed downward, shielded from view, focused on the sign, and of minimal wattage to avoid stray lighting.

9.4.2.1.C Audio advertising is prohibited.

9.4.2.1.D Advertising panels must be designed so as not to physically or visually obscure or impede the functionality or compromise public safety.

9.4.2.2 Pertaining to bus shelter design:

9.4.2.2.A The shelter shall not be placed in the clear vision area as defined in Section 5.4.5.3 and illustrated in Figure 15-5 of Article 15.

9.4.2.2.B Lighting of the facility should be of a minimum wattage so as not to impair the vision of drivers or reflect on adjacent properties.

9.4.2.2.C Shall provide adequate protection from precipitation, wind, and sun.

9.4.2.2.D Shall provide clear view of the street and surrounding area.

9.4.2.2.E Shall meet all requirements of the Americans with Disabilities Act.

9.4.2.2.F All components shall be fabricated of high quality, durable, vandal- and graffiti-resistant materials.

PROOFS

9.4.2.2.G The use of solar power sources is highly encouraged.

9.4.3 *Greenhouses and aquaculture systems (accessory).* Greenhouses and aquaculture systems that are an accessory use permitted by Conditional Land Use Permit in the DT3 District shall meet the following requirements:

9.4.3.1 Shall meet generally accepted agricultural and management practices according to policy determined by the Michigan Commission of Agriculture per the Michigan Right to Farm Act, P.A. 93 of 1981, as amended.

9.4.3.2 Subject to applicable provisions of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, MCL 324.101 to 324.90106, as amended.

9.4.3.3 Shall meet all Health Department and MDEQ standards, as applicable.

9.4.3.4 Site shall be designed and maintained so that all wastes will not drain onto adjacent property.

9.4.4 *Home occupations (accessory*). Home Occupation are entrepreneurial activities that provide products, goods or services to customers or clients, whether for profit or not. Examples include but are not limited to, internet sales, home based offices, tax preparation, and arts and crafts for sale off site. Advertising the home occupation is permitted, provided there are no signs, banners or exterior evidence of the services or products offered on site. Home Occupations that are accessory to a principle residential use permitted by right or by a Conditional Land Use Permit in the DT3, DT2, GC, R-1, R-2, W-MU, and I-1 districts shall meet the following requirements:

9.4.4.1 Uses Allowed: Uses that comply with all of the standards of this subsection and are permitted within the district shall be allowed as home occupations unless they are specifically prohibited. The home occupation must be clearly subordinate and incidental to the use of the dwelling as a dwelling unit, and no more than one home occupation is permitted in a dwelling.

9.4.4.2 Size: A home occupation may not occupy more than twenty-five percent (25%) of the gross area of any structure used for the home occupation.

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

9.4.4.4 Location: All work areas and activities associated with home occupations must be conducted and located inside the principle dwelling unit, or in accessory buildings or garages. If in a detached accessory structure, the space allocated to the home occupation shall not exceed four hundred (400) square feet.

9.4.4.5 Exterior Appearance: There shall be no visible evidence of the conduct of a home occupation when viewed from the street right-of-way or from an adjacent lot, except there may be one (1) non-illuminated under canopy, freestanding ground, projecting, or wall sign no larger than four (4) square feet in area per parcel. There may be no change in the exterior appearance of the dwelling unit that houses a home occupation or the site upon which it is conducted that will make the dwelling appear less residential in nature or function. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting or signs.

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

9.4.4.7 Retail Storage, Sales and Display: No stock-in-trade may be stored, produced, or sold upon the premises other than within the allowed area used for the home occupation.

9.4.4.8 Deliveries: Vehicles used for delivery and pick-up are limited to those normally servicing residential neighborhoods. Tractor-trailers or semi-trucks are expressly prohibited.

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

9.4.4.10 Prohibited Uses: The following uses are prohibited as home occupations in all districts.

PROOF

9.4.4.10.A Vehicle and Large Equipment Storage/Repair: Any type of repair, assembly or storage of vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chain saws, and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to motor vehicles and their parts.

9.4.4.10.B Restaurants are prohibited as home occupations in all districts.

9.4.4.10.C Commercial kennels and stables are prohibited as home occupations in all districts.

9.4.4.10.D Contractors equipment, commercial mowers, logging equipment, job trailers, tool trailers, heavy equipment, low boy trailers, dump trucks, semi-trucks and trailers shall not be parked, stored or maintained at a residential lot or lot of a dwelling unit.

9.4.4.11 Conditional Use Permit Required: The Planning Commission, upon holding a public hearing, may grant a Conditional Use Permit to for a home occupation for specific activities and practices associated with them. One or more of the listed activities and practices may be permitted by Conditional Use Permit:

9.4.4.11.A One non-resident employee working on site.

9.4.4.11.B One non-illuminated exterior sign, limited to not more than four (4) square feet, attached to the dwelling.

9.4.4.11.C Any activity that requires customers or clients be present on site, including pickup and drop-off activities.

9.4.4.11.D Catering, baking, cake decorating and bulk food preparation for delivery to customers. This activity may require a Health Department permit or license.

9.4.4.11.E Teaching, tutoring, or art/music instruction lessons to individuals on site.

9.4.4.11.F Any home occupation that requires building alterations, including but not limited to designated entrances for customers, fire walls, specialized plumbing, electrical or mechanical modifications to the dwelling or accessory structures to support the home occupation.

9.4.4.11.G Services provided to customers or clients by appointment only on site.

9.4.4.11.H The outdoor parking and storage of not more than one job trailer or utility trailer associated with a home occupation. The trailer may not exceed 16 feet in length.

9.4.5 *Outdoor display and sales (accessory or temporary*). Outdoor Display and Sales of merchandise as an accessory use to a principle nonresidential use or as a temporary use permitted by Conditional Land Use Permit in the DT3, and W-MU districts shall meet the following requirements:

9.4.5.1 Shall occupy no greater than one-quarter (¼) the gross floor area of the use.

9.4.5.2 Shall be located at least twenty-five (25) feet from any residential use or district (a property shall not be considered residentially used if the first floor is occupied by a nonresidential use).

9.4.5.3 Any area proposed to be used for outdoor sales and display in accordance with this Section shall be accurately delineated on applicable site or development plans.

9.4.5.4 No outdoor sales and display shall be allowed in areas set aside, required, or designated for driving aisles, driveways, maneuvering areas, emergency access ways, off-street parking, or unloading/loading areas.

9.4.5.5 Outdoor sales and display items, including newspaper boxes, vending machines, and ice machines, may be located on sidewalks in the public right-of-way only if permitted by the appropriate agency, and shall count toward the total outdoor sales and display area permitted by this Section. Such items shall be permitted on privately owned walks or other areas intended for pedestrian movement provided an unobstructed, continuous path with a five (5) foot minimum width is maintained.

9.4.5.6 No outdoor sales, storage, or display areas shall be located in the clear vision area as defined in Section 5.4.5.3 and illustrated in Figure 15-5 of Article 15, or be located in a manner that would restrict or limit adequate sight distances for interior vehicular traffic movement.

PROOFS

9.4.6 *Outdoor food and beverage service (accessory or temporary*). Outdoor Food and Beverage Service as an accessory use to a principle nonresidential use or as a temporary use permitted by Conditional Land Use Permit in the DT3, DT2 and GC districts shall meet the following requirements:

9.4.6.1 Any area proposed to be used for outdoor food and beverage service in accordance with this Section shall be accurately delineated on applicable site or development plans, including detail of the locations and sizes for all proposed furnishings such as tables, chairs, trash containers, umbrellas, awnings, planters, landscaping, and lighting. The outdoor food and beverage service area shall be contiguous to the eating and drinking establishment to which it is accessory.

9.4.6.2 The proprietor shall be responsible for ensuring five (5) feet clearance for pedestrians at all times through the property on the public sidewalk if applicable, including the removal of bicycles, wheeled carts, and other items placed by patrons which obstruct this path.

9.4.6.3 All activities and furnishings must be located at least twenty-five (25) feet from an intersection, measured from the curb, and at least two (2) feet from the edge of the curb.

9.4.6.4 Any enclosure delimiting the area shall be no more than forty-two (42) inches tall, except that temporary canvas awnings or umbrellas may serve as sun shades.

9.4.6.5 Tables, chairs, and all other furnishings or accessories may be left in place overnight during seasonal operation, but shall be removed whenever outdoor dining is not in seasonal operation. It shall be the responsibility of the licensee to secure furnishings and accessories that are left in place overnight.

9.4.6.6 Service is prohibited between 11 pm and 7 am.

9.4.6.7 Furniture shall be weatherproof and in good repair at all times, and must be removable (temporary).

9.4.6.8 Outdoor heaters, busing stations, trash receptacles, food preparation stations, and music shall not be permitted in the outdoor dining facility.

9.4.6.9 Carpeting, artificial turf, and platforms shall not be permitted at any time.

9.4.6.10 The licensee is responsible for keeping the premises clean at all times, including the public sidewalk (if within the outdoor service area) and outdoor furnishings. At no time should trash or debris be blown, swept, or otherwise deposited into the street. The presetting of tables with utensils, glasses, napkins, condiments, and the like is prohibited.

9.4.7 *Swimming pools*. Swimming Pools as an accessory use permitted by Conditional Land Use Permit in the DT3, DT2, GC, R-1, R-2, and W-MU districts shall meet the following requirements:

9.4.7.1 Pools used for swimming or bathing and all fencing, gates, or other barriers around them shall be in conformity with the Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, being MCL 125.1501, et seq.

9.4.7.2 Shall comply with the yard setback requirements as required for accessory uses and structures in this Ordinance.

9.4.7.3 Shall not be located over a septic system, drain field, or on any area designated by the District Health Department as reserved for a replacement drain field unless approved by the District Health Department.

9.4.7.4 No lights shall be erected, operated, or maintained in connection with a swimming pool in such a manner as to create a nuisance or hazard to nearby properties.

9.4.7.5 Service drop conductors and any other open overhead wiring shall not be located above a swimming pool.

9.4.7.6 No swimming pool shall be used unless adequate public health measures are periodically taken to ensure that use of the pool will not cause the spread of disease.

9.4.7.7 All swimming pools shall be enclosed by a fence meeting the requirements of Section 5.6.9, and including a self-latching gate capable of being securely locked.

9.4.7.8 Water shall not be allowed to drain on adjacent properties.

PROOFS

9.4.8 *Apiary (accessory*). Because honey bees are essential to local food production; and domestic strains of honey bees have been selectively bred for desirable traits such as gentleness, reduced swarming, pollination attributes, and honey production; the Village of Ontonagon supports the maintenance of honey bees in reasonable densities that shall not cause a nuisance provided they comply with appropriate regulations. An apiary as an accessory use permitted by Conditional Land Use Permit in the GC, R-1 and I-1 districts shall meet the following requirements:

9.4.8.1 Allowed Densities: The number of colonies shall be limited as follows:

9.4.8.1.A Lot of one half (1/2) acre or less, limit two (2) colonies

9.4.8.1.B Lot of more than one half (1/2) but less than one (1) acre, limit four (4) colonies

9.4.8.1.C More than one (1) acre, limit six (6) colonies

9.4.8.2 Location of Structure: Any structure used for apiculture shall comply with the following yard and setback requirements:

9.4.8.2.A Be located in a side or rear yard;

9.4.8.2.B Be located at least ten (10) feet from any property line, subject to Section 9.4.9 below;

9.4.8.2.C In the absence of a principle structure, must be located behind the setback or Required Building Zone as defined in the District standards;

9.4.8.2.D If the total area of structures used for apiculture exceeds sixty-five (65) square feet, the structures are considered accessory buildings and must comply with all standards for accessory buildings in this Ordinance.

9.4.8.3 Registration: The hive shall be kept on the same premises as the owner of the parcel and shall be identified and kept per the requirements of the State of Michigan Apiary Inspection Law. If the beekeeper is a person other than the owner of the parcel, the Village shall be provided with a written statement authorizing that person to maintain the colony or colonies, along with their name, address, and telephone number.

9.4.8.4 Hive type: All honey bee colonies shall be kept in hives with movable frames, which shall be kept in sound and usable condition.

9.4.8.5 Fencing of Flyways: In each instance in which any colony is situated within twenty-five (25) feet of the property boundary line, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier in the following manner so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the apiary. This flyway barrier shall be a fence six (6) feet in height complying with all standards of Section 5.6.9 of this Ordinance, and shall be of solid wall, fence, or dense vegetation materials or a combination thereof; and is parallel to the property line; and extends ten (10) feet beyond the colony in each direction along the property line.

9.4.8.6 Water: Each beekeeper shall ensure that a convenient source of water is available to the bees at all times on the property during the year so that the bees are less likely to congregate at swimming pools, pet watering bowls, bird baths, or other water sources where they may cause human, bird, or domestic pet contact.

9.4.8.7 General Maintenance: Each beekeeper shall ensure that no bee comb or other materials are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.

9.4.8.8 Queens: In any instance in which a colony exhibits unusual aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition toward swarming, it shall be the duty of the beekeeper to promptly re-queen the colony with another queen. Queens shall be selected from European stock bred for gentleness and non-swarming characteristics.

9.4.8.9 Compliance: Upon receipt of information that any colony situated within the Village is not being kept in compliance with this Section, the Zoning Administrator shall issue a minor civil infraction to the

PROOFS

beekeepers/owner of the parcel. Such infraction may be issued once a day until such time as the bees are destroyed, removed, or the problem corrected. The provisions of this Section shall not prevent the Village from destroying bees or a bee colony in the event that there is an immediate need to protect the public safety. Such circumstances will occur when there is, (1) bee colony not residing in a hive structure intended for beekeeping, or (2) a dangerous swarm of bees that poses an immediate risk to the safety of humans, or (3) a colony residing in a standard or man-made hive which, by virtue of its condition, has obviously been abandoned by the beekeeper.

9.4.9 *Pole barns*.

9.4.9.1 Pole barns permitted by Conditional Land Use Permit, as accessory structures, in the R-1 and W-MU districts shall meet the following requirements:

9.4.9.2 The maximum permitted height of a pole barn in the R-1 and W-MU districts is twenty-four (24) feet with the minimum setbacks as listed in Section 6.1.3.3.B. However, an accessory structure with an accessory dwelling unit in the R-1 District may be up to thirty-five (35) feet in height, provided that the structure is setback from all lot lines is an additional foot for each foot in height over twenty-four (24) feet.

9.4.9.3 Minimum Setbacks from Lot Lines:

9.4.9.3.A Front Lot Line – Structures are not allowed in the front setback area. The front setback of pole barns, as accessory structures, must be equal to or greater than that of the principal structure on the site.

9.4.9.3.B Side Lot Line – Structures must be placed a minimum distance of twenty (20) feet from the side lot line.

9.4.9.3.C Rear Lot Line – Structures must be placed a minimum distance of twenty (20) feet from the rear lot line.

9.4.9.4 The maximum permitted floor area of a pole barn shall not be more than 1.5 times the floor area of the principal structure.

SECTION 9.5. STANDARDS FOR TEMPORARY CONDITIONAL AND SPECIAL LAND USES

9.5.1 *Food stands*. Food stands selling homegrown products permitted by Conditional Land Use Permit in the DT3, DT2, GC, R-1, W-MU and I-1 districts shall meet the following requirements:

9.5.1.1 Shall furnish space for customer vehicles outside the road right-of-way in the ratio of one (1) parking space for each fifteen (15) square feet of roadside stand floor area, with a minimum of three (3) off-street parking spaces.

9.5.1.2 Shall be located at least twenty-five (25) feet from the edge of the road and any property line.

9.5.1.3 Shall be seasonally erected and removed when sales are not in progress.

9.5.2 *Sawmills*. Temporary sawmills permitted by Special Land Use Permit in the I-1 district shall meet the following requirements:

9.5.2.1 Buffer type C as defined in Section 5.6.5.3 shall be installed to screen the perimeter of the entire outside storage area from view of the public right-of-way and structures on abutting properties.

9.5.2.2 The hours and days of operations shall be reviewed by the Village Planning Commission to minimize any impact on adjacent residential properties.

9.5.2.3 Sawmills shall not emit noise in excess of sixty (60) decibels at any adjoining property line.

9.5.3 *Transient amusement enterprises*. Transient Amusement Enterprises, such as circuses, carnivals, other transient amusement enterprises, music festivals, and similar temporary gatherings of people, permitted by Special Land Use Permit in DT3, DT2, GC, R-1, and W-MU districts, shall meet the following requirements:

9.5.3.1 Shall be approved by the Planning Commission upon the finding by the Planning Commission that the location of such activity will not adversely affect adjoining properties or adversely affect public health, safety, morals, or general welfare.

PROOFS

9.5.3.2 The Planning Commission may require conditions, or the posting of a bond, or other acceptable security payable to the Village of Ontonagon in an amount sufficient to hold the Village free of all liabilities incidental to the operation of such activity and indemnify any adjoining land owners for any damage resulting from operation of such activity. Such damages shall be provable before the court having jurisdiction over the premises upon which the damages occurred and shall be payable through such court.

ARTICLE 10. PLANNED UNIT DEVELOPMENT (PUD)

SECTION 10.1. INTENT

The Planned Unit Development (PUD) is a zoning district intended to accommodate innovative and compatible land use developments with mixed or varied uses, sites with unusual topography or unique settings within the community, or land which exhibits difficult or costly development problems, and shall not be allowed where Planned Unit Development approval is sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated objectives below.

The purpose of this Article is to permit innovation and variety in land use, design, and layout of property in order to achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage useful open space, and address opportunities suited specifically to the needs of the residents of the Village of Ontonagon, provided such opportunities have complimentary economic, social, and environmental impacts on surrounding land uses.

The Planned Unit Development (PUD) is intended to permit and control the development of preplanned areas for various compatible uses. The PUD provides a procedure by which the Village Council can hold pre-application conferences with the applicant before submission of preliminary site plans, saving resources by reducing the need for expensive design re-iterations. The procedure entails a discretionary review and approval procedure that results in approval if all standards of this Article are met and denial if they are not. The Zoning District does not change if a PUD is approved, but like a Special Use, an approved PUD has all the rights and privileges of an approved use by right as long as all conditions attached to the approval are satisfied and the approved use continues. This process involves meeting eligibility criteria and established standards for approval through a site plan review procedure.

SECTION 10.2. PURPOSE

The applicant shall demonstrate that approval of the PUD would result in a recognizable and substantial benefit to the community that could not be achieved under the normal regulations of the District, satisfying one or more of the following objectives:

- To provide more desirable living, shopping, and working environments by preserving as much of the natural character of the property as possible, including but not limited to, open space, stands of trees, brooks, ponds, river and lake shorelines, floodplains, hills, and similar natural assets.
- To encourage the provision of open space and the development of recreational and other common facilities within reasonable distance of all seasonal and permanent dwelling units.
- The long-term protection or preservation of natural resources, natural features, historical elements, scenic vistas, or architectural features of a significant quantity or quality.
- Modification of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the Zoning District in which it is situated.
- The provision of additional amenities which would not otherwise be provided in a conventional development, including but not limited to more usable open space, community gardens, orchards, or alternative energy systems.
- To promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land uses, and utilities.
- To combine and coordinate architectural styles, building forms, and building relationships within the PUD.
- To more effectively accommodate the needs of diverse populations including but not limited to the needs of the aging population (through Universal Design), or low-to moderate-income residents (or single

PROOFS

households) with affordable units.

- To permit more flexibility and innovation in the design, layout and type of development provided the development is consistent with the intent of the Village of Ontonagon Zoning Ordinance and the provisions of the Village of Ontonagon Master Plan.

SECTION 10.3. GENERAL PROVISIONS

10.3.1 *Relationship of PUDs to zoning districts*. Except as otherwise provided in other Sections of this Article, while PUDs are permitted in all Zoning Districts, the underlying Zoning District that applies to a particular parcel establishes the permitted uses and densities, as well as the basic limitations on height, bulk, setback, yard area, and related requirements. Yet, the PUD process does allow for some flexibility in land uses, densities, height, bulk, setbacks, parking, signage, and related standards, allowing some standards to be waived or reduced as a part of the Site Plan Review and approval process for a PUD, provided such actions are within the parameters detailed in the remainder of this Article. Property subject to an approved PUD shall be labeled PDD on the zoning map.

10.3.2 *Eligibility requirements*. No PUD shall be approved unless the applicant demonstrates, through written submittal, that the land use and development substantially advances objectives described in Section 10.2, and meets the eligibility requirements and the standards set forth in this Ordinance, and in addition that:

10.3.2.1 The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the Village of Ontonagon. Such benefit must otherwise be unfeasible or unlikely to be achieved under the standards of a single Zoning District.

10.3.2.2 The PUD shall remain under the control or authority of a single individual, corporate, or organizational owner who is authorized to administer the PUD.

10.3.2.3 A PUD must be designed as a single development and shall be at least fifty percent (50%) completed within two (2) years, unless otherwise stated in the approved PUD permit.

10.3.3 *Calculating density*. The permitted density on a specific parcel or parcels subject to a PUD application is first established by applying the minimum lot size in the underlying district to the buildable portion of the parcel or parcels and then applying a density bonus of not more than fifteen (15) percent as the design warrants and in the complete discretion of the Village Council with the recommendation of the Planning Commission. This density is achieved either by reducing the minimum lot size of the underlying district, or by clustering lots, or both, and is calculated as follows:

10.3.3.1 *Calculating base density*. The applicant shall prepare a drawing to scale that divides the site into the maximum number of lots permitted under this Ordinance without a bonus or clustering. The whole number of lots that results from this calculation is the maximum number of lots or dwelling units that may be clustered on the site under this Section before any bonus is applied. This is calculated as follows:

10.3.3.1.A Divide the total area of the site by the minimum lot area requirements per lot, while still conforming to minimum lot width or frontage requirements.

10.3.3.1.B Ensure that each lot has sufficient area to meet District Health Department requirements for septic waste disposal, unless the site is served by public sewer.

10.3.3.1.C Ensure that adequate right-of-way for a public road meeting Village of Ontonagon standards is provided.

10.3.3.1.D Ensure that no parcel so created for a dwelling unit violates state or federal wetland, floodplain, sand dune or high risk erosion regulations.

10.3.3.1.E No existing or proposed easement shall be counted as available for development.

10.3.3.2 *Calculating density increases*. To increase density, the site shall have direct access to a County/local road or state highway via a new public road built to Ontonagon County Road Commission or MDOT standards. The increase will be determined in the following manner:

10.3.3.2.A Permitted density in terms of dwelling units per acre may be increased in a PUD up to fifteen (15) percent when the design of PUD demonstrates complete conformance with the requirements of this Article. No intensity increase is permitted for a PUD overlying a DT3 or DT2 district.

PROOFS

10.3.3.2.B The applicant shall receive a 5% bonus density for each of the following up to a maximum of fifteen (15) percent:

(1) Fifteen (15) percent more usable, common open space (not wetland) than the minimum required in Table 10-1.

(2) A design that blends well with the natural environment and abutting lands and utilizes alternative energy technology, or enhances community food production.

(3) A design that is aesthetically pleasing and compatible with structures on abutting property.

(4) A design that creates diversity of housing types with attention to Universal or affordable housing design.

10.3.4 *Permitted uses*.

10.3.4.1 The following uses may be permitted within a residential planned unit development:

10.3.4.1.A All uses permitted by right, by Conditional Land Use Permit, or by Special Land Use Permit in the district in which the property is located and subject to all restrictions specified for that district except as modified by a PUD Permit.

10.3.4.1.B Recreation and open space, provided that the following uses may be set aside as common land for open space or recreation use under the provisions of this Section:

(1) Private recreational facilities such as golf courses, swimming pools, ski resorts, or other recreational facilities which may or may not be limited to the use of the owners or occupants of the lots located within the PUD, depending on what is permitted in the underlying District.

(2) Historic sites, parks, greenways, extensive areas with tree cover, lowlands along streams, or areas of rough terrain when such areas have natural features worthy of scenic preservation.

10.3.4.2 The following uses may be permitted within a nonresidential planned unit development: All uses permitted by right, by Conditional Land Use Permit, or by Special Land Use Permit in the District in which the property is located and subject to all restrictions specified for that District except as modified by a PUD Permit. Limited permanent dwelling units may be permitted, especially if above ground floor commercial uses. All nonresidential PUDs shall have direct access to a paved public road.

10.3.5 *Lot requirements*.

10.3.5.1 The site shall be not less than five (5) acres in area.

10.3.5.2 Minimum yard restrictions of the Zoning District in which the project is located shall be maintained around the perimeter of the project.

10.3.6 *Development requirements*.

10.3.6.1 In the case of a mixed-use PUD which includes a use permitted by right in the Zoning District, a building devoted primarily to such a permitted use must be built before or concurrently with any building devoted primarily to any use not permitted by right.

10.3.6.2 New development should be separated by at least one hundred (100) feet from wetlands, surface waters or other sensitive open space.

10.3.6.3 Dwelling units shall be separated from nearby farm structures by at least five-hundred (500) feet.

10.3.6.4 The PUD design shall protect roadside character and improve public safety and preserve vehicular carrying capacity by not fronting lots along an existing county road or state highway.

10.3.7 *Open space requirements*.

10.3.7.1 Required open space shall be dedicated to the public or set aside for common use of the owners and users within the PUD so that there are assurances that the required open spaces shall remain open.

10.3.7.2 If requested by the landowner, the Village Council may approve a PUD with open space that is not contiguous with the rest of the PUD if other benefits to the public are sufficiently great to warrant such

PROOFS

consideration.

10.3.7.3 The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for clustering the single family dwelling units.

10.3.7.4 Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.

10.3.7.5 Open space is encouraged around the perimeter of a site to screen and buffer the clustered units from abutting property.

10.3.7.6 Open space shall be designed and located for convenient use by residents of the development.

10.3.7.7 The open space may be retained by the original landowner or held in common by one or more of the new landowners.

10.3.7.8 Up to twenty (20) percent of the useable common open space may be used for septic drain-fields for individual dwelling units, provided a homeowners association assumes liability for any problems, and if the method is approved by the District Health Department and the Michigan Department of Environmental Quality. No part of the preserved open space shall be used for an access road.

10.3.7.9 The minimum amount of permanent common open space that shall be provided for each PUD by underlying District is listed in Table 10-1. Permanent common open space and maximum open space that is wetlands or open water in columns two and three of Table 10-1 respectively, shall be measured as a percentage of the total acreage of the land that makes up the PUD, except as otherwise provided in this Article.

TABLE 10-1. MINIMUM PERMANENT COMMON OPEN SPACE

Underlying District	*Minimum Open Space*	*Maximum Open Space that is Wetlands or Open Water*
R-1	65%	45%
W-MU	65%	35%
R-2	55%	25%
All Other Districts	Per max. lot coverage in underlying district standard	None

PROOFS

10.3.7.10 All land designated and approved as common open space in a PUD shall remain as permanently protected open space. All open space, tree cover, recreational area, scenic vista, or other approved open land areas shall be either set aside as common land for the sole benefit, use, and enjoyment of present and future lot owners or residents within the PUD, or at the initiative of the applicant and acceptance by the appropriate public body, may be dedicated to the public as park land for the use of the general public. The Planning Commission shall determine which is most appropriate based on the following considerations:

10.3.7.10.A That open space land shall be legally conveyed from the tract owner or owners to a home owners association or other similar nonprofit organization so that fee simple title shall be vested in tract lot owners as tenants in common, provided that permanent arrangements have been made for the maintenance of the land and any buildings thereon, and that an open space easement for said land may be conveyed to the public to assure that open space land shall remain open.

10.3.7.10.B That open space land may be voluntarily dedicated to the public for park or recreational purposes by the tract owner or owners, provided that the location and extent of the land conforms to the Village of Ontonagon Master Plan, that the land has appropriate characteristics and location such that it will be readily available to and desirable for public use, development, and maintenance, releasing the developer from further improvements.

10.3.7.10.C The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is reviewed and approved by the Village Attorney, such as: recorded deed restrictions, covenants that run with the land, transfer to a nonprofit land trust, a recorded conservation easement such as that provided in the State of Michigan Conservation and Historic Preservation Easement Act, P.A. 197 of 1980, as amended(MCL 399.251) or dedication to and acceptance of the open space by the Village or other public entity. Such conveyance shall assure, unless the land is dedicated to the Village and accepted by it, that the Village will not be liable for any uses or activities occurring within the dedicated open space and that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use unless mutually agreed by the written consent of the Village Council and the property owner or homeowners association. Such conveyance shall also:

(1) Indicate the proposed allowable use(s) of the dedicated open space.

(2) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space in the manner specified in the PUD approval.

(3) Provide standards for scheduled maintenance of the open space.

(4) Provide for maintenance to be undertaken by the Village in the event that the dedicated open space is inadequately maintained, or is determined by the Village to be a public nuisance, with the assessment of costs upon the property owners.

(5) Bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Village and the land uses continue as approved in the planned unit development.

SECTION 10.4. APPLICATION, REVIEW, AND APPROVAL PROCESS

10.4.1. *Application process.*

10.4.1.1 *Site plan*. The application shall be accompanied by a Site Plan that conforms to the requirements of Section 14.3.2 for a Tier 3 Review of a Major Site Plan.

10.4.1.2 *Pre-application conference.* A pre-application conference between the applicant, the site designer, the chairperson of the Planning Commission, the Zoning Administrator, and any planning consultant retained by the Village shall be held prior to submittal or review of any site plan for a PUD. A site visit may be scheduled as a part of the pre-application conference. The purpose of the pre-application conference is to review Ordinance requirements as they apply to the site before the applicant investments in preliminary site designs.

10.4.1.3 *Application*. An application for PUD shall be accompanied by the following documents and information:

10.4.1.3.A A PUD application form supplied by the Zoning Administrator, completed in full and accompanied by the appropriate fee.

10.4.1.3.B A Major Site Plan satisfying the requirements of Tier 3 Review per Section 14.3.4.6.

10.4.1.3.C A statement of compliance with the objectives, eligibility requirements, and other requirements contained in this Article and applicable standards in Article 5, General Provisions.

10.4.1.4 *Approval procedures.*

10.4.1.4.A The Zoning Administrator shall review each application pursuant to the requirements of Section 14.3.2.2.D, and when it is determined to be complete, schedule it for a public hearing at a regular Planning Commission meeting, unless the applicant pays all of the costs for a special meeting.

10.4.1.4.B A notice of the public hearing shall be given pursuant to Section 14.4, and the first public hearing shall be conducted by the Planning Commission pursuant to the requirements of Section 14.4.2.

PROOFS

10.4.1.4.C The Planning Commission and Village Council, in their respective meetings, shall review the application, comments, the Site Plan, and other pertinent information received and shall make a determination in accordance with the criteria described in this Article, and such other standards contained in the Ordinance which relate to the PUD under consideration.

10.4.1.4.D The Planning Commission's recommendation shall be forwarded to the Village Council for final action.

10.4.1.4.E Prior to action on the request, the Village Council shall also conduct a public hearing, preceded by notice in the same manner as for the public hearing by the Planning Commission.

10.4.1.4.F The Village Council may, by majority vote of its members, deny, approve, or approve with conditions the application for PUD approval. Its decision shall be incorporated in a statement of conclusions relative to the PUD under consideration, and shall specify the basis for the decision and any conditions imposed. A request for approval of a land use or activity which is in compliance with Ordinance standards, other applicable ordinances, and state and federal statutes shall be approved.

10.4.1.4.G Upon the approval, or approval with conditions by the Village Council, the Zoning Administrator shall prepare and issue a permit to the applicant incorporating the conditions, if any, imposed by the Village Council.

10.4.1.4.H An appeal of a decision by the Village Council to approve, deny, or approve with conditions a PUD Permit application may be taken to Circuit Court, and may not first be appealed to the Board of Appeals.

10.4.1.4.I The zoning map shall have the notation "PDD" written on any parcel for which PUD approval has been granted and remains in effect.

10.4.1.5 *Basis of determination*. The Planning Commission and the Village Council, in their respective hearings, shall review the particular circumstances of the PUD application under consideration in terms of the following standards and shall recommend approval, or approve, respectively, a PUD only upon a specific finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

10.4.1.5.A The PUD shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property and the surrounding area.

10.4.1.5.B The PUD shall be designed in a manner to ensure healthful living conditions and adequate light, air, and accessibility for fire and police protection for the inhabitants and users of the development as well as adjacent Village residents.

10.4.1.5.C The PUD shall be consistent with the intent of the Village of Ontonagon Master Plan.

10.4.1.5.D The PUD shall not change the essential character of the surrounding area.

10.4.1.5.E The PUD shall not be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other features of the planned use.

10.4.1.5.F The PUD shall not place demands on public services and facilities in excess of current capacity, unless planned improvements have already been scheduled for completion.

10.4.1.5.G The PUD site plan shall demonstrate a safe and adequate on-site system of potable water and wastewater lines that can accommodate the proposed development, that are efficiently integrated into off-site potable water and wastewater public improvement plans, where public off-site facilities are available.

10.4.1.5.H Adequate off-site facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection, and roads are planned and programmed for the development proposed in the PUD site plan, and the development is appropriately located in relation to schools, police protection and other emergency services.

PROOFS

10.4.1.5.I The PUD shall be designed to preserve public vistas and existing important natural, historical, scenic, and architectural features of significance within the development.

10.4.1.5.J The PUD shall be designed so that its pedestrian, non-motorized, and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems.

10.4.1.5.K The PUD shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient, and that parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles and adequate space for turning around shall be provided.

10.4.1.5.L The PUD shall not result in any greater stormwater runoff to adjacent property after development than before.

10.4.1.5.M The design of the PUD shall exhibit a reasonable harmonious relationship between the locations of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use of facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.

10.4.1.5.N The design of the PUD shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.

10.4.1.5.O The PUD shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage, or erosion control.

10.4.1.5.P The PUD shall conform to all applicable Village, County, State, and Federal requirements for that use.

10.4.1.5.Q The Applicant shall be in substantial compliance with any previously issued Zoning Permits and shall not otherwise be disqualified from receiving a permit under this Ordinance.

10.4.1.5.R All signs in a PUD shall comply with the requirements of Section 5.7, except that the Village Council may approve different signage if a comprehensive sign plan for the proposed PUD is submitted that does not result in greater total sign area, or sign height, even though more signs are used, and is otherwise consistent with the intent and purpose of the sign regulations as determined by the Planning Commission.

10.4.1.5.S The Planning Commission shall find that review of the Site Plan for the Planned Unit Development provides safe and convenient vehicular and pedestrian traffic within the site and that the proposed parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. All parking shall comply with the requirements of this Ordinance, except that where the overall integrity of the PUD would be improved with a waiver of parking design standards that do not undermine the intent and purpose of the parking regulations, then the Village Council may grant such waiver, however, the total number of required parking spaces cannot be reduced below that necessary to meet anticipated need.

10.4.1.5.T Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will create a pleasant pedestrian scale outdoor environment. All landscaping shall comply with the requirements of this Ordinance, except that the Village Council may approve different landscaping if a comprehensive landscape plan for the proposed PUD is submitted that would result in a comparable or better design that is also consistent with the intent and purpose of the landscape regulations.

10.4.1.6 *Waiver of planned unit development standards*. The Village Council, following the

PROOFS

recommendation of the Planning Commission, may waive partially or wholly any of the standards for a PUD contained in this Article or other relevant standard in this Ordinance where all of the following findings are documented along with the rationale for the decision:

10.4.1.6.A No substantial public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.

10.4.1.6.B The spirit and intent of the PUD provisions will still be achieved and there will be no increase in density or intensity of use of more than five (5) percent above what is otherwise allowed in this Article, or of mass of buildings or structures, or of traffic that will be generated (beyond the amount that would be permitted without this waiver).

10.4.1.6.C No nuisance will be created.

10.4.1.7 *Requirement of conditions*. The Planning Commission may recommend, and the Village Council may impose, conditions with the approval of a PUD which are necessary to ensure compliance with the standards for approval stated in this Section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the PUD approval and shall conform with the requirements for Conditional Approvals and Performance Guarantees/Bonding in Article 14.

SECTION 10.5. PREVIOUSLY APPROVED PLANNED UNIT DEVELOPMENTS

A PUD approved by the Village of Ontonagon prior to the adoption or amendment of this Ordinance may be amended only through the filing and approval of a new application under this Article. The application shall be considered under the current standards of this Ordinance, rather than the standards in effect at the time of the original approval. If the application is denied, the previously approved PUD shall remain valid even if the underlying district has been changed.

SECTION 10.6. PERMIT DETAILS

10.6.1 *Permit validity*. A Zoning Permit authorizing a PUD (hereafter referred to as a PUD Permit) shall be valid for a period of one (1) year from the date of issuance, unless another, longer, time period is set by the Village Council as a condition of approval. If the use has not commenced by the end of this time period, the permit shall expire automatically without any further action or notice by the Village unless an extension is granted pursuant to Section 14.3.3.2.B.

10.6.2 *Permit revocation*. In the event the Village Council believes the holder of a PUD Permit has failed to comply with one or more of the terms or conditions of the permit or of this Ordinance, the Village Council may schedule a hearing to consider the revocation of the permit. The permit holder shall be given reasonable notice of the hearing date, which shall in any event be not less than fifteen (15) days from the date of the notice. The notice of hearing shall include a written statement of the reasons for the possible revocation. The permit holder shall be allowed to appear at the hearing and to present evidence pertinent to whether the permit should be revoked. If the Village Council decides to revoke the permit, the use for which the permit was granted must cease within sixty (60) days of the hearing date. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this Ordinance.

10.6.3 *Permit transferability*. A PUD Permit may be transferred from one owner of the property to which it is affixed to the next owner of the same property. A PUD permit may not be transferred from one property to another property. A new owner may continue to use the property for the purposes for which the PUD was granted as long as all conditions and terms of the permit are satisfied. Permit transfer is automatic, provided that within sixty (60) days of acquiring ownership the new owner registers his intent to continue the PUD with the Zoning Administrator on a form established for that purpose. The Zoning Administrator shall review with the new owner all the applicable Ordinance requirements that apply to the property and any special conditions imposed upon the PUD when the transfer form is submitted.

10.6.4 *Termination of a PUD if the use changes*. If there is a change in the use of a property for which a PUD was issued, the PUD shall automatically terminate and the property shall only be used for a use permitted in the underlying District in which the property is located. A PUD including a seasonal use is also subject to termination, if the season passes in which the seasonal use would normally occur and a different use is in place instead.

PROOFS

10.6.5 *Recording with register of deeds.* A PUD Permit, or expiration, revocation, or termination of a PUD permit, shall be recorded at the Ontonagon County Register of Deeds.

10.6.6 *Adherence to approved site plan.* Any property owner who fails to develop and maintain an approved PUD according to the approved Site Plan shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties for same.

10.6.7 *Amendments*. Amendments to an approved Site Plan for a PUD shall be processed according to the procedures in Article 14.

10.6.8 *Scheduled phasing*.

10.6.8.1 When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the open space development and the residents of the surrounding area.

10.6.8.2 Each phase of the project shall be commenced within the schedule set forth on the approved Site Plan. One phase must be completed before beginning work on the next unless explicitly authorized during Site Plan approval. If construction of any phase is not commenced within the approved time period, an extension may be granted, following review of a formal request for extension by the developer and approval of same by the Village Council.

No application for a PUD Permit which has been denied, wholly or in part, shall be resubmitted for a period of one (1) year from the date of the denial, except on satisfactory proof of substantially changed conditions, newly discovered evidence, or a falsehood previously relied upon by the Village which, through the exercise of normal diligence, could not have been discovered before the hearing, as determined by the Zoning Administrator. A reapplication shall be processed as a new application.

SECTION 10.7. HARDSHIP PUD (ALTERNATIVE TO USE VARIANCE)

10.7.1 *Intent and purpose.*

It is the intent of this section to provide a site specific administrative remedy to allow reasonable use of property in those limited instances in which a property owner demonstrates to the Village Council that (1) the applicant's property cannot be used for the purposes permitted in the Zoning District, (2) the plight is due to the unique circumstances peculiar to the property and not to the general neighborhood conditions, (3) the proposed development and use would not alter the essential character of the area, and (4) the applicant's problem has not been self-created.

If and when a property owner meets the above four-part threshold burden of proof, it is not intended that any use may then be approved. Rather, this section is intended to authorize administrative relief to the minimum extent necessary to allow reasonable use of property on the particular site, which is compatible to the extent possible with the uses of adjacent properties.

In order to satisfy the finality requirement dictated by the Michigan Supreme Court in Paragon Properties Company v. County of Novi, 452 Mich 568 (1996), a property owner shall not be required to seek variance relief at the Zoning Board of Appeals if relief is sought and denied under this Section.

10.7.2 *Application.*

10.7.2.1 In addition to the information required for other variance requests, an application for a Hardship Planned Unit Development shall include a Site Plan and a summary of the facts which support each of the following conclusions:

10.7.2.1.A Applicant's property cannot be used for the purposes permitted in the Zoning District.

10.7.2.1.B Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.

10.7.2.1.C Applicant's suggested use would not alter the essential character of the area.

PROOFS

10.7.2.1.D Applicant's problem has not been self-created.

10.7.2.2 At the end of each statement (a through d in Subsection 1 above) identify all persons who will appear at the hearing with respect to each of the facts, and, separately, identify all persons who will appear at the hearing relative to the respective conclusion (and if any person is to be offered as an expert witness, include with the application a resume which shows the education and experience of such person within the particular area of expertise).

10.7.3 *Approval procedures.*

10.7.3.1 *Pre-hearing conference*.

10.7.3.1.A Prior to the scheduling of a hearing, the applicant shall contact the Zoning Administrator for the purpose of scheduling a pre-hearing conference. The Zoning Administrator shall determine who should be present at the pre-hearing conference based upon the application submitted, and shall proceed in as expeditious manner as possible after satisfying all the information needs.

10.7.3.1.B The purposes of the pre-hearing conference shall be to:

(1) Review the procedure for the hearing and identify all persons who will appear (directly or through affidavit) and the evidence to be offered on behalf of the applicant.

(2) Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.

(3) Explore a means of providing relief to the applicant by way of non-use variance from the zoning board of appeals.

(4) Discuss the need, desirability, and the terms of providing a verbatim record of the hearing.

10.7.3.2 *Hearing.*

10.7.3.2.A Village staff or representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the Zoning District, and any planning, engineering, financial, environmental, or other considerations which are generally relevant within the Zoning District and/or in the general area of the property at issue.

10.7.3.2.B The applicant shall have the burden of proof. In order to be entitled to relief, the applicant must demonstrate each of the four factors set forth in Section 10.7.2.1, subsections a through d. The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions.

10.7.3.2.C The Village Council may require the presence of any witness who has offered testimony to permit members of the Village Council to ask questions of these witnesses.

10.7.3.2.D At the conclusion of the applicant's presentation, hearing attendees shall be provided with the opportunity to present testimony and evidence in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.

10.7.3.2.E When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of such presentation shall be to ensure that a full picture, including all relevant information, is before the Village Council for consideration as it relates to the specific application presented.

10.7.3.2.F The applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised by interested persons and community representatives, with the same procedure as provided above for the applicant's principle presentation.

10.7.3.2.G If a hearing is not completed at a given meeting within the time period allowed by the Village Council, the Council shall adjourn the hearing to a date certain for continuation.

10.7.3.2.H At the conclusion of the hearing, the Village Council may make its decision at that meeting,

PROOFS

or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.

10.7.3.2.I If the Village Council determines to grant a Hardship Planned Unit Development, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. The motion may include conditions that are authorized by law. A motion to grant a Hardship PUD may be made as a tentative grant of relief, subject to review by the Planning Commission, Zoning Administrator, Village Engineer, or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If a motion authorizing such a tentative grant of relief is made, the Village Council, in the same motion, should request the completion of all reviews by other boards or persons by a specific date, so that relief may be expeditiously finalized.

ARTICLE 11. RESERVED FOR FUTURE USE

ARTICLE 12. RESERVED FOR FUTURE USE

ARTICLE 13. NONCONFORMING LOTS, BUILDINGS, STRUCTURES, AND USES

SECTION 13.1. INTENT & PURPOSE

It is the intent of this Article to permit legal nonconforming lots, structures, or uses to continue until they are removed or terminated, but not to encourage their survival.

SECTION 13.2. APPLICABILITY

13.2.1 Legal Nonconforming: An existing lot, structure, building, sign, development, or use of an existing lot or structure is deemed nonconforming when it fails to conform to one or more of the regulations currently applicable to the zoning district in which the lot, structure, building, sign, development, or use is located, but which was conforming (lawful) prior to the enactment of this Ordinance and became non-conforming on the effective date of adoption of this Ordinance, or an Ordinance text amendment or rezoning.

13.2.2 Legal Nonconforming: The provisions of this Section shall also apply to any existing uses that become nonconforming as a result of zoning district boundary changes.

13.2.3 Illegal Nonconforming: Nonconforming uses of structures or land existing at the effective date of this Ordinance that were established without zoning approval or without a valid building permit, or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance, shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.

13.2.4 Illegal Nonconforming: Lots or parcels which were established after the effective date of this Ordinance and are substandard in area, width, or depth are illegal lots of record and are not entitled to the status and rights accorded legally established nonconforming lots.

SECTION 13.3. ADMINISTRATION

13.3.1 *Nonconforming lots*.

13.3.1.1 In any District permitting residences, a single-family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record that was recorded in the office of the County Register of Deeds before the effective date of this Ordinance, or before an amendment to this Ordinance, which made the lot nonconforming, provided such lots meet the requirements of Sections 13.3.1.2 and 13.3.1.3 below. No use of any nonconforming lot of record which was divided after the effective date of this Ordinance shall be permitted which created a lot with a width, depth, or area less than the requirements stated in this Ordinance.

13.3.1.2 Where two or more vacant nonconforming lots were in common ownership on the effective date of this Ordinance, and have remained in common ownership since then, and were contiguous to one another

PROOFS

alongside lot lines, such lots shall be considered as a single lot of record for purposes of this Ordinance, and no portion of said parcel shall be used in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall they be transferred or sold except in blocks that equal the original ownership interest, or in a combination of lots that meets the minimum requirements of the District in which they are located.

13.3.1.3 Provided that adequate potable water and proper and safe septic or sewerage disposal can be provided, as determined by the District Health Department, the Zoning Administrator shall permit single lots of record or combinations of single lots of record (those in Section 13.3.1.2 above) that are nonconforming because they are substandard in area, width, or depth to be built on without variances provided the requirements for yards, width, depth, and area is no less than seventy-five (75%) percent of that required by the terms of this Ordinance.

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

13.3.2.1 No such structure may be enlarged or altered in a way which increases its nonconformity, but the use of a structure and/or the structure itself may be changed or altered to a use permitted in the District in which it is located, provided that all such changes are also in conformance with the requirements of the District in which it is located.

Furthermore, a nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use and which existed at the time for adoption or amendment of this Article, but no such use shall be extended to occupy any land outside such building.

13.3.2.2 Should such structure be destroyed by any means it shall not be reconstructed except in conformity with the provisions of this Ordinance, unless it is impractical to do so, in which case it shall be rebuilt on not more than the building footprint at the time of destruction.

13.3.2.3 Should such structure be moved for any reason for any distance whatever on the same or a different lot or parcel, it shall thereafter conform to the regulations for the District in which it is located after it is moved.

13.3.2.4 Any structure, or structure and land in combination, in which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the District in which such structure is located and the nonconforming use may not thereafter be resumed.

13.3.3 *Nonconforming uses*. Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued in the same manner and to the same extent as it existed when it became nonconforming, and so long as it remains otherwise lawful, subject to the following provisions:

13.3.3.1 No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land, nor a greater height, than was occupied at the effective date of adoption or amendment of this Ordinance.

13.3.3.2 Except in the case of gravel extraction operations, existing holes may be worked and enlarged on the land which constituted the lot or parcel on which operations were conducted at the time of becoming nonconforming. However, no new holes shall be established unless a Special Use Permit is obtained pursuant to the procedures of Article 14 and the applicable standards of Article 9.3.3.4.

13.3.3.3 No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Article, nor to any other lot or parcel, unless reestablished in conformance with the requirements of this Ordinance.

13.3.4 *Repairs and maintenance*. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty (50) percent of the assessed value

PROOFS

of the building, provided that the cubic content of the building as it existed at the time of passage of this Ordinance or an amendment to it shall not be increased. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

13.3.5 *Change of tenancy or ownership*. A nonconforming building, structure, use, or lot may be sold or a tenant may change with the nonconforming use right intact, provided that the physical dimensions of the nonconforming lot or the use of the nonconforming structure or lot do not result in a change contrary to the requirements of this Article.

13.3.6 *Change of status*. In the event that any nonconforming use of land or use of a structure is occupied at any time during the nonconforming status by a conforming use, the nonconforming status shall discontinue. Any subsequent use shall conform to the uses permitted in the District in which the premises are located. Vacancy of the property alone does not discontinue nonconforming status.

13.3.7 *Elimination of nonconforming uses*. Property owners are strongly encouraged to make changes to their property over time, which bring it into conformance with this Ordinance. The Village may eliminate any and all nonconforming uses it deems necessary to advance the public health and safety interests of the citizens of the Village by whatever means are provided by law in such cases.

ARTICLE 14. ZONING ADMINISTRATION

SECTION 14.1. OVERVIEW, INTENT, AND PURPOSE

This Article sets forth the provisions and the requirements for submittal, review and approval of applications under this Ordinance and for addressing complaints, suspending and revoking permits. These provisions are intended to clearly describe administrative duties and responsibilities, permit procedures and conditions to improve citizen and property owner understanding and to ensure efficiency in the administration of the Ordinance.

SECTION 14.2. DUTIES AND PROCEDURES

The provisions of this Ordinance shall be administered by the Village Council, the Village Planning Commission, Village Zoning Administrator, the Zoning Board of Appeals, and the Village Attorney in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, and the delegation of responsibility assigned by this Ordinance.

14.2.1 *Village council*. The Village Council shall have the primary responsibility for supervision of the administration and enforcement of the Ordinance. In order to carry out this responsibility, the Village Council may adopt and file rules, guidelines, and forms to assist the Zoning Administrator and the Village Planning Commission in administering and enforcing this Ordinance. Until such rules or guidelines are adopted, any existing rules, guidelines, the Zoning Ordinance, and the Michigan Zoning Enabling Act, Public Act 110 of 2006, shall guide the administration of this Ordinance.

14.2.1.1 *Provisions pertaining to village council process*. A majority vote of the entire membership of the Village Council is required to adopt a proposed Ordinance or Ordinance amendment. A 2/3 majority vote of the entire membership of the Village Council is required to approve an amendment to the Ordinance if a qualified protest petition is filed in accordance with provision 125.3403 of the Michigan Zoning Enabling Act Public Act 110 of 2006, as amended.

14.2.1.2 *Provisions pertaining to village council duties*. This Section shall not be construed to diminish the Village Council's authority and duties imposed by other laws or regulations.

14.2.1.2.A *Required duties*. The Village Council shall perform the following duties in relation to this Ordinance:

(1) Shall consider and vote upon the adoption of a zoning ordinance (with or without amendments) or proposed amendments to the zoning text and zoning map.

(2) Grant a hearing on a proposed Ordinance provision to an interested property owner who requests a hearing by certified mail, addressed to the clerk of the Village Council.

(3) Set the amount of permit fees.

PROOFS

(4) Appoint members to the Planning Commission.

(5) Establish the terms of employment and rate of compensation for the Zoning Administrator.

14.2.1.2.B *Optional duties*. The Village Council may perform the following duties in relation to this Ordinance:

(1) Hold additional public hearings.

(2) Refer suggested Ordinance changes back to the Planning Commission for further information or discussion.

(3) Determine compensation for members of the Planning Commission.

(4) Approve the engagement of the services of a planning expert to assist the Planning Commission and pay for those services.

14.2.2 *Planning commission.*

14.2.2.1 *Provisions pertaining to planning commission membership*. The Commission shall consist of five (5) members appointed by the Village President and approved by a majority vote of the Village Council.

14.2.2.1.A *Qualifications*. To be a member and remain a member of the Planning Commission, the individual shall meet the following qualifications:

(1) Shall be a qualified elector of the Village of Ontonagon, except two non-qualified elector(s) may be member(s) of the commission;

(2) Shall meet the conditions provided for each individual member in this section of this Ordinance, except the geographical location of the individual's residency may be considered optional.

(3) An elected officer or employee of the Village of Ontonagon is not eligible to be a member of the Planning Commission, except that the Village Manager, or a person designated by the Village Manager, or the Village President, or one member of the Village Council may be appointed to the Planning Commission as an ex officio member.

(4) An ex-officio member shall not be chair of the Planning Commission.

(5) Within twelve (12) months after an individual's first appointment and before reappointment, members shall attend Planning Commission training as approved by the Village Council.

14.2.2.1.B *Representation*.

(1) The membership shall be representative of the important segments of the community (two or more interests may be combined into one seat), such as the economic, governmental, educational, and social development of Village of Ontonagon, as follows:

a) Agriculture;

b) Natural resources;

c) Recreation;

d) Education;

e) Public health;

f) Government;

g) Transportation;

h) Industry;

i) Commerce;

PROOFS

j) Renewable energy and energy conservation;

(2) The membership shall also be representative of the entire geography of the Village of Ontonagon to the extent practicable, and as a secondary consideration to the representation of the major interests.

(3) The Commission, in its Bylaws, may name "liaisons" to the Commission. The purpose of liaisons is to provide certain Village of Ontonagon officials ability to participate in discussion with the Commission in addition to speaking in public participation, and nothing else. At a minimum liaisons shall include:

a) Village Manager

b) Village Attorney

c) Village of County Department Heads or staff

d) Public Safety Officials

14.2.2.1.C *Appointment and terms.*

(1) Members shall be appointed to three-year terms such that, as nearly as possible, the terms of one-third of all commission members will expire each year.

(2) In January of each year the Village Clerk shall determine which members' terms of office shall expire and the Village Council will make the appropriate appointments. A member shall hold office until his or her successor is appointed.

(3) If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of one-third of all commission members continue to expire each year.

(4) The term of the Ex Officio Member shall coincide with their elected term of office or the term of office of the elected official who appointed them.

14.2.2.1.D *Removal from office*. The Village Council may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Repeated failures to attend Commission meetings shall be considered nonfeasance in office. The Chair of the Planning Commission shall report any member who has missed three (unexcused) regular meetings in a row to the Village Council.

14.2.2.2 *Provisions pertaining to planning commission process.*

14.2.2.2.A *Compensation*. Compensation of Planning Commission members will be at the discretion of the Village Council.

14.2.2.2.B *Meetings*.

(1) The Commission shall meet as necessary but no less than four (4) times annually.

(2) A majority of the Commission shall constitute a quorum for the transaction of the ordinary business of said Commission. All questions which shall arise at their meetings shall be determined by a majority vote of the Planning Commission members. The affirmative vote of two-thirds of the total number of seats for the Commission, regardless of vacancies or absences, shall be necessary for the adoption, or recommendation for adoption, of any plan/ordinance or amendment to a plan/ordinance.

(3) Member(s) shall not be absent for more than three (3) consecutive regular meetings unless excused by the Chairperson. In the case of three consecutive unexcused absences, the Chair of the Planning Commission shall notify the Village Council by letter of the non-compliance with attendance criteria.

The Village Council may recommend the removal of said member from the Planning Commission. In the case of extenuating circumstances such as a serious or

PROOFS

chronic health condition or family illness, the Planning Commission may, by motion and simple majority vote, approve continued absences without removal of the member.

(4) The business that the Planning Commission may perform shall be conducted at a public meeting of the Planning Commission held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275, as amended. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.

(5) A writing prepared, owned, used, in the possession of, or retained by a Planning Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as amended.

14.2.2.2.C *Staff*. Employees that are assigned to work with the Commission shall follow the directives of the Commission in matters of planning and zoning public policy issues, but shall not be subject to Commission directives concerning employment provisions of law, employment policies, employee roster, employee or union contracts, if any.

14.2.2.3 *Provisions pertaining to planning commission duties*. This Section shall not be construed to diminish the Planning Commission's authority and duties imposed by the Michigan Planning Enabling Act, Public Act 33 of 2008, or by other laws or regulations.

14.2.2.3.A *Required duties*. The Planning Commission shall perform the following duties:

(1) Adopt Bylaws for the transaction of business including the election of officers and rules of procedure consistent with the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended.

(2) Elect a chairperson and secretary from its members and create and fill other offices as it considers advisable. The term of office of each officer shall be one year with the opportunity for reelection as specified in the By-Laws.

(3) Keep a public record of its resolutions, transactions, findings, and determinations.

(4) Make an annual written report to the Village Council concerning its operations and the status of planning activities, including administration and enforcement of the Ordinance and recommendations for amendments or supplements to the Ordinance.

(5) Prepare forms, rules, procedures, and guidelines for the proper administration and enforcement of the Ordinance which are to be forwarded to the Village Council for action prior to implementation.

(6) Conduct public hearings on matters requiring a public hearing, or which in the Planning Commission's discretion warrant a public hearing, prior to action.

(7) Shall make and approve a master plan as a guide for development within the Village, or areas outside the Village boundaries that in the Planning Commission's judgment are related to the planning of the Village as provided for in the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended.

(8) Make a comprehensive review and recommend changes to the Master Plan and/or Zoning Ordinance as deemed necessary but at least once every five (5) years.

(9) Annually prepare a capital improvements program of public structures and improvements subject to approval by the Village Council.

(10) Review and take appropriate action on all proposed public improvements.

(11) Review and take appropriate action on all applications for zoning text change, rezoning, conditional rezoning, special land use permits, subdivision plats, and PUD permits.

(12) Review and advise the Village Council on all applications for amendments to the Ordinance and on any amendments proposed by the Planning Commission.

PROOFS

(13) Advise and make recommendations to the Village Council concerning future amendments, changes, additions, or departures from the Ordinance.

(14) Review and make recommendations on plats before action by the Village Council under section 112 of the Land Division Act, 1967 PS 288, MCL 560.105, as amended.

14.2.2.3.B *Optional duties*. The Planning Commission may perform the following duties:

(1) May hold additional public hearings.

(2) May prepare and adopt functional plans or subplans for portions of the community.

(3) After preparing the annual report, may prepare a detailed Planning Commission budget and submit the budget to the Village Council for approval or disapproval.

(4) May appoint advisory committees whose members are not members of the Planning Commission.

(5) May recommend to the Village Council provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the Land Division Act, 1967 PS 288, MCL 560.105, as amended.

(6) May engage the services of a planning expert subject to approval by the Village Council.

14.2.3 *Zoning administrator*.

14.2.3.1 *Provisions pertaining to zoning administrator employment*. The Village Council shall employ a Zoning Administrator (who may be the Village Manager) to act as its officer to effect the proper and consistent administration and enforcement of this Ordinance. The terms of employment and rate of compensation shall be established by the Village Council.

14.2.3.2 *Provisions pertaining to zoning administrator process*.

14.2.3.2.A *Training*. Each Zoning Administrator shall successfully complete training on the roles and responsibilities of the office and how to perform all basic tasks within twelve (12) months of appointment as Zoning Administrator.

14.2.3.2.B *Relief from personal responsibility*. The Zoning Administrator, officer or employee charged with the enforcement of this Ordinance, while lawfully acting for the Village, shall not thereby render himself or herself liable personally, and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any lawful act required or permitted in the discharge of his or her official duties. Any suit instituted against the Zoning Administrator, or any officer or employee acting on behalf of the office of the Zoning Administrator, because of a lawful act performed by the employee in the lawful discharge of his or her duties and under the provisions of the Ordinance shall be defended by the Village Attorney, or other legal representative of the Village, until the final termination of the proceedings. In no case shall the Zoning Administrator or any of his or her subordinates be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of the Ordinance; and the Zoning Administrator, any officer or employee acting on behalf of the Zoning Administrator acting in good faith and without malice, shall be free from liability for lawful acts performed under any of its provisions or by reason of any act or omission in the lawful performance of his or her official duties in connection herewith.

14.2.3.3 *Provisions pertaining to zoning administrator duties.* It shall be the responsibility of the Zoning Administrator and his or her employees to be thoroughly versed in the provisions of this Ordinance and to enforce the provisions of this Ordinance. The Zoning Administrator shall have all administrative powers in connection with the administration of the Ordinance, which are not specifically assigned to some other officer or body. The Zoning Administrator or his or her deputized agents shall have the power of a police officer, whose jurisdiction is the enforcement of the Ordinance. The Zoning Administrator shall have no power to vary or waive Ordinance requirements.

PROOFS

14.2.3.3.A Required duties. The Zoning Administrator shall, among other responsibilities, be empowered to perform the following duties:

(1) Attend Meetings: The Zoning Administrator shall attend Planning Commission, Zoning Board of Appeals, and such other meetings related to administration of this Ordinance as necessary or when requested.

(2) Assist citizens: Help citizens determine what zoning forms and procedures apply to proposed zoning requests and land use changes, and aid them in completing required permit application forms. Help citizens with an alternate procedure if the request is not in compliance.

(3) Review Applications: Receive and review all permit application forms to determine level of completion and level of compliance with the provisions of the Ordinance.

(4) Reports and Recommendations: Review all requests for administrative or legislative action and forward an analysis of site factors and other information pertaining to the request to the appropriate body. The analysis may include a recommendation for action.

(5) Issue Permits: For permits requiring only administrative approval, the Zoning Administrator shall be authorized to issue the appropriate Zoning Permits provided the request complies with all applicable provisions of this Ordinance. The issuance of permits includes the authority to impose any condition authorized by this Ordinance. For permits requiring Planning Commission approval, the Zoning Administrator shall refer all complete applications to that body for review.

(6) File Applications: The Zoning Administrator shall maintain files of all applications for zoning approval and for all Certificates of Zoning Compliance and shall keep records of all permit approvals and denials. Such files and records shall be open to public inspection. Copies shall be furnished upon request at a cost established by the Village Council.

(7) Inspections: The Zoning Administrator, or authorized deputy, shall make as many inspections of buildings or premises as necessary in order to properly carry out the enforcement of this Ordinance or any permit, approval, or condition of a permit or approval, or order under this Ordinance. At a minimum the property shall be inspected upon staking for any building, and prior to occupancy.

(8) Non-Conforming Uses: The Zoning Administrator shall identify, monitor, and control changes in nonconforming uses.

(9) Enforce the Zoning Ordinance: The Zoning Administrator shall be the principle Ordinance enforcement officer. He/she shall ensure conformance with issued permits, investigate alleged Ordinance violations, including the conditions of permits or approvals, issue tickets and violation notices, appear in court or other jurisdictional proceedings, and undertake such other enforcement activities as may be delegated by the Village Council or Village Planning Commission. Other individuals may be hired for this purpose, or the task may be delegated to others who work under the supervision of the Zoning Administrator. Once a case is shifted to the Village Attorney or other legal representative retained for such purpose, the Zoning Administrator and Village Attorney or other legal representative shall share enforcement responsibility.

(10) Investigate Violations: The Zoning Administrator shall issue violation notices and appearance summons, and work with the Village Attorney to seek the issuance of warrants for the arrest of alleged violators, or to enforce appropriate civil action for violation.

(11) Record of Complaints: Keep a record of every complaint of a violation of any of the provisions of this Ordinance as a public record.

PROOFS

(12) Report to Village Council: On behalf of the Planning Commission, the Zoning Administrator shall report to the Village Council periodically; and once a year, shall summarize for the period since the last previous report, the number of requests for zoning approval or enforcement, including the number of requests approved, approved with conditions, and denied, by type of request, including, zoning text changes, rezonings, conditional rezonings, zoning permits, conditional land use permits, special land use permits, PUD permits, all minor design modifications, administrative waivers, all complaints of violations, all interpretations made, and appeals and variances granted by the Zoning Board of Appeals. The Zoning Administrator shall include any recommendations regarding zoning changes or proposed amendments which would improve the content and/or enforcement of the Zoning Ordinance.

(13) Prepare Record of Decisions: The Zoning Administrator shall establish notebooks or other records for listing each decision, waiver, interpretation, or enforcement action made under this Ordinance. This record shall be organized for easy reference by date and decision to help ensure consistency of future decisions.

(14) Prepare Forms, Manuals and Guidelines: The Zoning Administrator with the assistance of the Planning Commission shall periodically prepare or update forms, procedure manuals, and guidelines for the smooth administration of the Zoning Ordinance. All such forms, manuals and guidelines shall be reviewed and approved by the Planning Commission and approved by the Village Council. A form, procedure or guideline may be implemented by the Zoning Administrator for not more than sixty (60) days after being established without Planning Commission or Village Council approval.

14.2.4 *Zoning board of appeals.* It is the intent that all questions of interpretation and enforcement of the Ordinance shall first be presented to the Zoning Administrator, and that such questions shall be presented to the Zoning Board of Appeals (also known as the Board of Appeals or ZBA) only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the ZBA shall be to the Circuit Court as provided by law. However, questions of interpretation of permitted uses within districts will be reviewed by the Zoning Board of Appeals. The Zoning Board of Appeals shall perform its duties and exercise its powers so that the health, safety and welfare of the public may be secured; and that substantial justice be done.

14.2.4.1 *Provisions pertaining to zoning board of appeals membership*.

14.2.4.1.A *Membership*.

(1) The seven (7) members of the Village Council shall serve as the Zoning Board of Appeals for the Village of Ontonagon.

(2) There shall also be an alternate member, selected from the electors of the Village of Ontonagon and residing within the zoning jurisdiction of the Village, serving the same term as regular members.

14.2.4.1.B *Terms*. The term of the members of the Zoning Board of Appeals shall coincide with their elected term of office.

14.2.4.2 *Provisions pertaining to zoning board of appeals process*.

14.2.4.2.A *Officers.* The Board of Appeals shall select a Chairperson and a Vice-Chairperson from among the membership.

14.2.4.2.B *Alternate members*. An alternate member may be called to serve as a member of the Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the Board of Appeals has the same voting rights as a regular member.

PROOFS

14.2.4.2.C *Attendance*. Since regular attendance is required for optimal function of the Board of Appeals, members of the Board are appointed subject to the following attendance criteria:

(1) Member(s) shall be expected to notify the Chairperson or his/her designee of his/her expected absence prior to a meeting. For an alternate to be called, the regular member must notify the Chair of the ZBA two weeks prior to the meeting which he/she cannot attend. The secretary shall request that an alternate member attend the meeting.

(2) Member(s), unless excused by the Chair, shall not be absent for more than two (2) consecutive meetings, irrespective of calendar year.

(3) The Board of Appeals secretary shall be responsible to report the non-compliance of attendance criteria of any Board of Appeals member to the Chair.

(4) The Chair of the Board of Appeals shall notify the entire Village Council (ZBA) in writing of any non-compliance with attendance criteria, including recommended action.

(5) Under extenuating circumstances, such as a serious or chronic health condition, or family illness, the Board of Appeals may, by motion and majority vote, defer the action specified above. Said member is exempt from voting privileges in the action.

14.2.4.2.D *Meetings*. Meetings of the Board of Appeals shall be held at the call of the Chair, and at other times as the Board in its rules of procedure may specify. There shall be a fixed place for each meeting, and all meetings shall be open to the public.

14.2.4.2.E *Conducting business*. A Zoning Board of Appeals shall not conduct business unless a majority of the regular members are present.

14.2.4.2.F *Voting*.

(1) All members of the Board of Appeals present at a meeting shall vote on every matter unless a member of the Board has a conflict of interest. A member of the Board of Appeals shall abstain from a vote in which the member has a conflict of interest, and the member shall state the nature of the conflict of interest prior to participating in a hearing on the matter.

(2) The concurring vote of a majority of all the members of the Board of Appeals shall be necessary to reverse an order, requirement, decision or determination of the administrative official or body, or to decide in favor of the applicant on a matter upon which they are required to pass under the Zoning Ordinance, or to grant a variance in the Zoning Ordinance.

(3) A member of the Zoning Board of Appeals who is also a member of the Planning Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission. However, the member may consider and vote on other unrelated matters involving the same property.

14.2.4.2.G *Keeping of records*.

(1) Minutes of all meetings shall be recorded and shall contain the grounds of every determination made by the Board of Appeals including all evidence and data considered, all findings of fact and conclusions drawn by the Board for every case together with the votes of the members and final disposition of each case. Such minutes shall be filed in the Office of the Zoning Administrator, and shall be available to the public. The record of proceedings shall be contained in a file with the following information:

a. The application (for a permit, variance, interpretation, exception).

b. Any reports, plans, surveys, or photos.

c. Notice of Public Hearing to affected parties in newspaper.

PROOFS

d. Letter from Zoning Administrator granting or denying the application or referring it to the Board of Appeals and all other relevant records related to the case.

e. Affidavit of publication of Notice of Hearing.

f. Record of testimony heard and evidence presented.

g. A copy of the zoning Article(s) and Section(s) in question.

h. Briefs, correspondence or other communications made to or from the Board of Appeals, including any from the Village Attorney or other attorneys.

i. Statement of facts found by Board of its knowledge regarding the request including any information gained from personal inspection.

j. Decision of the Board as specifically related to the Findings of Fact.

k. A copy of any other correspondence to the appellant regarding the request.

(2) At its discretion, the Board of Appeals may file its decision relative to a particular property with the Register of Deeds to run as a permanent record with the property which was the subject of the decision by the Board of Appeals.

14.2.4.2.H *Removal from office and conflict of interest.*

(1) Members of the Board of Appeals shall be removable by the Village Council for nonfeasance, including nonperformance of duty, or misfeasance, including misconduct in office, or for malfeasance upon written charges and after public hearing.

(2) A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so shall constitute malfeasance in office. A conflict of interest may include, but is not limited to considering property or adjoining property a Board of Appeals member owns or has a legal or financial interest in, or considering a request by a party with whom a Board member has close ties, such a family member, relative or close friend.

14.2.4.3 *Scope of powers zoning board of appeals*. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made, and to that end, shall have all the powers of the office or body from whom the appeal was taken, but no more. The Board of Appeals may issue or direct the issuance of a permit if, following a review of the facts, the relevant Ordinance requirements, and the prior decision of the Zoning Administrator or Planning Commission, the Board of Appeals concludes the Ordinance requirements were not properly applied. The Board of Appeals shall have the power to make final determinations, within its jurisdiction and duties herein prescribed, in such a way that the objectives of this Ordinance may be equitably achieved in order that there shall be uniform interpretation and flexibility in the enforcement of this Ordinance or to fulfill any other responsibilities bestowed upon the Board of Appeals by this Ordinance. At the same time, the Board of Appeals shall be aware that this responsibility does not extend to creating regulations, only to applying regulations, which is a narrow quasi-judicial responsibility, and not a legislative one. The power to adopt land use regulations rests solely with the Village Council, per the appropriate process. For example, the Board of Appeals shall not have the power (except within their capacity as Village Council members) to alter or change the zoning district classification of any property or to authorize any use of land not expressly permitted in the district, nor to make any change in the terms or intent of this Ordinance; these powers are reserved to the Village Council.

14.2.4.4 *Provisions pertaining to zoning board of appeals duties.*

14.2.4.4.A Required duties. The Zoning Board of Appeals shall perform the following duties:

PROOFS

(1) Adopt rules of procedure or Bylaws to govern its procedures on such matters as officers, voting, conduct of meetings, and related matters as it may consider necessary or advisable.

(2) Choose a Chair person, and in his or her absence, an Acting Chair person who may administer oaths and compel the attendance of witnesses.

(3) Maintain a record of its proceedings which shall be filed in the office of the Village Clerk.

(4) Hear and decide on matters referred to the Board of Appeals or upon which the Board of Appeals has been given authority under this Ordinance.

(5) Hear and decide appeals from and review any administrative order, requirement, decision, or determination made by the Zoning Administrator or Planning Commission in enforcing this Ordinance where it is alleged there is error made in the enforcement of the Ordinance.

(6) Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance.

(7) The Board of Appeals shall have the power to make "Lot of Record" determinations in accordance with procedures detailed in Article 14.

(8) Review Site Plan Review appeals per procedures detailed in Article 14.

(9) The Board of Appeals shall have the power to permit the erection and use of a building, or an addition to an existing building, or a public service corporation for essential services, in any permitted district to a greater height or of larger or smaller area than the district requirements herein established, and permit the location in any use district of a public utility building, structure, or use if the Board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service. The Board of Appeals may also impose setbacks, specify the location or character of fences, buffering or landscaping requirements as a condition of approval pursuant to standards in this Ordinance as may be reasonably necessary to protect abutting property from the potential nuisance effects of such essential services.

(10) The Board of Appeals may retain legal counsel for any purpose deemed necessary provided that such appointment or retainer shall be approved in advance by the Village Council.

14.2.4.5 *Provisions pertaining to the appeals procedure*. The Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provisions of this Ordinance. An appeal may be taken by a person aggrieved, or by an officer, department, board, or bureau of the State of Michigan or the Village of Ontonagon. In addition, a variance in the Zoning Ordinance may be applied for and granted under section 4 of the Uniform Condemnation Procedures Act, 1980 PA 87, MCL 213.54, and as provided under the Michigan Zoning Enabling Act, 2006 PA 110. The procedure for appealing to the Zoning Board of Appeals, or requesting a variance, ordinance interpretation, or filing any other request is as follows:

14.2.4.5.A *General appeals procedures*.

(1) The appeal shall be taken within such time as prescribed by this Ordinance or the Rules of Procedure of the Zoning Board of Appeals.

(2) A fee, prescribed by the Village Council, shall be submitted to the Zoning Administrator at the time of the filing of the application form, before an appeal is processed.

PROOFS

(3) The person, firm, agent, or attorney representing the appellant shall file an appeal by completing and signing the application form provided by the Zoning Administrator. The application shall state the grounds for the appeal and the order or ruling appealed from. When applicable, the legal description of the property involved shall be stated in the notice of appeal.

(4) All persons not licensed to practice law in the State of Michigan shall file a written statement signed by the principle stating the agent's right to act upon their behalf.

(5) An application that does not fully comply with the submittal requirements shall be returned to the applicant.

(6) Upon determining that an application is in compliance, the Zoning Administrator shall transmit the application and all papers constituting the record from which the appeal was taken to the Zoning Board of Appeals Secretary.

(7) An appeal to the Zoning Board of Appeals stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies (after the notice of appeal is filed) that, by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life and property, proceedings may be stayed only by a restraining order issued by the Board of Appeals or a circuit court.

(8) A public hearing shall be held on each action that is brought before the ZBA. When a properly executed application form has been filed, the secretary of the Zoning Board of Appeals, upon consultation with the chair person for the Zoning Board of Appeals, shall schedule the matter for a public hearing and give notice as follows:

a. If the appeal is not regarding a specific parcel of property, notice of the hearing shall be published in a newspaper of general circulation in Ontonagon not less than 15 days before the date of the hearing.

b. If the appeal regards a specific piece of property, notice shall be given to the owners of property that is the subject of the request, and also to all persons to whom real property is assessed within three-hundred (300) feet of the property that is the subject of the request, and to the occupants of all structures within three hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. (Notice shall go to one occupant per structure, or if it is a multi-unit structure, one occupant per unit, unless the structure has over four dwellings units, then notice shall be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance).

c. Notice shall include the nature of the request, identification of the property that is the subject of the request, listing of all street addresses within the property or other identification, place and time of the hearing, where and when written comments will be received.

d. When a variance request is made for any property located in a designated High Risk Erosion Area, designated Sand Dune, wetland documented by the DNR, or within a one-hundred (100) year floodplain, the Michigan Department of Natural Resources shall also receive notice.

(9) Any interested party may appear and be heard at such hearing in person or by agent or attorney. The applicant shall have the burden of presenting to the Board sufficient evidence and argument to justify the requested order or decision. If an applicant fails to appear at the hearing, in person or through an agent or attorney, the Board of Appeals shall conduct the hearing and issue its decision based on the information available at the hearing.

PROOFS

(10) Upon the date for hearing any application or appeal, the Board of Appeals may adjourn the hearing in order to obtain additional information, or to cause service of such further notice as it deems proper. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the resumption of the hearing, provided the hearing is continued within thirty-six (36) hours, pursuant to Section 15.265(5) of the Open Meetings Act, Public Act 276 of 1976.

(11) Once all the necessary information has been received, the Board of Appeals shall return a decision on a case in a timely manner, or if time frames are included within its rules of procedure, then within the time specified in the rules of procedure. The Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit. The Board of Appeals shall grant no variance or make any determination on an appeal, Ordinance interpretation, or other issue requested of it unless the Board records specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards imposed by the requirements of this Ordinance have been met.

(12) No rehearing on an application denied by the Board of Appeals shall be conducted except upon the grounds of newly discovered evidence or a falsehood previously relied upon by the Board of Appeal, which, through the exercise of normal diligence, could not have been discovered before the hearing, as determined by the Zoning Administrator. A rehearing shall be processed in the same manner as the original application and a new fee shall be paid. A request for rehearing shall be made within eight (8) days of the decision of the Board of Appeals.

(13) No decision of the Zoning Board of Appeals shall be presumed final until after eight (8) days following the meeting at which the decision was made. No Zoning Permit shall be issued by the Zoning Administrator based on a decision of the Board of Appeals before eight (8) days have expired.

(14) The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the Ontonagon County Circuit Court within thirty (30) days of the decision. The Circuit Court shall review the record and decision to ensure that the decision meets all of the following requirements:

a. Complies with the constitution and laws of the State.

b. Is based on proper procedure.

c. Is supported by competent, material, and substantial evidence on the record.

d. Represents the reasonable exercise of discretion granted by law to the Board of Appeals.

(15) If the court finds the record inadequate make the review required by this section, or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

14.2.4.5.B *Specific appeals procedures*.

(1) *Procedures for interpretations*. The Zoning Board of Appeals shall:

a. Determine the precise location of the boundary lines between zoning districts when there is confusion or a dispute concerning the Zoning Map.

PROOFS

b. Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. The classification of the unmentioned use does not automatically permit the use, it only identifies the district in which it may be located and the zoning regulations with which it must conform.

c. Determine the signage, landscaping, buffering, off-street parking and loading space requirements of any use not specifically mentioned in this Ordinance, by applying the most comparable provisions for other similar uses.

d. When making an interpretation, the Board of Appeals shall carefully consider the definitions in Article 15, the meaning of all the relevant sections in the Ordinance, past decisions of the Board of Appeals on similar matters, research and any conclusions by the Zoning Administrator, consultant, Village Attorney, or outside attorney hired by the Village, and shall make a decision on the narrowest grounds feasible so as not to upset the meaning and application of this Ordinance.

(2) *Determination of a lot of record.*

a. Upon application of any person claiming to be the owner of the legal or equitable title to a parcel of land which was the subject to a deed or land contract, not recorded in the Office of the Register of Deeds on the effective date of this Ordinance, the Board of Appeals is authorized to conduct a hearing to determine whether a variance should be granted to such owner entitling him to have the parcel treated as a "lot of record" as defined in Article 15 of this Ordinance.

b. The Board shall grant said variance when it finds by a preponderance of the evidence that the instrument purporting to transfer title to the parcel of said owner was executed prior to the effective date of this Ordinance. In making its determination, the Board is authorized to consider all matters it deems relevant, including but not limited to, the tax roll of the Village, the relationship of the parties to the purported transfer, the degree of formality of the purported document of transfer, and the testimony of the applicant and his or her witnesses.

c. Such a determination shall have only the effect of equating such an owner with the owner of a lot of record and shall not relieve such owner from complying with the other requirements set forth in this Ordinance.

(3) *Granting variances*. If there are practical difficulties for nonuse variances or unnecessary hardship for use variances in the way of carrying out the strict letter of the Ordinance, as provided in the Michigan Zoning Enabling Act, 2006 PA 110, the Board of Appeals may grant a variance so that the spirit of the Ordinance is observed, public safety secured, and substantial justice done. The following rules shall be applied in the granting of a variance:

a. In granting a variance, the Board of Appeals may impose specific conditions as are reasonably necessary for the furtherance of the intent and spirit of this Ordinance. The Board of Appeals shall specify, in writing, such conditions regarding the character, location, and other features which will, in its judgment, ensure the protection of the public interest and abutting properties, provided there is an applicable standard in this Ordinance to serve as the basis for such condition. The breach of such condition shall automatically invalidate the permit granted. To ensure compliance with such conditions, the Board of Appeals may require a cash deposit, certified check, irrevocable

PROOFS

bank letter of credit, or surety bond per the requirements of Section 14.3.3.1. The Board may also require as a condition of approval that its decision be recorded with the Ontonagon County Register of Deeds.

b. Each variance granted under the provisions of this Ordinance shall become null and void unless the construction authorized has been commenced within one (1) year after the hearing date when the variance was granted.

c. The Board of Appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to the dimensional requirements of the Ordinance or to any other nonuse-related standard in the Ordinance, provided the applicant has proven a practical difficulty by demonstrating as follows:

   1. That strict compliance with the Ordinance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such restrictions unnecessarily burdensome;
   2. That the problem is due to a unique circumstance of the property;
   3. That the specific conditions relating to the property are not so general or recurrent in nature, in the zoning district, so as to require an amendment to this Ordinance, instead of a variance;
   4. The property problem was not created by the action of the applicant;
   5. That the granting of the variance will not cause a substantial adverse effect upon property values in the immediate vicinity, or in the district in which the property of the applicant is located;
   6. That granting of the variance will not increase the hazard from fire, flood, or similar dangers, or increase traffic congestion;
   7. That the requested variance will relate only to the property under the control of the applicant;
   8. That the non-conforming dimensions of other lands, structures, or buildings in the same zoning district shall not be considered grounds for the issuance of a variance;
   9. That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located;
   10. That the proposed use of the premises is in accord with this Ordinance;
   11. That the variance would do substantial justice to the applicant as well as to other property owners in the district;
   12. That the granting of the variance will ensure that the spirit, intent and purpose of the Ordinance is observed, public safety secured and substantial justice applied;
   13. That the requested variance shall not amend the permitted uses of the zoning district in which it is located.

d. The proper procedure for an individual desiring a use variance is to file an application for amendment of the text of this Ordinance or the Zoning Map pursuant to Section 14.7.4. A use variance shall only be granted under exceptional circumstances where the current zoning district is clearly unreasonable as applied to a specific parcel. The Board of Appeals shall have the authority to grant use variances provided the applicant has proven an

PROOFS

unnecessary hardship exists that can only be resolved by grant of a use variance and that:

1. The property in question cannot be put to a reasonable use if permitted to be used only for uses allowed in the district in which it is located;
2. The plight of the owner is due to unique circumstances peculiar to the property and not to general neighborhood conditions;
3. The use variance, if granted, would not alter the essential character of the area;
4. The problem is not created by the appellant.
5. Two-thirds vote of the members of the Zoning Board of Appeals is necessary to approve a use variance based on unnecessary hardship.

(4) *Site plan review, special land use, and PUD appeals.*

a. Any applicant for Site Plan Review that feels aggrieved by the decision of the Zoning Administrator or Planning Commission may appeal the decision to the Zoning Board of Appeals within twenty-one (21) calendar days of receipt of the decision.

b. The Zoning Board of Appeals shall review the decision of the Zoning Administrator or Planning Commission to ensure that it is consistent with the standards contained in this Ordinance and rules established by agencies responsible for site plan review.

c. The Zoning Board of Appeals shall give written justification for their decision.

d. The Zoning Board of Appeals may not grant a variance to any element of a site plan unless an application for a variance has been filed; any such variance request shall be reviewed relative to the requirements of this Article and the variance standards.

e. An applicant for a Special Land Use or Planned Unit Development may not appeal a decision to approve, approve with conditions, or deny the decision thereon to the Board of Appeals. Such an appeal may only be taken to Circuit Court. The determination on the number of permitted lots, dwelling units, or building sites in a PUD pursuant to Article 10 may be appealed to the Zoning Board of Appeals pursuant to the procedures in this Article.

14.2.5 *Secretary*. There shall be a Secretary on the Planning Commission and Zoning Board of Appeals for the purposes of preparing a public record of minutes, resolutions, transactions, findings and determinations. The Secretary may perform other duties related to the conduct of the Planning Commission or Board of Appeals business as may be required from time to time by the officers of the Planning Commission or Board of Appeals, provided the Secretary of the respective Commission and Board is solely responsible for the accuracy of such duties, and all documents prepared by the recording secretary shall be signed by the official secretary of the Planning Commission or official secretary of the Board of Appeals. The Secretary shall be a member of the Planning Commission or Zoning Board of Appeals unless the Village Council authorizes funds to hire a recording secretary, if the task is not delegated to a Village employee. The Village Clerk shall maintain one official copy of a current Zoning Ordinance and Zoning District Map.

SECTION 14.3. GENERAL PERMIT, REVIEW & APPROVAL PROCEDURES

14.3.1 *Types of permits*. No clearing, grading, excavation, or filling of land for a building or structure shall be commenced; no erection, addition to, alteration of, or moving of any building or structure shall be undertaken, nor shall any land be changed to a different use under this Ordinance, nor to any different use group under the Stille-

PROOFS

DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, being MCL 125.1501, et seq., except in accordance with and pursuant to one of the following permits or approvals.

14.3.1.1 *Certificate of zoning compliance*. A Certificate of Zoning Compliance is a document signed by the Zoning Administrator acknowledging that, after having completed the appropriate review and approval process, and been approved for all other applicable permits, a use, structure, building, or lot either complies with or is legally nonconforming to the provisions of this Ordinance, or is an authorized variance or modification. A Certificate of Zoning Compliance shall be issued before either a Building Permit or Occupancy Permit shall be issued. The Zoning Administrator shall perform inspections prior to issuance of a Certificate of Zoning Compliance, and at such other times as is necessary to ensure conformance with this Ordinance and the conditions of any permit or approval until an Occupancy Permit is issued. A Temporary Certificate of Zoning Compliance may be issued for temporary buildings, structures, and uses that conform with requirements.

14.3.1.2 *Conditional land use permit*. A Conditional Land Use Permit is the documented evidence of authority that a proposed Conditional Land Use has gone through the proper Tier 2 application (Section 14.3.2.2.C) and review (Section 14.3.4.5) procedures and can be commenced subject to compliance with all the terms and conditions contained in the permit in conformance with Section 14.5.6 and Article 9 of the Ordinance after having subsequently been issued a Certificate of Zoning Compliance and a Building Permit.

14.3.1.3 *Special land use permit*. A Special Land Use Permit is the documented evidence of authority that a proposed Special Land Use has gone through the proper Tier 3 application (Section 14.3.2.2.D) and review (Section 14.3.4.6) procedures and can be commenced subject to compliance with all the terms and conditions contained in the permit in conformance with Section 14.5.6 and Article 9 of the Ordinance after having subsequently been issued a Certificate of Zoning Compliance and a Building Permit.

14.3.1.4 *PUD approval*. A PUD approval is the documented evidence of authority that a proposed Planned Unit Development has undergone the proper review per Article 10 and Tier 3 review procedures and can be commenced subject to compliance with all the terms and conditions contained in the approval in conformance with the appropriate sections of the Ordinance after having subsequently been issued a Certificate of Zoning Compliance and a Building Permit.

14.3.1.5 *Building permit*. No building permit shall be issued without first having obtained a Certificate of Zoning Compliance and all other applicable permits. All building permits shall indicate by the signature of the Zoning Administrator that required zoning compliance has been verified. If such verification is not present, the building permit shall not be valid and no construction activity may commence.

14.3.1.6 *Certificate of occupancy*. The Certificate of Occupancy is a document allowing the occupancy or use of a building or structure after certification that the building/structure has been constructed and will be used in compliance with all applicable municipal codes and ordinances. All Certificates of Occupancy shall indicate by the signature of the Zoning Administrator that required zoning compliance has been verified. If such verification is not present, the Certificate of Occupancy shall not be valid and no occupancy may commence.

14.3.2 *Application process*. The general provisions of this section shall apply to all applications for development approval and procedures under this Ordinance, unless otherwise stated. The application requirements specific to Planned Unit Developments are found in Article 10. Petition requirements related to zoning text amendments, rezoning, zoning map changes, and conditional rezoning are found in Section 14.7. Application requirements related to variances, appeals, and ordinance interpretations are found in Article 14.

14.3.2.1 *Authority to file applications*. Applications shall be submitted to the Zoning Administrator by the owner, or any other person having a recognized interest in the land for which the development is proposed, or their authorized agent.

14.3.2.1.A *Applicant is not owner*. If the applicant is not the owner of the land, or is a contract purchaser of the land, a letter signed by the owner consenting to the submission of the application shall be submitted.

PROOFS

14.3.2.1.B *Applicant is not sole owner*. If the applicant is not the sole owner of the land, a letter signed by the other owners or an association representing the owners consenting to or joining in the application shall be submitted.

14.3.2.2 *Application contents*. Applications required under the Ordinance shall be submitted on forms approved by the Planning Commission. The application shall also include all other supporting documents as required under this Ordinance, such as site plans. Waivers of information requirements may be granted upon a written finding that the information is not necessary to achieve the purpose and intent of the site plan review requirements specifically and the Ordinance standards generally, and that public health, safety, and general welfare will not be compromised by a waiver. All waivers shall be recorded in a log maintained by the Zoning Administrator listing the applicant, application number, and the information waived.

14.3.2.2.A *Submission requirements for a pre-application conference (preliminary sketches).* Preliminary sketches of proposed site plans may be submitted for review in a pre-application conference with the Zoning Administrator or the Planning Commission prior to submission of Tier 1, Tier 2, or Tier 3 applications for final approval. Submission of preliminary sketch plans shall be made no later than six (6) days prior to the meeting at which the pre-application conference is scheduled to take place. The Zoning Administrator shall determine the number of plans to be submitted. Sketch plans should include, at minimum, the requirements as identified in Table 14-1, Required Elements for Site Plan Completeness.

14.3.2.2.B *Submission requirements for tier 1 review (applications not requiring site plan review).* All applications for a Certificate of Zoning Compliance shall require the following minimum submissions, unless waived by the Zoning Administrator:

(1) A fully completed Zoning Permit application on a form supplied by the Zoning Administrator.

(2) A basic site plan, satisfying the requirements of Tier 1 review as shown in Table 14-1, Required Elements for Site Plan Completeness, and any other information deemed necessary by the Zoning Administrator to properly administer the Ordinance (unless a waiver is granted by the Zoning Administrator for the number of copies or required information). The Zoning Administrator will determine the number of required copies of the basic site plan.

(3) A list of any permits that will be required for the development or use from federal, state, county, or local agencies.

(4) A copy of the deed or proof of equitable title for any new principle or accessory structure on any non-platted parcel in order to assure compliance with dimensional requirements of the Ordinance, to protect easements from encroachment, and to assure conformance with the Land Division Act, Public Act 288 of 1967, as amended. The Zoning Administrator may examine electronic copies of recorded deeds to meet this requirement.

14.3.2.2.C *Submission requirements for tier 2 review (conditional land use permits).* All applications for a Conditional Land Use Permit shall require the following minimum submissions, unless waived by the Zoning Administrator:

(1) A fully completed Conditional Land Use Permit application on a form supplied by the Zoning Administrator.

(2) Twelve (12) copies of a minor site plan, satisfying the requirements of Tier 2 review as shown in Table 14-1, Required Elements for Site Plan Completeness, and any other information deemed necessary by the Zoning Administrator to properly administer this Ordinance (unless a waiver is granted by the Zoning Administrator for the number of copies or required information).

(3) A list of any permits that will be required for the development or use from federal, state, county, or local agencies.

PROOFS

(4) A copy of the deed or proof of equitable title for any new principle or accessory structure on any non-platted parcel in order to assure compliance with dimensional requirements of this Ordinance, to protect easements from encroachment, and to assure conformance with the Land Division Act, Public Act 288 of 1967, as amended. The Zoning Administrator may examine electronic copies of recorded deeds to meet this requirement.

(5) A statement of compliance with the standards required for approval in Section 14.5.6 and other standards imposed by Article 9 and other sections of this Ordinance affecting the conditional land use under consideration.

14.3.2.2.D *Submission requirements for tier 3 review (special land use permits).* All applications for a Special Land Use Permit shall require the following minimum submissions, unless waived by the Zoning Administrator:

(1) A fully completed Special Land Use Permit application on a form supplied by the Zoning Administrator.

(2) Twelve (12) copies of a Major Site Plan, satisfying the requirements of Tier 3 review as shown in Table 14-1, Required Elements for Site Plan Completeness, and any other information deemed necessary by the Zoning Administrator to properly administer this Ordinance (unless a waiver is granted by the Zoning Administrator for the number of copies or required information).

(3) A list of any permits that will be required for the development or use from federal, state, county, or local agencies.

(4) A copy of the deed or proof of equitable title for any new principle or accessory structure on any non-platted parcel in order to assure compliance with dimensional requirements of this Ordinance, to protect easements from encroachment, and to assure conformance with the Land Division Act, Public Act 288 of 1967, as amended. The Zoning Administrator may examine electronic copies of recorded deeds to meet this requirement.

(5) A statement of compliance with the standards required for approval in Section 14.5.6 and other standards imposed by Article 9 and other sections of this Ordinance affecting the Special Land Use under consideration.

(6) If required, an Impact Assessment including the information as detailed in Section 14.3.2.2.E.

14.3.2.2.E *Submission requirements for impact assessments*. With each application for a major site plan, and for all PUD, subdivision plat, and condominium projects, a written impact assessment shall be submitted with the following information:

(1) Name(s) and address(es) of person(s) responsible for preparation of the impact statement.

(2) General description of existing and proposed deed restrictions, if any.

(3) A written description of the environmental characteristics of the site prior to development, i.e., topography, soils, vegetative cover, drainage, streams, creeks or ponds.

(4) Existing and proposed future uses and other man-made facilities.

(5) The number of residents, workers, visitors, or patrons and vehicular and pedestrian traffic.

(6) Phasing of the project including ultimate development proposals.

(7) Natural features which will be retained, removed, and/or modified including vegetation, drainage, hillsides, streams, wetlands, woodlands, wildlife, and water. The description of the areas to be changed shall include their effect on the site and on adjacent properties. An aerial photo may be used to delineate the areas of change.

(8) The method to be used to serve the development with water and sanitary sewer facilities.

(9) The method to be used to control drainage on the site and from the site.

PROOFS

(10) If public sewers are not available to the site, the applicant shall submit a current approval from the District Health Department or the Department of Environmental Quality indicating approval of plans for sewage treatment.

(11) The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site. Consideration of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lights.

(12) Description of measures to control soil erosion, sedimentation and stormwater runoff during grading and construction operations and until a permanent ground cover is established.

(13) Type, direction and intensity of outside lighting.

(14) An indication of how the proposed use conforms with existing and potential development patterns and any adverse effects.

(15) The "environmental protection provisions" of Section 5.10 shall be addressed when applicable.

14.3.2.2.F *Submission requirements for temporary certificates of zoning compliance.* All applications for a Temporary Certificate of Zoning Compliance shall require the following minimum submissions, unless waived by the Zoning Administrator:

(1) A fully completed Temporary Zoning Permit application on a form supplied by the Zoning Administrator, including at minimum the applicant's name and the location and effective dates of all permitted temporary buildings, structures, or uses.

(2) Any other information deemed necessary by the Zoning Administrator to properly administer this Ordinance, such as:

a) Use and placement of signs

b) Provision for security and safety measures

c) Control of nuisance factors

d) Elements of a performance guarantee

PROOFS

TABLE 14-1 page 1 of 4

Required Elements for Site Plan Completeness	*Required Elements (X) and those that may be waived (in comments) by Zoning Administrator*			
	Prelim. Sketch	*Tier 1*	*Tier 2: Minor Site Plans*	*Tier 3: Major Site Plans*
Project Identification				
Project Identification: Applicant/property owner name, address, phone number; development name; property address; date of preparation and any revisions; directional arrow; project location map.	X	X	X	X
Detailed Project Identification: Preparer's name and address, and professional seal of architect, engineer, surveyor, or landscape architect			X	X

indicating Michigan license (if applicable); complete, current legal description of the property; existing or proposed deed restrictions or previous zoning approval limiting the property; and, in the case of a condominium development, the proposed master deed; proposed variances (if applicable).				
A plan scale drawing (engineer scale) at no smaller than 1" = 50' (1" = 20' for land under 20 acres) with the scale proportional to the size of the project showing maximum detail on one or more sheets of paper measuring not more than 24 inches by 36 inches. Plan for commercial interior remodeling shall be drawn to a scale of not less than 1:480 (1 inch to 40 feet) and shall be certified by a professional engineer or architect. Include scale, descriptive legend; north arrow.		X Can Change Scale	X Can Change Scale	X
A surrounding area scale drawing (engineer scale) at no smaller than 1" = 100' with the scale proportional to the size of the project showing maximum detail on one or more sheets of paper measuring not more than 24 inches by 36 inches. Include scale, descriptive legend; north arrow.			X Can Change Scale	X
Existing Features				
Existing Property Features: Property lines and dimensions including angles drawn to scale of subject property and all properties within 100 feet; total site acreage; zoning and current land use of applicant's property, all abutting properties, and properties located across any public or private street; location and size of existing principal and accessory structures (larger than 100 square feet) on the property and within 100 feet of the site's property lines, including closest distance to lot lines; existing roads or easements on or adjacent to site.	X	X	X	X

PROOFS

Existing Natural Features: Location of significant and sensitive on-site natural features such as water features, wetlands, bluffs, beaches, and rock outcrops.	X	X	X	X

TABLE 14-1 page 2 of 4

Required Elements for Site Plan Completeness	*Required Elements (X) and those that may be waived (in comments) by Zoning Administrator*			
	Prelim. Sketch	*Tier 1*	*Tier 2: Minor Site Plans*	*Tier 3: Major Site Plans*
Existing Features				
Existing Natural Features in Detail: Topography at a minimum of 2 foot contour intervals; water bodies and water courses on the property and within five-hundred feet; all areas within the 100-year floodplain; regulated wetlands, sand dunes, or high-risk erosion areas on to the site; surface drainage; location of individual trees with a caliper of 12 inches or greater and stands of trees with an indication as to which shall be retained or removed or altered.			X	X
Existing Public Features: Location and dimensions of all roads and driveways within 200 feet of the parcel; location of access points on both sides of the street within 100 feet of the proposed site access.	X	X	X	X
Proposed Features				
Proposed Construction: Building footprints and setbacks for all proposed structures, including relationship to each other if multiple buildings; location of parking spaces; location of exterior lighting; general site circulation and access including indication of street right-of-way, pavement widths, access points (including distance from driveways and intersecting streets), and location and material of private pedestrian paths; location of all proposed outdoor storage, including snow storage, and the manner in which it is to be screened and accessed; fence or wall location and height.	X	X	X	X
Proposed Construction in Detail: Building dimensions, proposed changes to the existing ground		As Required	X Finished Floor	X

PROOFS

contours; elevations showing exterior architectural design features and height for all proposed structures; floor area or acreage allotted to each use; eave size; dimensions of parking and other paved surfaces such as driveways and sidewalks; lot coverage; size, area, height, location, illumination, and detail of all signs, including handicapped signs; location and design of exterior lighting.			Elevation may be waived	
Proposed Construction as Required by District/Standards: Dimensions and number of proposed lots or condominium units; separation distance (as required between buildings and between uses); floor area; transparency; number of dwelling units; number of occupants or employees.		As required	As required	As required

TABLE 14-1 page 3 of 4

Required Elements for Site Plan Completeness	*Required Elements (X) and those that may be waived (in comments) by Zoning Administrator*			
	Prelim. Sketch	*Tier 1*	*Tier 2: Minor Site Plans*	*Tier 3: Major Site Plans*
Proposed Features				
Proposed Natural and Open Features: Dimensions of side and rear yards and open space; general landscape concept.	X	X	X	X
Proposed Natural and Open Features in Detail: Proposed topography (max. 2 foot contour intervals) with a site grading plan; landscaping plan indicating existing vegetation to be retained, location of proposed plants, common plant name, size at installation, number of plants; elevations, dimensions, and area of buffer strips and berms; location and dimensions of proposed common open spaces, greenbelts, and recreational facilities, including pedestrian and bicycle facilities if applicable.			X 2 foot contour intervals may be waived	X
Proposed Natural and Open Features as Required by District: Landscape opacity, plant detail.			As required	As required
Public features in relation to proposed development: Locations, width, and name of abutting streets and proposed streets (including curve radii), drives, curb cuts, accel/decel/pass lanes, sidewalks, bike paths,	X	X	X	X

PROOFS

trails, and easements; location, dimensions, and design (including surface materials) of service and off-street parking areas, including maneuvering lanes, service lanes, and off-street loading spaces. Include number of required and provided parking and handicapped spaces and location of handicapped parking ramps.				
Proposed Service Infrastructure: Location of water supply; fire hydrants; location and design of wastewater systems and solid waste disposal facilities (including trash receptacles and dumpsters with method of screening). Site retention and detention facilities showing site drainage pattern at a minimum of two (2) foot intervals, with benchmark location and location of site retained water with calculations. Location and size of utility lines; location and specifications of any proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials, as well as any containment structures or clear zones required by government authorities.		X 2 foot interval site drainage pattern may be waived	X 2 foot interval site drainage pattern may be waived	X

PROOFS

TABLE 14-1 page 4 of 4

Required Elements for Site Plan Completeness	*Required Elements (X) and those that may be waived (in comments) by Zoning Administrator*			
	Prelim. Sketch	*Tier 1*	*Tier 2: Minor Site Plans*	*Tier 3: Major Site Plans*
Proposed Features				
Proposed Infrastructure in Detail: Stormwater drainage plan addressing a 100-year storm design base including flows onto the site, on-site impacts, flow control, and proposed facilities (small lots in built-up areas may be permitted controlled exception to the 100-year storm base). Written documentation prepared by a registered civil engineer indicating peak rate of stormwater runoff occurring before development (for a storm with a 25-year frequency and 24-hour duration).				X
Miscellaneous Materials				
Environmental: A completed Environmental Permits Checklist.		X	X	X
Impact Assessment: For projects requiring an			As required	As required

Impact Assessment pursuant to Section 14.3.2.2.E, a completed Impact Assessment Work Sheet.				
Historic: Identification of any historic structures or likely archeological locations and procedures for handling historic features or artifacts.		X	X	X
Any other information required by the Zoning Administrator to establish compliance with this Ordinance.	May be waived			

14.3.2.3 *Simultaneous processing of applications*. Whenever two or more forms of review and approval are required under this Ordinance (e.g., a Special Land Use Permit and a Variance), the applications for those development approvals may, at the option of the Zoning Administrator, be processed simultaneously, so long as all applicable requirements are satisfied for both applications.

14.3.2.4 *Fees*.

14.3.2.4.A *Determination of fees*. The Village may charge reasonable fees sufficient to cover the costs of administration of this Ordinance. The Village Council may from time to time adopt by resolution a fee schedule to accompany all applications submitted under this Ordinance. Fees shall be based on actual direct costs of inspection and supervision or consultation with qualified professionals (where reasonably necessary), resulting from the enforcement of this Ordinance, including the enforcement of conditions of a permit or approval, and may include the cost of filing approvals with other entities, such as with the Zoning Administrator. Such fees may also include but are not limited to all costs associated with conducting a public hearing or inspection, including publishing the newspaper notice and any map, sending required notices to property owners and renters, photocopying, staff time, Planning Commission, Village Council and/or Zoning Board of Appeals meeting time, mileage and any costs associated with reviews by qualified professional planners, engineers, scientists, and/or other professionals. The fee schedule and any amendments shall be available at the Village Clerk's office following adoption by the Village Council.

14.3.2.4.B *Fees to be paid*. No application shall be processed until the established fee has been paid; except that the Village Council in the resolution establishing zoning fees, may exempt Village projects or the projects of other governmental agencies from all or part of the fees. The Office of Zoning Administrator shall keep accurate records of all fees and payments. Such records are public records open for public inspection.

14.3.2.4.C *Additional costs and fees for professional reviews.*

(1) If the Planning Commission, Zoning Board of Appeals, or Zoning Administrator determines that the basic zoning fees will not cover the actual costs of application review or appeal, or that the participation of a qualified professional engineer, planner, attorney or other qualified professional is necessary, then the applicant shall deposit with the Village Treasurer additional fees as determined by the Zoning Administrator to equal the estimated amount of additional costs. The additional fees shall be held in escrow in the applicant's name and shall be used solely to pay for additional costs. Failure of the applicant to make any escrow deposit required under this Ordinance shall render the application incomplete or the appeal procedurally deficient, thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following the final action on the application or the final decision on the appeal. Any actual costs incurred by the Village in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal. Failure of the applicant to make timely payment of any balance due will entitle the Village to place a lien on the subject property for the unpaid balance.

PROOFS

(2) Professional review shall include a report indicating the extent of conformance or nonconformance with this Ordinance and identifying any problems which may create a threat to public health, safety, or the general welfare or to the quality of the air, water, or natural resources of the Village. Mitigation measures, alterations, or alternatives to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant shall receive a copy of any professional review and a copy of the statement of expenses for the professional services rendered.

14.3.2.4.D *Refund of fees*. Application fees are not refundable except where the Zoning Administrator determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment shall be refunded to the applicant.

14.3.2.5 *Affidavit of compliance*.

14.3.2.5.A *Applicability*. Each application for a Certificate of Zoning Compliance or a conditional rezoning shall contain a signed and notarized affidavit stating that the applicant understands, and agrees to comply with the following laws when applicable to the lot, tract, or parcel in question. The applicant shall further affirm that said lot, tract, or parcel is not currently, and that the proposed use or construction shall not be, in violation of the following laws. The Affidavit of Compliance shall be deemed part of and a condition to the permit or approval.

14.3.2.5.B *Applicable laws*.

(1) The Land Division Act, Public Act 288 of 1967, being MCL 560.101 et seq., or the Condominium Act, Public Act 591 of 1978 being MCL 559.101 et seq.

(2) The District Health Department Sanitary Code.

(3) The Flood Plain regulations of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 31, as amended.

(4) Michigan Public Health Code, Public Act 368 of 1978, being MCL 333.12751, et seq.

(5) Farmland and Open Space Preservation provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 361, being MCL 399.201, et seq.

(6) Wetlands Protection provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 303, Section 324.30301 et. seq., as amended.

(7) Inland Lakes and Streams provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 301, Section 324.30141, et. seq., as amended.

(8) "Miss Dig Law", Act 53, as amended.

(9) Airport Zoning Act, Public Act 23 of 1950, being MCL 259.431, et seq.

(10) Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, being MCL 125.1501, et seq., and all of its associated codes related to building, plumbing, electrical, etc.

(11) Michigan Department of Environmental Quality rules for Land Divisions, as amended.

(12) The High Risk Erosion provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 323, being MCL 324.32305, et seq.

(13) Any Michigan Department of Transportation driveway or access management regulations under Public Act 200 of 1969, being MCL 247.321.

(14) All other State, Federal or local laws, rules, or regulations known to be applicable to the proposed building, structure or use of the property.

14.3.2.6 *Determination of sufficiency*.

PROOFS

14.3.2.6.A *Complete application*. All applications for a Certificate of Zoning Compliance, Conditional Land Use Permit, Special Land Use Permit, PUD approval, subdivision plat, variance, appeal, text amendment, rezoning, or conditional rezoning or other authorization requested under this Ordinance must be complete before the permit issuing authority or approving body or official is required to consider the application.

14.3.2.6.B *Sufficiency review*. Within fourteen (14) calendar days following receipt of the application, the Zoning Administrator shall determine if the application is complete, meets all relevant threshold requirements, and includes data in sufficient detail to evaluate the application to determine whether it complies with the requirements of this Ordinance. An application not reviewed for sufficiency within fourteen (14) calendar days, shall be considered complete and shall be processed as such. When the application is determined sufficient, it shall be reviewed pursuant to the appropriate procedures and standards of this Ordinance. If the Zoning Administrator determines the application is not sufficient, written notice shall be provided to the applicant specifying the application's deficiencies. If the applicant fails to correct the deficiencies within sixty (60) days, the application shall be considered withdrawn.

14.3.3 *Permit details.*

14.3.3.1 *Performance guarantees for compliance.*

14.3.3.1.A *Purposes*. In authorizing any Certificate of Zoning Compliance, Temporary Certificate of Zoning Compliance, Conditional Land Use Permit, Special Land Use Permit, Planned Unit Development approval, platted subdivision, site plan approval, conditional rezoning, or variance, the approval body or official, as designated by this Ordinance, may require that a performance guarantee be furnished for the following purposes:

(1) To ensure compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance;

(2) To provide sufficient resources for the Village to complete required improvements or conditions in the event the permit holder does not; or

(3) To ensure the discontinuance of a temporary use by a stipulated time.

14.3.3.1.B *Improvements covered*. Improvements that shall be covered by the performance guarantee include, but are not necessarily limited to: streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The term "improvements" should not be construed to mean the project itself, but rather those features associated with the project that are deemed necessary to protect the health, safety, and welfare of the Village resources and future users or inhabitants of the proposed project. The term "improvements" does not include improvements for which a performance guarantee has been deposited pursuant to the Land Division Act, Public Act 288 of 1967, as amended. The performance guarantee shall meet the following requirements:

(1) Form: The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the Village Treasurer, which names the property owner as the obligor and the Village as the obligee.

(2) Time when Required: The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity of the project. If appropriate, based on the type of performance guarantee submitted, the Village shall deposit the funds in an interest bearing account in a financial institution with which the Village regularly conducts business.

(3) Amount and Type: The amount and type of the performance guarantee shall be determined by the body or official making the decision to approve the request, or if they have not done so, by the Zoning Administrator. The amount of the performance guarantee should be sufficient to cover the estimated cost of the improvements or conditions. The performance guarantee shall be reasonable, appropriate, and commensurate with the scope of the project.

PROOFS

Additional guidelines for establishing the amount of a performance guarantee may be prescribed by resolution of the Village Council.

14.3.3.1.C *Return of performance guarantee*.

(1) The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination (after an inspection) that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in proportion to the work completed on the applicable improvement or condition, and may be written as an element of the conditions surrounding the approval of the project.

(2) After the inspection, the Zoning Administrator shall transmit a recommendation to the Planning Commission indicating approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.

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

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

14.3.3.1.D *Record of performance guarantee*. A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

14.3.3.2 *General permit details.*

14.3.3.2.A *Expiration*. Certificates of Zoning Compliance, Conditional Land Use Permits, Special Land Use Permits, and Planned Unit Development approvals shall expire automatically, if, within one (1) year after the issuance of such permits, significant actual construction has not commenced (or the use has not commenced where no actual construction is required). Significant means more than one-third of the estimated expense of the development. Multi-phase PUDs shall conform with the requirements of Article 10.

14.3.3.2.B *Extensions*. The permit-issuing authority may extend a permit for a period of up to six (6) months from the date when a permit would otherwise expire if it concludes that:

(1) The permit recipient has proceeded with due diligence and in good faith, and

(2) Conditions have not changed so substantially as to warrant a new application. One successive extension may be granted for a period of up to six (6) months upon the same findings. All extensions may be granted without resort to the formal application and review processes. Fees required for an extension shall be according to the Village fee schedule.

14.3.3.2.C *Withholding permits*. The Zoning Administrator may withhold any Certificate of Zoning Compliance, Temporary Certificate of Zoning Compliance, Conditional Land Use Permit, Special Land Use Permit, or PUD approval pending verification that an applicant has received required Village, county, state, or federal permits, including but not limited to sanitary sewer and water tap-in permits, septic and water well permits, soil erosion and sedimentation control permits, wetlands

PROOFS

permits, flood plain, culvert, or driveway permits. Final permit approval of the requested development activity will be conditioned upon the receipt of any other necessary government approvals, and the Village approval body can direct the Zoning Administrator not to issue the permit until those other permits have been obtained and copies filed with the Zoning Administrator.

14.3.3.2.D *Notification for inspection prior to occupancy*. The Zoning Administrator shall perform inspections prior to issuance of a Certificate of Zoning Compliance and at such other time as is necessary to ensure conformance with this Ordinance and the conditions of any permit or approval. The holder of every permit involving Tier 2 or Tier 3 review shall notify the Zoning Administrator within 24 hours after completion of the work authorized by such permit for a final inspection and verification of the Certificate of Zoning Compliance.

14.3.3.2.E *Unresolved violation*. The Zoning Administrator may refuse to issue a Certificate of Zoning Compliance to a person who is responsible for an unresolved violation of this Ordinance at the requested location, or another location within the jurisdiction of this Ordinance, until such time as the violation is satisfactorily corrected where such other unresolved violation poses reasonably similar risks.

14.3.3.2.F *Previous approvals*. Nothing in this Ordinance shall require changes in the plans, construction, or designated use of a building for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which shall have been actively pursued within ninety (90) days after the effective date of this Ordinance; and the entire building shall be completed as authorized within two (2) years after the date of approval of the application, and provided that the construction was lawfully completed in accordance with the Ordinance, permit, and permit conditions.

14.3.3.2.G *Applicability of zoning approval*. The approval to engage in any land use activity or to construct a building or structure that has received a Certificate of Zoning Compliance, Conditional Land Use Permit, Special Land Use Permit, PUD approval, or other permit issued under the authority of this Ordinance, or any variance granted by the ZBA, runs with the land, and not with the owner, just like a nonconforming use right. Thus, any person who builds or uses land based on a valid permit or approval granted under the terms of this Ordinance, and later dies, should rest assured that the rights, limitations and conditions granted in that permit automatically transfer to the new owner(s) of the land, provided there were no violations applicable to the land that were unresolved by the previous owner prior to his/her death. By the same token, any person may sell property to another person, who will enjoy the same rights, privileges and restrictions as the seller, provided that the seller, prior to the sale, used the property in conformance with a lawful permit and the land use was not in violation of this Ordinance prior to the sale.

14.3.3.3 *Conditional and special land use permit details*.

14.3.3.3.A *Permit revocation*. In the event the Planning Commission believes the holder of a Conditional or Special Land Use Permit has failed to comply with one or more of the terms or conditions of the permit or of this Ordinance, the Planning Commission may schedule a hearing to consider the revocation of the permit. The permit holder shall be given reasonable notice of the hearing date, which shall in any event be not less than fifteen(15) days from the date of the notice. The notice of hearing shall include a written statement of the reasons for the possible revocation. The permit holder, interested parties, and the Zoning Administrator shall be allowed to appear at the hearing and to present evidence pertinent to whether the permit should be revoked. If the Planning Commission decides to revoke the permit, the use for which the permit was granted must cease within sixty (60) days of the hearing date. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this Ordinance. On the 60th day after the hearing, the Zoning Administrator may inspect the property and notice the permit holder that the use is a per se nuisance and a violation of this Ordinance.

14.3.3.3.B *Permit transferability*. A Conditional or Special Land Use Permit may be transferred from one owner of the property to which it is affixed to the next owner of the same property provided

PROOFS

that the permit holder is in compliance with the terms of the permit. A Conditional or Special Land Use Permit may not be transferred from one property to another property. A new owner may continue to use the property for the purposes for which the Conditional or Special Land Use Permit was granted as long as all conditions and terms of the permit are satisfied. Permit transfer is automatic, provided that within sixty (60) days of acquiring ownership the new owner registers his intent to continue the Conditional or Special Land Use with the Zoning Administrator on a form established for that purpose. The Zoning Administrator shall review with the new owner all the applicable Ordinance requirements that apply to the property and any special conditions imposed upon the Conditional or Special Land Use when the transfer form is submitted.

14.3.3.3.C *Termination with change of use.* If there is a change in the use of a property for which a Conditional or Special Land Use Permit was issued, the Conditional or Special Land Use shall automatically terminate and the property shall only be used for a use permitted in the District in which the property is located. A Conditional or Special Land Use Permit for a seasonal use is also subject to termination if the season passes in which the Conditional or Special Land Use would normally occur and a different use is in place instead.

14.3.3.3.D *Reapplication*. No application for a Special Land Use Permit which has been denied, wholly or in part, shall be resubmitted for a period of one (1) year from the date of the denial, except on satisfactory proof of substantially changed conditions, newly discovered evidence or a falsehood previously relied upon by the Village, which, through the exercise of normal diligence, could not have been discovered before the hearing as determined by the Zoning Administrator. A reapplication shall be processed as a new application.

14.3.3.3.E *Recording conditions with register of deeds*. At the direction of the body or official making the final decision to approve a discretionary permit authorized by this Ordinance, or as otherwise may be specified by this Ordinance, or at the discretion of the Zoning Administrator, an approval or approval with conditions may be recorded with the Ontonagon County Register of Deeds. The following requirements shall be met with each recording:

(1) The applicant shall record an affidavit which has received the approval of the Village Attorney containing the full legal description of the project site, containing the approved site plan, the specific terms of any permit, any documents that pertain to permanent preservation of open space, the date of final Village approval, and declaring that all improvements will be carried out in accordance with the approved site plan or variance unless an amendment thereto is adopted by the Village. In addition, all deed restrictions and easements associated with the property shall be duly filed with the Register of Deeds of the County, and copies of all recorded documents shall be presented to the Zoning Administrator. These documents shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. The applicant shall submit proof to the Zoning Administrator that these documents have been recorded with the County Register of Deeds within ninety (90) calendar days of project approval or the approval shall be rendered invalid. Once the proper documents have been recorded with the County Register of Deeds, the applicant may proceed, consistent with the approved Site Plan and Permit, to develop the land.

(2) A copy of any agreement between joint users of parking areas shall be filed with the application for a Certificate of Zoning Compliance and recorded with the Register of Deeds. The agreement shall include a guarantee for continued use of the parking facility by each party and clearly spell out maintenance responsibilities. A copy of all recorded documents shall be presented to the Zoning Administrator.

(3) All documents to be recorded with the County Register of Deeds at the initiative of the Village, shall be first reviewed and approved as to form and content by the Village Attorney or other legal representative of the Village retained for that purpose.

14.3.3.3.F *As-built drawings*. "As built" plans or construction drawings that demonstrate compliance with this Ordinance shall be filed with the Zoning Administrator immediately after construction is

PROOFS

completed for any permit or approval requiring a Tier 3 Review.

14.3.3.4 *Temporary certificates of zoning compliance permit details*.

14.3.3.4.A *Renewing*. Temporary Certificates of Zoning Compliance which are renewable may be renewed in the same manner as issuance of the original permit, except the application for renewal shall be filed at least fifteen (15) days prior to the expiration date of the current permit, and applications for renewal or extension of a permit for less than fifteen (15) days may be applied for no later than three (3) days prior to the expiration date of the current permit. Fees may be assessed in accordance with the Village Fee Schedule.

14.3.3.4.B *Performance guarantee*. The Zoning Administrator may require a performance guarantee in the form of cash, check or savings certificate or irrevocable bank letter of credit be deposited with the Village Treasurer in an amount equal to the estimated cost of removing any temporary structure for which a Temporary Certificate of Zoning Compliance is authorized under this Section for use in the event it is not removed by an applicant at the end of an authorized period. Prior to the issuance of a temporary permit, the applicant shall sign an affidavit holding the Village harmless against any claim for damages if the Village were to subsequently use the performance guarantee to remove the temporary structure after its authorized period had expired. The performance guarantee shall be returned to the applicant when all the terms and conditions of the Temporary Certificate of Zoning Compliance have been met the temporary use or structure has been removed by the applicant.

14.3.3.4.C *Permit revocation*. A Temporary Certificate of Zoning Compliance may be revoked at any time for any of the following reasons:

(1) Nonconformance with the requirements of this Section and/or a permit issued thereunder;

(2) Evidence that the Temporary Certificate of Zoning Compliance was obtained by misrepresentation or fraud;

(3) That one (1) or more of the conditions of the Temporary Certificate of Zoning Compliance have not been met; and

(4) That the temporary use is in violation of any statute, ordinance, law, or regulation.

(5) The Temporary Certificate of Zoning Compliance has expired by its terms or the provisions of the Ordinance.

14.3.3.4.D *Cessation upon revocation*. Upon expiration or revocation of a Temporary Certificate of Zoning Compliance for a temporary use, building or structure, the temporary use shall cease and all temporary structures, dwellings, or buildings shall be removed from the parcel of land. Any use or structure established under a Temporary Certificate of Zoning Compliance shall not give rise to any vested rights of use or property except for a limited lawful use during the term of and in accordance with the Temporary Certificate of Zoning Compliance.

14.3.3.4.E *Appeal*. An appeal of a decision by the Zoning Administrator relative to approval or denial of a Temporary Certificate of Zoning Compliance for a temporary use or renewal thereof may be taken to the Zoning Board of Appeals pursuant to the conditions outlined in this Ordinance.

14.3.4 *Permit review and approval process*. The bodies and officials responsible for review of permit applications under this Ordinance shall approve all applications that conform as submitted with the requirements of this Ordinance; shall approve with conditions all applications that would conform if certain conditions, authorized by the Ordinance, were met; and shall deny all applications that do not conform with the Ordinance and would not likely conform even if mitigating conditions were imposed as a condition of approval.

14.3.4.1 *Intent*. The intent of the procedures and standards for permit review and approval is to ensure that developments are compatible with adjacent uses, do not negatively impact surrounding properties, and provide for the orderly development of the Village of Ontonagon. Specifically, development decisions are intended to ensure the use of land in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of the population, transportation systems, and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water,

PROOFS

energy, education, recreation, and other public service and facility requirements; and to promote public health, safety, and welfare.

14.3.4.2 *Basis of determination*. During the review and approval process, the following shall serve as a general basis of determination in addition to all other applicable standards contained in this Ordinance:

14.3.4.2.A Intent of the zoning district;

14.3.4.2.B Characteristics and intensity of proposed and adjacent uses, including assembly of people associated with the use;

14.3.4.2.C Physical characteristics of existing or proposed structures;

14.3.4.2.D Suitability of the proposed landscape buffers for the intended purpose;

14.3.4.2.E Vehicular and pedestrian traffic volumes and patterns, particularly in relation to public safety;

14.3.4.2.F The physical characteristics of the site;

14.3.4.2.G Demands upon public services and facilities;

14.3.4.2.H The type and amount of litter, waste, noise, dust, traffic, fumes, glare, and vibration which may be generated by suchuse;

14.3.4.2.I Area requirements for the proposed use, and the potential for the area requirements to expand;

14.3.4.2.J Other factors necessary to maintain property values in the neighborhood and guarantee safety, light, air, and privacy to the principle uses in the district;

14.3.4.2.K Compliance with the current Village of Ontonagon Master Plan.

14.3.4.3 *Pre-application conference*. Except for PUDs (Article 10) a pre-application conference is optional prior to submission of any application for development approval under this Ordinance.

14.3.4.3.A *Purpose*. The purpose of a pre-application conference is to inform the applicant about the application requirements, the applicable provisions of this Ordinance that relate to the proposed development, and the application review procedures.

14.3.4.3.B *Initiation of pre-application conference*. Any potential applicant may request a pre-application conference with the Zoning Administrator. Along with the request for the pre-application conference, the applicant may provide to the Zoning Administrator a description of the proposed development, the type of development approval sought, the location of the proposed project, and any other appropriate supporting documents such a concept plan, maps, drawings, models, and any other information the Zoning Administrator deems necessary for the pre-application conference. The Zoning Administrator shall schedule a pre-application conference after receipt of a request for a pre-application conference and any appropriate submission materials.

14.3.4.3.C *Review process*. At the pre-application conference the applicant, the Zoning Administrator, and any other Village staff and regional, state, federal or adjacent local government representatives the Zoning Administrator deems appropriate to attend the pre-application conference, shall discuss the proposed development and the applicable procedures and standards.

14.3.4.4 *Tier 1 review*.

14.3.4.4.A *Applicability*. A Tier 1 review applies to any of the following, where proposed use does not require any variance, and site plan conforms with all requirements of this Ordinance:

(1) Single-family and two-family residential dwellings and their accessory structures on individual parcels;

(2) All nonresidential developments that are not classified as subject to a conditional or special land use permit;

(3) Accessory uses incidental to a conforming existing use;

(4) Expansion and/or addition to an existing conforming use;

PROOFS

(5) Accessory storage buildings in all Zoning Districts;

(6) Commercial interior remodeling;

(7) Paving;

(8) Amendments to approved site plans (see Section 14.5.8);

(9) Final site plans;

(10) Any other site plans not delegated for review by the Planning Commission.

14.3.4.4.B *Review process*. After an application is determined sufficient, the Zoning Administrator shall review the application while directing the applicant to contact any other review agencies for comment. After all necessary input is received, the Zoning Administrator shall render a written decision on the application within ten (10) days, except that where the applicant or the Zoning Administrator so requests; then the site plan shall be reviewed by the Planning Commission subject to their schedule, before final action by the Zoning Administrator within ten (10) days after the Planning Commission meeting. The Zoning Administrator shall take action to approve, approve with conditions, or deny with stated reasons.

14.3.4.5 *Tier 2 review*.

14.3.4.5.A *Applicability*. A Tier 2 review applies to any of the following:

(1) Individual single-family homes, duplexes, and accessory buildings associated with them, located within seventy-five (75) feet of the ordinary high water mark or the shoreline of an inland lake, stream or river;

(2) Any use permitted by right with conditions, which is specified as requiring site plan review in this Ordinance;

(3) Ponds up to five (5) acres in size, and those located within five-hundred (500) feet of a lake, river, stream, or open Village drain;

(4) Any other land use requests referred to the Planning Commission by the Zoning Administrator.

14.3.4.5.B *Preparation of staff report*. The Zoning Administrator shall prepare a Staff Report which shall state whether the application complies with all appropriate standards of this Ordinance. Conditions for approval may also be recommended to eliminate any areas of noncompliance or mitigate any adverse effects of the development proposal. Staff reports may be prepared by a consultant to the Village where authorized by the Village Council.

14.3.4.5.C *Review process*.

(1) The Zoning Administrator shall review the site plan per Section 14.3.4.5 and make a determination in accordance with the criteria described in Section 14.5.6, and such other standards contained in Article 9 of the Ordinance which relate to the conditional land use under consideration. A request for approval of a conditional land use which the Zoning Administrator finds is in compliance with Ordinance standards, other applicable ordinances, and state and federal statutes, shall be approved.

(2) The Zoning Administrator may refer the application for a Conditional Land Use Permit to the Planning Commission for a decision. The Planning Commission shall review the site plan and make a determination in accordance with the same criteria in the same way as the Zoning Administrator, and in accordance with their standard review procedures. A request for approval of a land use or activity which the Planning Commission finds is in compliance with Ordinance standards, other applicable ordinances, and state and federal statutes, shall be approved.

(3) Upon approval, the Zoning Administrator shall prepare and issue a permit to the applicant incorporating the conditions of approval. If the application is denied, the Zoning

PROOFS

Administrator shall identify the reasons for that denial. In such a case, an aggrieved applicant may appeal the Zoning Administrator's determination to the Zoning Board of Appeals, as described in Article 14.

14.3.4.6 *Tier 3 review*.

14.3.4.6.A *Applicability*. A Tier 3 review applies to any of the following:

(1) All platted subdivisions and condominium projects;

(2) All Special Land Uses;

(3) All Planned Unit Developments;

(4) All conditional rezoning requests;

(5) Conversions of an existing building or part thereof from a residential use to a non-residential use; including resulting site improvements;

(6) All expansions or enlargements to nonconforming uses or nonconforming structures that result in a need for additional parking spaces, per the standards of this Ordinance;

(7) All ponds or lakes greater than five (5) acres;

(8) Any earthwork greater than 20,000 square feet in size;

(9) All other site plans for new land uses, expansions, or changes of use of existing land uses requiring:

a) A principle structure of more than five thousand (5,000) square feet or;

b) More than two (2) acres to be used for nonresidential land uses.

14.3.4.6.B *Preparation of staff report*. The Zoning Administrator shall prepare a Staff Report which shall state whether the application complies with all appropriate standards of this Ordinance. Conditions for approval may also be recommended to eliminate any areas of noncompliance or mitigate any adverse effects of the development proposal. The Staff Report may be prepared by a consultant to the Village where authorized by the Village Council. The Staff Report shall be made available to the public five (5) calendar days before the first scheduled public hearing on the application.

14.3.4.6.C *Public hearing: planning commission.*

(1) The public hearing shall be scheduled so there is sufficient time for a Staff Report to be prepared and for the public notification requirements of this Ordinance to be satisfied per the provisions of Section 14.4.1.

(2) After notice, the Planning Commission shall conduct the hearing in accord with the provisions of Section 14.4.2.

14.3.4.6.D *Review process*.

(1) The Planning Commission shall review the application, public comments, the Site Plan, and other pertinent information received, and shall make a determination in accordance with the criteria described in Section 14.5.6, and such other standards contained in Article 9 of the Ordinance which relate to the Special Land Use under consideration.

(2) The Planning Commission may, by majority vote of its members, deny, approve, or approve with conditions the Special Land Use application. Its decision shall be incorporated in a statement of conclusions about the Special Land Use under consideration, and shall specify the basis for the decision and any conditions imposed. A request for approval of a land use or activity which the Planning Commission finds is in compliance with Ordinance standards, other applicable ordinances, and state and federal statutes shall be approved.

(3) Upon approval, or approval with conditions, the Zoning Administrator shall prepare and issue a permit to the applicant incorporating the conditions imposed, if any, by the Planning Commission.

PROOFS

(4) An appeal of a decision by the Planning Commission to approve, deny, or approve with conditions a Special Land Use Permit application may be taken to Circuit Court, and may not be first appealed to the Zoning Board of Appeals.

14.3.4.7 *Temporary certificates of zoning compliance*.

14.3.4.7.A *Applicability*. Temporary Certificates of Zoning Compliance for those uses specifically authorized in Section 5.2.6.

14.3.4.7.B *Review process*. The application for the Temporary Certificate of Zoning Compliance may be approved, modified, conditioned, or denied by the Zoning Administrator based on the standards established in Section 14.5.6.3, and subject to such conditions as are reasonably necessary to minimize adverse impacts on abutting property, and protect the public health, safety and general welfare. The Zoning Administrator may refer the application for a Temporary Certificate of Zoning Compliance to the Planning Commission for a decision. The Planning Commission shall apply the same procedures and standards as the Zoning Administrator.

14.3.4.8 *Variances*. If it is evident that in order for a site plan to be approved, one or more variances must be obtained, the Zoning Administrator shall so inform the applicant and explain the procedural steps and implications of initiating a variance request immediately following action by the Planning Commission. The applicant shall make the decision as to when or whether to proceed with a variance request.

14.3.4.9 *Appeals*. Any applicant that feels aggrieved by the decision of the Zoning Administrator or Planning Commission may appeal the decision to the Zoning Board of Appeals within twenty-one (21) calendar days of receipt of the decision. The ZBA shall review the decision of the Zoning Administrator to ensure that it is consistent with the standards contained in this Ordinance and rules established by agencies responsible for site plan review. The ZBA shall give written justification for their decision. The ZBA may not grant a variance to any element of a site plan unless an application for a variance has been filed; any such variance request shall be reviewed relative to the requirements of Article 14.

SECTION 14.4. NOTICE AND HEARING PROCEDURES

14.4.1 Public notice.

14.4.1.1 *Public notification.* All applications for development approval requiring public hearings shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.

14.4.1.1.A *Content*. All notices for public hearings, including those by publication in a newspaper or mail shall:

(1) Identify the name, address, and telephone number of the applicant or the applicant's agent

(2) Describe the nature, scope, and purpose of the application or proposal

(3) Identify the property that is the subject of the request, including a listing of all existing street addresses within the property, or if there is no street address the nearest cross street (street addresses are not required to be listed for any group of eleven (11) or more adjacent properties that are proposed for rezoning).

(4) Indicate the date, time, and place of the public hearing(s)

(5) Include a statement that the public may appear at the public hearing in person or by counsel, be heard, and submit evidence and written comments with respect to the application.

(6) Include a statement describing when and where written comments will be received prior to the public hearing

(7) Add information concerning how handicapped access will be accommodated if the meeting facility is not handicap accessible.

14.4.1.1.B *Notice requirements*. When the provisions of this Ordinance require notice, the Zoning Administrator shall be responsible for preparing the content of the notice and implementing as follows:

PROOFS

(1) Publish the notice in a newspaper of general circulation in the Village not less than fifteen (15) days before the date of the hearing.

(2) Personally deliver, or deposit notice during normal business hours for delivery with the United States postal service or other public or private delivery service, not less than fifteen (15) days before the date of the hearing, to the following parties (except this provision does not apply to rezoning of any group of eleven (11) or more adjacent properties):

a. All owners of the property that is the subject of the request.

b. All persons to whom real property is assessed within three-hundred (300) feet of the property that is the subject of the request.

c. Occupants of all structures within three-hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

d. Each electric, gas, and pipeline utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Village Clerk for the purpose of receiving the notice of public hearing.

e. For appeals of administrative decisions, requests for Ordinance interpretation, and variance requests to the Zoning Board of Appeals, if the request does not involve a specific parcel of property, notice need only be published as provided in (1) above and given to the person making the request as provided in (2) above.

(3) Notice by mail/affidavit: Notice shall be deemed mailed by its deposit during normal business hours for delivery with the United States postal service, or other public or private delivery service, by first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed.

14.4.1.1.C *Timing of notice*. Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance, notice shall be provided not less than fifteen (15) days before the hearing.

14.4.1.2 *Registration to receive notice by mail*. The Village Clerk shall provide copies of all applications for development approval to the Zoning Administrator, who will provide notice to organizations that have submitted requests for written notice. Fees may be assessed in accordance with P.A. 267 of 1967, as amended for the provision of this notice. To be eligible for registration, the requesting party must provide the information in the form required by the Village Clerk to ensure notification can be made. All persons that have been registered must reregister annually to remain registered and continue to receive notification pursuant to this Section.

14.4.1.3 *Deferral of review of application.*

14.4.1.3.A *Submission of request*. Any request for a deferral of a public hearing until a later date shall be submitted in writing to the Zoning Administrator.

14.4.1.3.B *Zoning administrator review*. The Zoning Administrator shall approve a request for deferral if it has been submitted prior to the time of notice of a public hearing. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted by the Zoning Administrator. The decision-making body may defer consideration at a public hearing on its own motion at any time.

PROOFS

14.4.1.4 *Withdrawal of application.*

14.4.1.4.A *Submission of application*. Any request for a withdrawal of an application shall be submitted in writing to the Zoning Administrator.

14.4.1.4.B *Prior to notice of public hearing*. The Zoning Administrator shall approve a request for withdrawal of an application if it has been submitted prior to the time of notice of a public hearing.

14.4.1.4.C *Withdrawal.* The Planning Commission may allow an applicant to withdraw an application at the request of the applicant at the public hearing.

14.4.1.5 *Notification of decision*. Notification of a decision on an application for development approval shall be provided by the Zoning Administrator to the applicant by mail within fourteen (14) days after the decision. A copy of the decision shall also be made available to the public at the offices of the Zoning Administrator, during normal business hours.

14.4.1.6 *Reconsideration of applications.*

14.4.1.6.A *General*. Whenever any application for development approval is disapproved, a similar application for all or a part of the same land shall not be considered for a period of one (1) year after the date of disapproval unless a Waiver of Time Limit is approved by the decision-making body pursuant to the requirements of part (b) "Waiver of Time Limit" below. Only one request for Waiver of Time Limit may be submitted by the applicant during the one-year period.

14.4.1.6.B *Waiver of time limit*. The Waiver of Time Limit shall be approved only upon a finding by two-thirds of the membership of the decision-making body that:

(1) 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; or

(2) 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; or

(3) A new application is proposed to be submitted that is materially different from the prior application; or

(4) The final decision on the application was based on a material mistake or omission of fact that if known, would likely have resulted in a different determination.

14.4.1.7 *Examination and copying of an application/other documents*. At any time upon reasonable request and during normal business hours, any person may examine an application, the Staff Report, and materials submitted in support of or in opposition to an application in the office of the Zoning Administrator, subject to recognized exceptions under the Freedom of Information Act, or other state or federal law. Copies of such materials shall be made available at a reasonable cost.

14.4.2 *Public hearing*.

14.4.2.1 *Public hearing procedures.* All public hearings including but not limited to amendments to the text of this Ordinance and Zoning Map on a Rezoning; Conditional Rezoning; Planned Unit Development Permits; Condominium Project Permits, Conditional Land Use Permits; Special Land Use Permits; Variances, Ordinance Interpretations and Appeals, held pursuant to this Ordinance shall comply with the following procedures:

14.4.2.1.A *Conduct of public hearing*.

(1) The burden of demonstrating that an application complies with applicable review and approval standards of this Ordinance is on the applicant, not the Village.

(2) Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing

PROOFS

shall be identified, state an address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.

(3) The Planning Commission, the Zoning Board of Appeals, or the Village Council may place reasonable and equitable limitations on the presentation of evidence and arguments including, as they believe necessary in a particular instance, excluding testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious.

(4) In the event any testimony or evidence is excluded as irrelevant, immaterial or unduly repetitious, the person offering such testimony or evidence shall have an opportunity at that meeting to offer such testimony or evidence in writing for the record. Such offer shall be made at the public hearing and promptly provided.

(5) Continuance of Public Hearing.

a. The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time and place and may keep the public presentation portion of the public hearing open to take additional testimony up to the point a final decision is made. An applicant shall have the right to request and be granted one continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the public hearing only upon good cause shown.

b. A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Section, provided that the continuance is set for a date within thirty-six (36) hours, and the date, time and place of the continued hearing is announced at the time of the continuance and there is continued compliance with the Open Meetings Act (P.A. 267 of 1976, Section 15.265(5)).

14.4.2.1.B *General procedures and findings at public hearing*.

(1) The body conducting the hearing shall act in accord with any time limits established in this Ordinance. Action shall be taken as promptly as possible in consideration of the interests of the applicant, the citizens of the Village and the Village, and shall include a statement of a recommendation or decision of approval or disapproval (whichever is appropriate).

(2) The form of all decisions shall include at least the following elements:

a. A summary of the relevant information presented before the decision-making body.

b. Summary of evidence in record.

c. A statement of findings or other factors considered, whichever is appropriate, and a statement of the basis upon which such facts were applied with respect to the relevant review standards, if required by state law.

d. A motion that includes approval, approval with specified conditions or disapproval (whichever is appropriate based on the findings above).

e. A decision is final upon approval of the minutes of the body conducting the hearing at the next regularly scheduled meeting or at a special meeting of the decision-making body and as signified by the signature of the chairperson.

SECTION 14.5. SITE PLAN REVIEW PROCEDURES

14.5.1 *Authorization*. Section 502 of the Michigan Zoning Enabling Act, P.A. 110 of 2006, permits a Village to require the submittal, review, and approval of a site plan detailing what is proposed on a property, in order to ensure conformance with this Ordinance and the applicable regulations of other government agencies, prior to granting zoning approval. Site plan review is a very important tool to ensure that the public health, safety and welfare of the community is protected as land is developed or redeveloped.

14.5.2 *Purpose and intent*. It is the purpose of this section to require site plan review for certain buildings, structures, and uses that can be reasonably expected to have a significant impact on the air, water, and other natural resources, traffic patterns, the character of development and existing land uses in the area, or the capacity of public

PROOFS

infrastructure and services. The requirements contained in this section are intended to reduce the hazards to life and property due to fire, flooding, soil erosion, poor surface water drainage, inadequate private sewage disposal systems, pollution, dust, fumes, noise, vibrations, noxious odors and other hazards; and to promote and facilitate the adequate provision of a system of roads, streets and parking, sewage disposal, drainage, public education, recreation and other public improvements, and to promote the harmonious relationship of land uses through proper design.

14.5.3 *Site plan review committee*. The Planning Commission shall serve as the Site Plan Review Committee.

14.5.4 *Site plan review fee*. A fee shall be charged to the applicant for site plan review based on a schedule developed by the Planning Commission and approved by the Village Council.

14.5.5 *Site plan review procedures*.

The Planning Commission shall act on a complete application within thirty (30) calendar days after its acceptance as a complete application by the Zoning Administrator. This time limitation may be extended only by the mutual consent of the applicant and the Committee Chair person.

If any Planning Commission member demonstrates there is a lack of compliance of a proposed site plan with the applicable rules, standards, or ordinances, that site plan shall not be approved until compliance is acknowledged. Any disapproval of a site plan shall be accompanied by the reasons for that disapproval and provided, in writing, to the applicant in a timely fashion. Site plans may be approved with reasonable conditions.

An approval of a site plan for a Conditional Land Use, Special Land Use, Planned Unit Development, condominium project, subdivision plat or conditional rezoning does not constitute the final approval of an applicable permit. Standards for review and approval of a Conditional Land Use Permit or a Special Land Use Permit are described in Article 9. Standards for review and approval of a condominium project and subdivision plats are described in Article 9. Standards for review and approval of a PUD are described in Article 10. Standards for review and approval of a conditional rezoning request are described in Section 14.7 Amendments.

14.5.6 *Site plan review standards*. A site plan shall be approved if it contains the information required by the Ordinance and is in compliance with the standards required in the Ordinance, and with other applicable ordinances, and state and federal statutes.

14.5.6.1 *General standards*. In reviewing a minor or major Site Plan, the Planning Commission shall consider the following standards, as applicable. Additional standards for conditional land uses, special land uses, and condominium projects (all in Article 9) and PUDs (Article 10) also apply and shall be reviewed as part of the Site Plan Review process.

14.5.6.1.A *Checklist*. The Zoning Administrator shall prepare a checklist of the following standards to ensure each is reviewed and compliance is determined prior to approval.

14.5.6.1.B *Requirements*

(1) The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

(2) Ingress and egress to the property and proposed structures thereon shall provide motor vehicle and pedestrian safety and convenience, efficient traffic flow and control, and easy access in cases of fire, catastrophe or emergency.

(3) Every structure or dwelling unit shall have access to a public or approved private street, walkway, or other areas dedicated to common use.

(4) Appropriate measures shall be taken to ensure that dewatering on a site will not adversely affect neighboring properties or the Village storm drainage system.

(5) Provisions shall be made for the construction of storm sewer facilities including grading, gutters, piping and treatment of turf to handle storm water, prevent erosion and the formation

PROOFS

of dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicle or pedestrian traffic or create puddles in paved areas.

(6) That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and, where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.

(7) That any adverse effects of the proposed development and activities emanating there from upon adjoining residents or owners shall be minimized by appropriate screening, fencing, or landscaping.

(8) That existing stands of trees and large individual trees will be preserved to the extent feasible, especially along property boundaries and any lot line shared with a public road.

(9) Off-street parking and loading areas where required, shall be satisfactory in size, shape and design and not present noise, glare, odor or other nuisance effects on adjoining properties and properties in the proposed development above a level enjoyed by existing similar uses in the area, or in that zone.

(10) The type, dimensions and character of open spaces, landscaping, screening and buffering shall enhance the design, character, use and value of the property and abutting lands and waters.

(11) Any exterior lighting shall be designed to prevent unnecessary illumination of the night sky and shall be shielded from adjacent properties.

(12) Signs, if any, and their proposed size, shape, height and lighting relative to glare, traffic safety, and economic effect, shall be aesthetically pleasing, compatible and in harmony with signs, structures and uses of adjoining properties.

(13) Garbage storage and disposal and recycling bins shall be designed to ensure no vermin or rodent infestation and easy access to facilities which are screened from view from the street or abutting properties when not in use.

(14) The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous substances from entering the soil or water with special attention to the following:

a. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.

b. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.

c. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.

d. State and federal rules for record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

e. Underground storage tank installation, operation, maintenance, closure, and removal shall be in accordance with the requirements of the Michigan Department of Environmental Quality.

f. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.

g. No hazardous substances shall be stored in designated wellhead protection areas.

PROOFS

(15) All storm water drainage plans shall be approved and sealed by a Michigan Registered Professional Civil Engineer. The Planning Commission may waive this requirement, defer the requirement, or request a fully engineered storm drainage plan. After completion of construction, an "as-built" drawing and plan of the development, sealed by a Registered Professional Civil Engineer, shall be filed with the Planning Commission showing erosion control plans, the standards of this Ordinance, and any conditions of permit approval.

(16) Historic structures and historic or archeological artifacts will be properly respected and preserved.

(17) On site pathways, bicycle paths, and snowmobile trails shall minimize negative impacts on other users of the site and adjoining property and shall connect with abutting trails or pathways whenever feasible. New uses shall not impede the use of existing off site trails.

14.5.6.2 *Special land use review standards*. The Planning Commission shall make a specific finding of compliance with each of the following standards:

14.5.6.2.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.

14.5.6.2.B The Special Land Use shall not change the essential character of the surrounding area.

14.5.6.2.C The Special Land Use shall not be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other features of the proposed use.

14.5.6.2.D The Special Land Use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion.

14.5.6.2.E The Special Land Use shall meet the requirements of Article 9 specific to that use.

14.5.6.2.F The Special Land Use shall meet all other general requirements as presented in Article 5.

14.5.6.2.G The Special Land Use shall conform with all applicable Village, county, state, and federal requirements for that use.

14.5.6.2.H The applicant is in substantial compliance with any previously issued Zoning Permits and is not otherwise disqualified from receiving a permit under Section 14.8 of the Ordinance.

14.5.6.2.I The Planning Commission may impose conditions with approval of a Special Land Use Permit which are necessary to ensure compliance with the standards for approval stated in this Section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the Special Land Use Permit.

14.5.6.3 *Standards for temporary uses*. A permit for a proposed temporary use shall be issued by the Zoning Administrator only if each of the following criteria is met:

14.5.6.3.A The proposed use is clearly of a temporary nature.

14.5.6.3.B The temporary use shall not endanger the public health, safety or welfare of the Village, or adjacent residents.

14.5.6.3.C Structures of temporary uses shall be provided, if required, with safe, sanitary and effective systems for water supply and disposal of wastes, approved by the Health Department.

14.5.6.3.D The proposed temporary use shall meet all lot, yard, setback and other requirements of this Ordinance.

14.5.6.3.E The proposed temporary use is not a Special Land Use of the respective zoning district.

14.5.6.3.F The nature and intensity of the temporary use and the size and placement of any temporary building or structure shall be planned so that the temporary use, building or structure will be compatible with existing development on abutting property.

PROOFS

14.5.6.3.G Except for a garage sale, the temporary use shall not be located within an accessory building or structure.

14.5.6.3.H The parcel shall be of sufficient size to adequately accommodate the temporary use, building or structure.

14.5.6.3.I The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particular regarding the traffic generated by the temporary use or structure.

14.5.6.3.J Off-street parking areas are of adequate size for the particular temporary use, building or structure, are safely located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.

14.5.6.3.K Signs shall conform to the provisions of this Ordinance.

14.5.6.3.L Any lighting or noise shall be directed and controlled so as to not create a nuisance to neighboring property owners.

14.5.6.3.M All the criteria specific to a particular temporary use are met.

14.5.6.3.N The Zoning Administrator may impose conditions with the issuance of the permit which are designed to insure compliance with the requirements of this Ordinance and other applicable federal, state, or local laws, regulations, ordinances or codes.

14.5.6.4 *Other standards*. Before granting approval of any application, the Zoning Administrator and Planning Commission shall be reasonably sure that the proposed development fully complies with all the following, as are relevant and may condition approval of the site plan on conformance with any of the following:

14.5.6.4.A All applicable State laws administered by the Michigan Department of Transportation, Department of Natural Resources and the Environment, and/or Department of Agriculture;

14.5.6.4.B County and local ordinances;

14.5.6.4.C The adopted published rules, standards or policies of the Village of Ontonagon Planning Commission;

14.5.6.4.D The published rules, standards or policies of the Ontonagon County Drain Commissioner;

14.5.6.4.E The published rules, standards or policies of the Ontonagon County Road Commissioner;

14.5.6.4.F The published rules, standards or policies of the District Health Department;

14.5.6.4.G The fire safety and emergency vehicle access requirements of the Michigan Building Code and/or any local Fire Code having jurisdiction;

14.5.6.4.H Any approval shall include the filing of copies of any permits required under any laws described in Section 14.3.2.5.B, the compliance of which shall be made a condition of the approval of a site plan.

14.5.7 *Conformity to approved site plan*. Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission. If construction and development does not conform with such approved plan, the permit holder or land owner shall be notified of a violation of this Ordinance, and if the circumstances warrant, issued a stop work or cease operations order per the requirements of Section 14.6.1.3.A.

14.5.8 *Site plan amendments*. No changes shall be made to an approved site plan prior to, during, or after construction except upon mutual agreement between the applicant and the Village, and by application to the Zoning Administrator.

14.5.9 *As-built site plan submittal*. Once a project for which a site plan was approved is completed, two (2) sets of "as built" site plans showing the exact building footprints, driveways, parking areas, landscaping, utilities,

PROOFS

sidewalks, bike paths and trails shall be signed by the licensed professional who prepared them and delivered to the Zoning Administrator within one (1) month of completion of the project (for each phase of a project if multi-phased). The Zoning Administrator may waive this requirement, except where major utilities, new streets and/or large buildings are involved.

SECTION 14.6. COMPLAINTS, PERMIT SUSPENSION, REVOCATION, AND VIOLATION PROCEDURES

14.6.1 *Complaints, suspension, and revocation of permits.*

14.6.1.1 *Complaints regarding violations*. Whenever the Zoning Administrator becomes aware of or receives a complaint alleging a violation of this Ordinance, the Zoning Administrator shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or will be taken. Any and all building or land use activities considered possible violations of the provisions of this Ordinance observed or communicated to local Law Enforcement or to any Village officials shall be reported to the Zoning Administrator.

14.6.1.2 *Persons liable*. The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

14.6.1.3 *Procedures*.

14.6.1.3.A *Handling violations with notice*. If the Zoning Administrator becomes aware of or receives a complaint of an alleged violation, the process shall be as follows:

(1) A complaint form shall be assigned a number.

(2) A preliminary visit shall be made at the site to identify the alleged violation.

(3) If a violation is identified, the landowner and/or contractor shall be informed, in writing, of the nature of the violation, informed of the action necessary to correct the violation and the date when the compliance is to be completed. The owner or contractor shall also be informed of their right to appeal the decision of the Zoning Administrator. This action may be taken in person or by certified mail.

(4) Where the violation is one of unlawful construction, reconstruction, or removal, a "Stop Work" notice form shall be attached to the site or delivered to the contractor or owner. The owner or owner's agent shall also be informed of their right to appeal the decision of the Zoning Administrator.

(5) The site of the alleged violation shall be re-inspected on the date when the owner or contractor was informed compliance was to be completed.

(6) If compliance has not been completed, and an appeal of the decision of the Zoning Administrator has not been filed, the Village Attorney shall be informed to determine further action.

14.6.1.3.B *Handling violations without notice*. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Ordinance, if the violation continues, such as if the violation is one of unlawful construction, reconstruction, alteration, removal or usage, or poses a danger to the public health, safety or welfare, then the Zoning Administrator may seek enforcement without prior written notice by requesting the Village Attorney to invoke any one of the remedies authorized in this Ordinance.

14.6.1.4 *Suspension of a permit.* Any permit issued shall become invalid if the authorized work is not initiated within one (1) year of receipt of a permit, or is suspended or abandoned for a period of six (6) months after the time of commencing the work unless the development proposed shall have passed its first building inspection.

14.6.1.5 *Permit revocation*.

PROOFS

14.6.1.5.A *False information or failures*. A Zoning Compliance, Conditional Land Use, Special Land Use, Planned Unit Development, or Condominium Project Permit may be revoked by the permit-issuing authority in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based, or in case of failure or neglect to develop or maintain the property in accordance with the plans submitted, the requirements of this Section, or any additional requirement lawfully imposed by the permit-issuing authority or Zoning Board of Appeals. Upon permit revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on revocation of said permit.

14.6.1.5.B *Notification and appeals.*

(1) Before a Minor Conditional Land Use or Zoning Permit may be revoked, the owner, contractor or alleged violator shall be notified in writing of the reason for such revocation and their right to appeal the decision of the Zoning Administrator to the Zoning Board of Appeals.

(2) Before a Major Special Land Use Permit, Planned Unit Development or Condominium Project may be revoked, the permit recipient shall be given a ten (10) day advance notice of intent to revoke, along with the alleged reasons for the revocation and the right to obtain an informal hearing on the allegations. If the permit is revoked, the Zoning Administrator shall provide the permittee a written statement of the decision and the reasons therefor.

(3) No person may continue to make use of land or buildings in the manner authorized by any Zoning Compliance, Conditional Land Use, Special Land Use, Planned Unit Development or Condominium Project after such permit has been revoked in accordance with this section.

14.6.2 *Judicial review*. A person having an interest affected by a decision of the Zoning Board of Appeals and/or any other body, board or official under this Zoning Ordinance, and who has otherwise exhausted their administrative remedies under this Ordinance, may appeal to the Circuit Court for the County of Ontonagon. All such appeals shall be filed with the Ontonagon County Clerk, within twenty-one (21) calendar days after the date the written decision is signed by the Zoning Administrator, or chairperson of the body, board or commission that made the final decision in the matter.

PROOFS

SECTION 14.7. AMENDMENTS

14.7.1 *Purpose*. It is the purpose of this Section to establish the procedures and standards for amendment the text and Zoning Map of this Ordinance.

14.7.2 *Initiation of amendments*. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Zoning Map of Village of Ontonagon may be amended pursuant to the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended. Amendments may be initiated by the Village Council, the Planning Commission, by petition of one or more persons having an interest in the property to be affected by the proposed amendment. Each petition for amendment shall be submitted to the Zoning Administrator who shall refer it for recommended action to the Planning Commission.

14.7.3 *Fees*. The Village Council shall establish, by resolution, fees for zoning amendment petitions. Such fees shall be paid in full at the time of application, and no part of such fees shall be returnable to the petitioner. Fees shall not be required for amendments proposed or requested by the Village Council or the Village Planning Commission.

14.7.4 *Amendment procedures*.

All petitions for text amendment, rezoning or Zoning Map change shall be submitted and reviewed per the requirements of this Section. All petitions for a conditional rezoning shall be reviewed and approved per the requirements of Section 14.7.9.

The planning commission may solicit information and testimony from officials in other public offices including, but not limited to, the district health department, county road commission and/or MDOT as applicable, county drain commissioner, any school district affected, any state or federal agency or office with

an interest in the proposed change, any firm hired by the village to provide a review or comments on the proposed amendment, the ~~village police department and the~~ fire chief, the county soil erosion, sedimentation and storm water control agent, any other the village planning commission believes should be notified.

14.7.5 *Public hearing*. The Planning Commission shall establish a date for and conduct at least one (1) public hearing at a regular or special meeting on each petition for amendment; notice of which shall be given pursuant to the requirements of Section 14.4.1. If an individual property or several adjacent properties are proposed for rezoning; notice shall be given pursuant to the requirements of Section 14.4.1.1.B. The Planning Commission shall conduct the public hearing consistent with the hearing procedures in Section 14.4.2.

14.7.6 *Finding of fact required*. In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings in full along with its resulting recommendations for the proper disposition of the petition to the Ontonagon Village Council. The facts to be expressly considered by the Planning Commission shall include, but shall not be limited to the following:

14.7.6.1 What, if any, identifiable conditions related to the petition have changed which justify the petitioned change in zoning?

14.7.6.2 What, if any, error in judgment, procedure, or administration was made in the original Ordinance which justifies the petitioned change in zoning?

14.7.6.3 What are the precedents and the possible effects of precedent which might result from the approval or denial of the petition?

14.7.6.4 What is the impact of the amendment on the ability of the Village and other governmental agencies to provide adequate public services and facilities and/or programs that might reasonably be required in the future if the petition is approved?

14.7.6.5 Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?

14.7.6.6 Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:

14.7.6.6.A Surface water drainage problems

14.7.6.6.B Wastewater disposal problems

14.7.6.6.C Adverse effect on surface or subsurface water quality

14.7.6.6.D The loss of valuable natural resources such as forest, wetland, historic, or scenic sites, wildlife, mineral deposits, or valuable agricultural land.

14.7.6.7 Does the petitioned zoning change generally comply with the policies and uses proposed for the area in the adopted Ontonagon Village Master Plan? If not, and if the proposed zoning change is reasonable in light of all other relevant factors, then the Plan should be amended before the requested zoning amendment is approved.

14.7.6.8 Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area.

14.7.6.9 Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

14.7.6.10 If a specific property is involved, can the property in question be put to a reasonable economic use in the zoning district in which it is presently located (after considering all of the uses permitted by right, by special permit or as conditional uses)?

14.7.6.11 Is another procedure, such as a Variance, Conditional Land Use, Special Land Use, or Planned Unit Development procedure a more appropriate alternative than a rezoning?

14.7.7 *Planning commission recommendations*. All findings of fact shall be made in writing and shall be a part of the public records of the meeting of the Planning Commission and the Village Council. The Planning Commission shall not forward a recommendation to the Village Council unless all of the findings in Section 14.7.6

PROOFS

and other factors identified by the Ordinance are affirmatively resolved. After the hearing, the Planning Commission shall submit a summary of the comments received at the public hearing its findings of fact and the proposed amendment (including any zoning maps and other related material) to the Village Council.

14.7.8 *Consideration by the village council*.

After receiving the recommendations of the Planning Commission, the Village Council, at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the petitioned amendment. Such action shall be by a roll call vote. The amendment shall be approved by a majority vote of all of the members of the Village Council. The Village Council may hold additional public hearings if it considers it necessary. Notice of a public hearing held by the Village Council shall be published in a newspaper which circulates in the Village. The notice shall be given not less than fifteen (15) days before the hearing.

Further, it is understood pursuant to the Michigan Zoning Enabling P.A. 110 of 2006, that the Village Council shall make no change in the proposed amendment without first referring the petition back to the Planning Commission which shall have thirty (30) days from and after such referral in which to make a further recommendation to the Village Council, after which the Village Council shall take such action as it determines necessary. In the event that a petition is referred back to the Planning Commission, the Village Council shall make specific mention of their objections to the Planning Commission's findings and recommendations.

14.7.9 *Conditional rezoning*.

14.7.9.1 *Intent*. It is recognized that there are certain instances where it would be in the best interests of the Village, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405), by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

14.7.9.2 *Application and offer of conditions*.

14.7.9.2.A *General process*.

(1) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process. A pre-application conference is strongly suggested.

(2) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.

(3) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

(4) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Village Council provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

14.7.9.2.B *Process for special situations*.

(1) Any use or development proposed as part of an offer of conditions that would require a Conditional or Special Land Use Permit under the terms of this Ordinance may only be commenced if a Conditional or Special Land Use Permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

(2) Any use or development proposed as part of an offer of conditions that would require a

PROOFS

Variance under the terms of this Ordinance may only be commenced if a Variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.

(3) Any use or development proposed as part of an offer of conditions that would require Site Plan approval under the terms of this Ordinance may only be commenced if Site Plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

14.7.9.3 *Planning commission review*. The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 14.7.6 of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

14.7.9.4 *Village council review*.

After receipt of the Planning Commission's recommendation, the Village Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Village Council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 14.7.6 of this Ordinance. Should the Village Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Village Council may, in accordance with Section 401(3) of the Michigan Zoning Enabling Act (MCL. 125.3401(3)), refer such amendments to the Planning Commission for a report thereon within a time specified by the Village Council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

If the Village Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the Ordinance adopted by the Village Council to accomplish the requested rezoning.

14.7.9.5 *Administrative requirements.*

14.7.9.5.A *Statement of conditions*. The Statement of Conditions shall:

(1) Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Village Council.

(2) Contain a legal description of the land to which it pertains.

(3) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.

(4) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

(5) Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the County with the Register of Deeds.

(6) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

14.7.9.5.B *Other steps*.

PROOFS

(1) Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Village Clerk and Zoning Administrator shall maintain a listing of all lands rezoned with a Statement of Conditions.

(2) The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Village with the Register of Deeds of the County in which the land is located. The Village Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Village or to any subsequent owner of the land.

14.7.9.6 *Implementation.*

14.7.9.6.A *Compliance*.

(1) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

(2) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law. See Section 14.8.

(3) No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

14.7.9.6.B *Timing*.

(1) Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within twelve (12) months after the rezoning took effect and thereafter proceed diligently to completion.

(2) This time limitation may upon written request be extended by the Village Council if (1) it is demonstrated to the Village Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Village Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or is otherwise inconsistent with sound zoning policy.

(3) If approved development and/or use of the rezoned land does not occur within the time frame specified above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405(2). The reversion process shall be initiated by the Village Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

14.7.9.6.C *Subsequent rezoning of land*. When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Section 14.7.9.6.B.3 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Village Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

PROOFS

14.7.9.6.D *Amendment of conditions*. During the time period for commencement of an approved development or use specified per Section 14.7.9.6.B above, or during any extension thereof granted by the Village Council, the Village shall not add to or alter the conditions in the Statement of Conditions. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

14.7.9.6.E *Village right to rezone*.

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Village from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification.

Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, as amended.

14.7.9.6.F *Failure to offer conditions*.

The Village shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Following the adoption of an amendment by the Ontonagon Village Council and approval by the State of Michigan, one (1) notice of adoption shall be published in a newspaper of general circulation in the County within fifteen (15) days after adoption by the Village Council. The notice of adoption shall include the following information:

(1) A summary of the regulatory effect of the amendment (including the geographic area affected) or the text of the amendment.

(2) The effective date of the amendment.

(3) The place and time where a copy of the Ordinance may be purchased or inspected.

14.7.11 *Options upon denial of amendment request*. A property owner whose amendment or rezoning request is denied may file an appeal with Circuit Court. If the property owner challenges that the denial of the amendment has the result of leaving the property owner with no reasonable or economically viable use of the property, then the property owner may request consideration of a Hardship PUD per the requirements of Section 10.7, Hardship Planned Unit Development.

14.7.12. *Resubmittal.* No application for a rezoning which has been denied by the Village Council shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the Village Council to be valid.

14.7.13. *Comprehensive review of zoning ordinance*. The Planning Commission shall within two years and at intervals of not more than five (5) years thereafter, examine all the provisions of this Ordinance and the location of zoning district boundary lines and shall submit a report to the Village Council recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

SECTION 14.8. VIOLATIONS AND PENALTIES

14.8.1 *Purpose.* This Section is adopted to establish provisions for violation of the Zoning Ordinance. Authority for these provisions is found in Section 407 of the Michigan Zoning Enabling Act, P.A. 110 of 2006, which requires the Village Council to establish a method for addressing violations.

14.8.2 *Inspection of violation*. The Zoning Administrator shall inspect each alleged violation and shall order correction, in writing, of all conditions found in violation of this Ordinance. The Zoning Administrator shall issue a notice of Zoning Ordinance violation to the owner and occupant of the lot or parcel upon which the zoning violation has occurred. This notice shall include at least the following: 1) Date and location of each violation observed by the Zoning Administrator, 2) Names and addresses of owners and occupants, 3) The specific Section(s) of the Ordinance which has been violated, and 4) the length of time allowed before further prosecution of the violation. All violations shall be corrected within a period of thirty (30) days after the order to correct is issued, or as long as six (6) months, as the Zoning Administrator shall permit. A person not correcting a violation within this period shall be issued a zoning citation remanding the violation to the local district court.

PROOFS

14.8.3 *Violations and penalties*. Violations of any provisions of this Ordinance are declared to be nuisance per se. It shall be unlawful for any person to commence operations of any kind that are in violation of the terms of this Ordinance and any violations shall be subject to the penalties herein prescribed.

14.8.3.1 *Types of violations*.

14.8.3.1.A *Misdemeanor*. Unless a violation of this Ordinance is specifically designated in Section 14.8.3.1.B as a municipal civil infraction, the violation shall be deemed a misdemeanor. Any person deemed guilty of a misdemeanor shall, upon conviction thereof, be punished by imprisonment in the county jail for not more than ninety (90) days or by a fine of not more than five hundred dollars ($500.00), or by both such fine and imprisonment. Each day that a violation is permitted to exist shall constitute a separate punishable offense. The Village Attorney may institute those remedies provided by statute, court rule, and case law to prevent or remove any unlawful erection, construction, maintenance, or use. Damages, costs, and reasonable attorney fees shall be paid to compensate the Village for its cost of Ordinance enforcement. The imposition of any sentence shall not exempt the offender from compliance with the provision of this Ordinance.

14.8.3.1.B *Municipal civil infraction*. The following violations of this Ordinance may be handled as a municipal civil infraction:

(1) A violation of the terms of an approved Certificate of Zoning Compliance.

(2) A violation of the terms of an approved Site Plan.

(3) A violation of the terms of an approved Conditional or Special Land Use Permit.

(4) A violation of the terms of an approved Planned Unit Development Permit.

(5) A violation of any variance, condition, or other approval of the ZBA pursuant to Article 14.

(6) A violation of any approved sign permit.

(7) A violation of general standards regarding illegal maintenance of junk on a lot.

14.8.3.2 *Civil and criminal penalties*. Each day that a violation exists constitutes a separate offense or infraction. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

14.8.3.2.A *Civil fine*. The sanction for any violation of the Village of Ontonagon Zoning Ordinance which is a municipal civil infraction shall be a civil fine plus any costs, damages, expenses and other sanctions. The Zoning Administrator, together with deputies of local law enforcement, are the Village officials authorized to issue municipal civil infraction violation notices and municipal civil infraction violation citations under this Ordinance.

14.8.3.2.B *Civil action*. In addition to enforcing violations as misdemeanors or municipal civil infractions, violations of this Ordinance may be enforced by civil action along with any other remedies provided by law. Violations of the Ordinance are a nuisance per se, and adjudication of responsibility for a municipal civil infraction violation of this Ordinance shall not preclude other civil proceedings to abate such nuisance.

14.8.3.2.C *No permit for violators*. The Zoning Administrator may refuse to issue new Zoning Permits to a person who has failed to correct violations or to any person representing a firm which has failed to correct violations of this Ordinance or the Michigan Construction Code Act, Public Act 230 of 1972, or the Land Division Act, Public Act 288 of 1967, as amended.

14.8.3.3 Schedule of fines.

(1) A person, corporation, or firm who violates any provision of the Zoning Ordinance of the Village of Ontonagon that is found responsible by the District Court for a municipal civil infraction shall pay a civil fine of not more than $500, plus costs and other sanctions, for each infraction.

(2) Repeat offenses shall be subject to increased fines as set forth below. As used in this subsection, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the

PROOFS

same requirement or provision of the section of Village of Ontonagon Zoning Ordinance committed by a corporation, person, or firm within any twenty-four (24) month period and for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under those subsections shall be as follows:

a. The fine for any offense that is a repeat offense shall be no less than $140 plus costs and other sanctions.

b. The fine for any offense that is a second repeat offense shall be no less than $500 plus costs and other sanctions.

ARTICLE 15. RULES OF MEASUREMENT AND DEFINITIONS

SECTION 15.1. RULES OF MEASUREMENT

15.1.1 *Height measurement.* A building or structure shall adhere to both the maximum story and maximum height regulations as specified in the District standards, except as otherwise provided in this Ordinance.

15.1.1.1 *Height in feet*. The overall building height shall be measured as the vertical distance in feet from the average grade (measured as the average elevation of the two side lot lines measured at the front setback line) to the highest point of a building. To determine highest point of various roof types, see Figure 15.5 which illustrates height measurement with various roof types. The height of any parapet wall or safety railing enclosing outdoor livability space or decks on a flat roof shall be included in the measurement of overall building height in feet.

15.1.1.2 *Height in stories*. Overall height in stories shall be measured as the total number of stories beginning with the first story having its finished floor surface above the average grade as defined in Section 15.9. A basement shall be considered a "story" for purposes of measuring overall building height in stories if any of the following is true:

15.1.1.2.A More than fifty (50) percent of the total building perimeter is above finished grade so that the vertical distance from the average grade to the floor is less than the vertical distance from the average grade to the ceiling.

15.1.1.2.B The basement is a walk-out basement.

15.1.2 *Site layout measurements*.

15.1.2.1 *Lot size*. Lot size is the total area within the boundaries of a property's lot lines (parcel area), excluding adjacent or abutting right-of-way areas or public access easements.

15.1.2.2 *Lot width*. Lot width is the horizontal distance between the side lot lines measured along the front lot line. In the case of a curved front lot line, the horizontal distance as measured on a tangent line running between the two side lot lines where they meet the front lot lines. For corner lots having only one side lot line, the distance shall be measured from that side lot line to the opposing front lot line.

15.1.2.3 *Front setback*. Front Setback is the minimum distance by which any building or structure must be separated from a street right-of-way or front lot line. The Front Setback is measured from and perpendicular to the front lot line to the nearest foundation or building wall.

15.1.2.4 *Required side or rear yards*. Required side and rear yards are measured from and perpendicular to the side interior or rear lot line abutting another lot or a public alley. The required yard reflects a minimum distance between the lot line and the nearest foundation or building wall of any structures.

15.1.2.5 *Setback or yard exceptions*. For lots less than seventy-five (75) feet in width, the Zoning Administrator, upon consultation with the Planning Commission, may reduce required setbacks or yards to reflect the established context within that same zoning district for existing lots of similar size, or to facilitate maximum solar access for the subject lot or residence.

15.1.2.6 *Lot coverage (buildings and structures).*

15.1.2.6.A Lot coverage is the percentage of a lot that is covered by buildings and structures. Lot coverage regulations are intended to help preserve open space and privacy.

PROOFS

15.1.2.6.B Lot coverage shall be measured as the gross area of the actual footprint of the foundations of all principle and accessory buildings on the site, plus the gross area of the footprint of any accessory structure not expressly excluded in Section 15.1.2.6.C, plus the gross area of any enclosed ground floor or upper story projections beyond the actual footprint, divided by the total gross square foot area of the lot.

15.1.2.6.C Exclusions from the lot coverage calculation include:

(1) Areas on a lot open to the sky (unenclosed) with a finished surface including:

a. Vegetation (landscaping, gardens) or paved surfaces (both pervious and impervious); or

b. Unenclosed area of patios, decks, or gazebos

c. Unenclosed areas covered overhead by a pervious material such as lattice, or a trellis

(2) Area on a lot occupied by an unenclosed porch or balcony accessory to a principle structure, up to a maximum of four hundred (400) square feet.

(3) One-half (1/2) of the area on a lot occupied by a detached accessory dwelling unit to a maximum of five hundred (500) square feet.

15.1.2.7 *Total impervious surface coverage*. Total impervious surface coverage is the percentage of total area of impervious surfaces on a lot. The intent is to preserve a percentage of open space for the containment of stormwater on the property. Total impervious surface coverage shall be measured as the gross area of the footprint of all impervious surfaces on a lot (including all buildings, structures, and impervious paved or covered areas) divided by the total gross square foot area of the lot (not including areas in the public right-of-way). Site plan review for the purpose of determining mitigation strategies will be triggered by total impervious surface percentages exceeding Ordinance standards.

15.1.2.8 *Separation distance*.

15.1.2.8.A *Between buildings*. Separation shall be measured as the horizontal distance between the two closest portions of each building's exterior walls.

15.1.2.8.B *Between uses*. When measuring a required separation between uses, distance shall be determined from the nearest point of a structure or part of a multi-use structure occupied by the use requiring separation to the nearest point of a structure or part of a multiple structure occupied by a use from which the separation is to be effected or established. In case a portion of the use requiring separation is operated outside a building or structure, the separation shall be measured from the nearest point of the lot occupied by the use requiring separation to the nearest point of a structure or part of a multiple structure occupied by a use from which the separation is to be effected or established.

15.1.2.8.C *Between uses and a zone district*. When measuring a required separation between a use and a zone district, distance shall be determined from the nearest point of a structure or part of a multi-use structure occupied by the use requiring separation to the nearest point of the zone district boundary from which the separation is to be effected or established. In case a portion of the use requiring separation is operated outside a building or structure, the separation shall be measured from the nearest point of the lot occupied by the use requiring separation to the zone district boundary from which the separation is to be effected or established.

15.1.3 *Design measurements*.

15.1.3.1 *Floor area*. Floor area is calculated as the sum of the horizontal areas of each floor of a building or unit intended for occupancy, measured from the interior faces of the exterior walls, excluding basements or attics not intended for occupancy, attached garages or space used for off-street parking or loading, breezeways, and unenclosed porches.

15.1.3.2 *Transparency*. Transparency is measured as the total amount of transparent surface provided on a street-facing (named or numbered street) building façade (including permitted alternatives to the use of transparent glass), divided by the total length of that same street-facing building façade, provided that:

PROOFS

15.1.3.2.A Window glazing used to comply with a transparency standards shall be clear and shall transmit at least 65 percent of the visible daylight; and

15.1.3.2.B No interior or exterior modifications, including temporary and permanent signage, window tinting, furnishings, fixtures, equipment, or stored items within three (3) feet of the windows will be allowed to reduce the effective minimum transparency standards by more than twenty-five (25) percent. Open display of individual merchandise is permitted.

15.1.3.3 *Landscape opacity*. Landscape opacity is measured as the percentage of a prescribed area to be obscured by plants as observed from the public space such as a street or sidewalk. This is usually used in relation to a specified screening height according to an anticipated growth period.

15.1.3.4 *Fence and wall height*. Fence and wall height shall be measured from the base of the fence or wall at the higher of the finished grade at the inside or outside of the fence or wall, to the topmost point of the fence or wall.

SECTION 15.2. ACRONYMS

The following acronyms are used in this Ordinance:

ADT – Annual average two-way daily traffic volume

ATV – All Terrain Vehicle

C – Use Permitted By Right with Conditions

DEQ – Michigan Department of Environmental Quality

ECHO – Elder Cottage Housing Opportunity

EPA – United States Environmental Protection Agency

FCC – Federal Communication Commission

FEMA – Federal Emergency Management Authority

FIRM – Flood Insurance Rate Map

HUD – Housing and Urban Development

HVAC – Heating, ventilation, air conditioning units

kv – Kilovolt

MCL – Michigan Compiled Laws

MDOT – Michigan Department of Transportation

MHP – Mobile Home Park or Manufactured Housing Park

P – Use Permitted by Right

P.A. – Public Act

PUD – Planned Unit Development.

ROW – Right-of-Way

RV Park – Recreational Vehicle Park

S – Special Land Use

SOBS – Sexually Oriented Business

WECS– Wind Energy Conversion System

ZBA – Zoning Board of Appeals

SECTION 15.3. DEFINITIONS – A

[GRAPHIC – FIGURE 15-1 – ACCESSORY BUILDING]

PROOFS

Abutting (same as Adjacent, Contiguous). Next to, touching, having property or district lines in common.

Access. A way or means of approach to provide vehicular or pedestrian entrance or exit to a property from an abutting property or a public roadway.

Accessible. In reference to a parcel, means that the parcel has an area where a driveway provides vehicular access or is served by an existing easement that provides vehicular access to an existing road or street and meets all applicable location standards of MDOT or the County Road Commission under P.A. 200 of 1969, MCL 247.321 to 247.329, and of the Village; or has an area where a driveway can provide vehicular access or is served by a proposed easement that will provide vehicular access to an existing road or street and meet all such applicable location standards. Per the Land Division Act, P.A. 288 of 1967, MCL 560.102 as amended.

Access Management. The process of providing and managing reasonable access to land development while preserving the flow of traffic in terms of safety, capacity, and speed on the abutting roadway system.

Accessory Building or Structure. A building or structure located on the same lot as the principle building, attached or detached, but customarily incidental and subordinate to the principle building. Except as otherwise permitted by this Ordinance, an accessory building or accessory structure shall not be used for human habitation. (See Figure 15-1)

Accessory Dwelling Unit (see also ECHO housing). A separate and complete dwelling unit established in conjunction with and clearly subordinate to a principle dwelling unit, either within the same structure as the principle dwelling unit or in an accessory structure on the same lot.

Accessory Use (See also Home Occupation). A use that: (1) is subordinate in area, extent, and purpose to the principle use; (2) is customarily found in connection with; (3) is incidental to; and (4) is located on the same lot as the principle use (except in the case of some accessory off-street parking spaces or loading). For example, a retail business is not customarily considered incidental to a residential use. Residential accessory uses may include storage of household goods, gardening, private swimming pools, and other similar uses.

Acre. A land area of 43,650 square feet.

Addition (same as Expansion). Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

Adjacent (same as Abutting, Contiguous). Next to, touching, having property or district lines in common.

Affordable Housing. Housing units where the occupant(s) is paying no more than 30 percent of gross household income of low income households (defined to be a household earning less than 80 percent of the median annual income adjusted for household size as determined by the U.S. Department of Housing and Urban Development) for housing costs, including taxes, insurance, and utilities.

Agriculture. Means the production, harvesting, and storage of plants and animals useful to humans, including but not limited to biomass crops, forages and sod crops, grains, feed crops, field crops, dairy and dairy products, poultry and poultry products, livestock including breeding and grazing of cattle, swine, captive deer, and similar animals, berries, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

Alley. A public or private right of way shown on a plat which provides secondary access to a lot, block, or parcel of land per the Land Division Act, P.A. 288 of 1967, MCL 560.102, as amended.

Alteration. Any change, addition, enlargement, relocation, repair, remodeling, or modification to a structure. Also any change in the structural members of a building, such as walls or partitions, columns, beams or girders. Also any change, addition, or modification to type of occupancy, number of dwelling units, or use of structure or land. The consummated act of alteration may be referred to herein as "altered" or "reconstructed" or "changed".

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

Apartment. One or more rooms with separate kitchen and bathroom facilities comprising an independent, self-contained dwelling unit not owned in fee simple.

PROOFS

Apiary (see also Beehive). One or more structures occupied by bees, but does not include honey houses, extraction houses, warehouses, or appliances.

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

Appurtenance. A right, privilege, or improvement belonging to, incident to, and passing with a principle property upon sale or transfer.

Aquaculture. The hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

Assisted Living Facilities. A residential development that provides room and board, assistance with daily activities, and health care for three or more adult residents.

Attic. That part of a building that is immediately below and wholly or partly within the roof framing.

Awning. A roof-like cover projecting from the exterior wall of a building and composed of non-rigid materials except for the supporting framework which can sometimes be retracted, folded, or collapsed against the face of the supporting building.

SECTION 15.4. DEFINITIONS – B

[GRAPHIC – FIGURE 15-2 – BASEMENT/STORY]

Basement. That portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story (see Figure 15-2). A cellar is a basement. See also definition of "story". However, any walk-out basement, regardless of average grade, shall be considered a story.

Bedroom. A room intended for sleeping. Any room designated on building plan submittals as a den, library, study, loft, or other extra room will be considered to be a bedroom for the purpose of this Ordinance.

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

Billboard. An off-premises sign.

Block. A unit of land bounded by (but not traversed by) streets or by a combination of streets and public land, unsubdivided acreage, corporate boundary lines, railroad rights-of-way, waterways, or any other physical barrier to the continuity of development.

Buffer. A strip or area of land reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting properties and properties in different zoning districts.

Buildable Area. The portion of a lot remaining after the minimum yard, required open space, and setback requirements of this Ordinance have been met, leaving the area that building(s) may occupy. *(See Figure 15-3)*

[GRAPHIC – FIGURE 15-4 – ATTACHED (ABOVE) AND DETACHED BUILDING (BELOW)

Building (see also Structure). Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, chattels, or property of any kind which shall include vehicles whether mounted or not on wheels and situated on private property and used for the purpose of a building.

Building, Accessory (see Accessory Building)

Building, Attached. A building which has at least part of a wall in common with another building, or which is connected to another building by a roof. (See Figure 15-4)

Building Code. Regulations governing the erection and maintenance of buildings as currently enforced pursuant to the laws of the State of Michigan.

Building, Detached. Any structure that does not have a wall or roof in common with another structure. *(See Figure 15-4)*

Building Envelope. The three-dimensional space within which structures are permitted to be built on a lot as defined by regulations governing building setbacks, required open space, maximum height, and bulk.

PROOFS

Building Footprint. That portion of a lot covered by buildings or structures as measured on a horizontal plane at the surface level.

Building Form Standards. The part of the Form-Based Code that establishes basic parameters regulating building form, including the building envelope, placement (in three dimensions) and certain permitted/required building elements, such as storefronts, balconies, stoops, porches, and doors.

Building Frontage. The distance between two parallel lines, drawn perpendicular to the edges of the right-of-way, which intersect with any part of a building. Where the building is located upon a curve, the lines shall be drawn perpendicular to a tangent drawn through the nearest point of the right-of-way for a convex curve and the furthest point of the right-of-way for a concave curve.

Building, Height. The vertical distance between the average grade and the highest point of the roof surface for flat roofs, to the deck line of Mansard roofs; the average height between eaves and ridge for gable, hip and gambrel roofs; and the average height between the lowest point and the highest point on a shed roof. (See Figure 15-5)

[GRAPHIC – FIGURE 15-5 – BUILDING HEIGHT]

Building Line (see also Setback Line). A line parallel to a front, side or rear lot line, established for the purpose of prohibiting the erection of a structure between such line and the corresponding lot line.

Building, Principal (see Principal Building)

Building, Temporary. A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction or as an office until the construction work is complete.

SECTION 15.5. DEFINITIONS – C

Campground. Defined per the Public Health Code P.A. 368 of 1978, MCL 333.12501, as amended as a parcel or tract of land under the control of a person, in which sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for five or more recreational units such as tents, camper trailers, travel trailers, recreational vehicles, motor homes, or temporary sleeping quarters of any kind. A campground does not include a seasonal mobile home park, mobile home park, or manufactured housing community licensed under the Mobile Home Commission Act, P.A. 96 of 1987, as amended.

Canopy. A permanent roof-like cover, usually of metal, wood, or glass, designed and intended for protection from the weather or as a decorative embellishment, and is free-standing or which projects from a wall or roof of a structure over a window, walkway, door, etc.

Carport. A covered, partially open structure intended to shelter one or more vehicles.

Child. A person under 18 years of age.

Child Care Center (same as Day Care Center). 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 or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before-or after-school program, or drop-in center. Includes the same provisions and exclusions as defined in P.A. 116 of 1973, MCL 722.111, as amended.

Child Caring Institution. A child care facility that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the child caring institution for that purpose, and operates throughout the year. An educational program shall not be the primary purpose of the facility. Includes a maternity home for the care of unmarried mothers who are minors. Also includes an agency group home that is a small child caring institution owned, leased, or rented by a licensed agency providing care for more than four but less than 13 minor children. Also includes institutions for mentally retarded or emotionally disturbed minor children. Does not include a licensed hospital, nursing home, or home for the aged, a licensed boarding school, a mental health hospital or facility, a licensed adult foster care family home, or a licensed adult foster care small group home as described in P.A. 116 of 1973, MCL 722.111, as amended.

PROOFS

[GRAPHIC – FIGURE 15-6 – CLEAR VISION AREA]

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

Clear Vision Area. Corner areas at intersecting streets, alleys and driveways in which unobstructed vision of motor vehicle operators is maintained as shown in Figure 15-6. At the intersection of two streets, or where a street intersects with an alley the clear vision triangle is defined by measuring twenty-five (25') feet in length along each street/alley right-of-way line from their point of intersection, the third side being a diagonal line connecting the first two. At the intersection of a driveway and a street, the clear vision triangle is defined by measuring two sides of the triangle each twenty (20') feet in length along the edge of the driveway and along the street right-of-way line and the third side being a diagonal line connecting the first two, and applied to both sides of the driveway. The vertical dimensions of the clear vision triangle include unobstructed areas to be maintained between twenty-four (24) and ninety-six (96) inches above the grade of the lower roadway or driveway.

Cluster Development. An approach to designing a site that maximizes the conservation of open space by placing dwelling units and other structures in closer proximity than usual while retaining the remaining land for recreation, open space, or preservation of sensitive land features.

Commercial. An occupation, employment, or enterprise that is carried on for profit.

Common Area. Land in a development held in common or single ownership and not reserved for the exclusive use or benefit of an individual tenant or owner.

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

Community Garden. A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.

Composting. Processing waste in a controlled environment to produce a stable product by microbiologically degrading organic matter under aerobic conditions.

Conditional Land Use. A use that, owing to some special characteristics attendant to its operation or installation (for example, potential danger, smoke, or noise) is not essentially incompatible with uses permitted in a zoning district, but which possesses characteristics which require individual review in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. A conditional use is permitted by right in a particular district, provided that the use complies with the nondiscretionary standards stated in this Ordinance.

Condominium Project. A plan or project including not less than two condominium units established and approved in conformance with the Condominium Act P.A. 59 of 1978, MCL 559.10, as amended.

Condominium Subdivision. A division of land on the basis of condominium ownership, pursuant to the Condominium Act P.A. 59 of 1978, as amended and which is not subject to the provisions of the Land Division Act, P.A. 288 of 1967, as amended. Also known as a site condominium or site condo. As used in reference to a "Condominium Subdivision" in this Ordinance, the terms below are defined as follows:

1. Building Envelope: The area of a condominium unit within which the principle building or structure may be constructed, together with any accessory structures, as described in the Master Deed.
2. Building Site: That portion of a condominium project that shall include the condominium unit and that may also include limited common elements as described in the Master Deed. For purposes of determining compliance with the applicable requirements of the Zoning Ordinance (including, without limitation, area, width, and setback requirements) or with other applicable laws, ordinances, or regulations, "building site" shall be considered to be the equivalent of a "lot."
3. Condominium Unit: That portion of a condominium project that is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. The term

PROOFS

"condominium unit" shall be equivalent to the term "lot" or "building site", for purposes of determining compliance of the site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage, and within which a building or other improvements may be constructed by the condominium unit owner. The condominium unit shall not include any limited common elements.

4. General Common Area: That portion of a site condominium project designed and intended for joint ownership and maintenance by the condominium association as described in the Master Deed.
5. Limited Common Area: That portion of a site condominium project designed and intended for separate ownership, but outside the building setbacks for the zoning district the property is located in, as described in the Master Deed.
6. Limited Common Element: That portion of a condominium project other than the condominium unit that is reserved in the master deed for the exclusive use of the owner of the condominium unit.
7. Master Deed: The document recorded as part of a condominium subdivision that contains the exhibits and incorporates by reference the approved bylaws for the Condominium Subdivision and Plan.
8. Plan: The drawings attached to the master deed for a condominium subdivision which describes the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

Conservation Easement. The grant of a property right requiring that the described land will remain in its existing natural state in perpetuity. Also means that term as defined in Section 2140 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, when applied to a cluster development or open space development as follows: an interest in land that provides limitation on the use of land or a body of water or requires or prohibits certain acts on or with respect to the land or body of water, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the land or body of water or in an order of taking, which interest is appropriate to retaining or maintaining the land or body of water, including improvements on the land or body of water, predominantly in its natural, scenic, or open condition, or in an agricultural, farming, open space, or forest use, or similar use or condition.

Contiguous (same as Abutting, Adjacent). Next to, touching, having property or district lines in common.

Convalescent Home (same as Nursing Home and Extended Care Facility). A building having a principle purpose of providing of sleeping, eating, and gathering rooms where infirm persons are housed, often for extended periods of time, and furnished with meals and nursing care.

Cross Access. A service road or driveway providing vehicular access between two or more contiguous sites so the driver need not enter the public road system.

Cul-de-sac. A street with a single common ingress and egress and with a turnaround at the end.

SECTION 15.6. DEFINITIONS – D

Day Care Center (see Child Care Center)

Deck. An unroofed structure built as an aboveground platform either freestanding or attached to a building and supported by pillars or posts.

Deed Restriction. A private legal restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant.

Demolition. Any dismantling, intentional destruction, or removal of public or private structures, sites, surfaces, utilities, or other improvements.

District. A geographic area within the Village within which certain regulations and requirements or various combinations thereof apply uniformly under the provisions of this Ordinance. The terms "district" and "zone" are synonymous.

Division. The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs,

PROOFS

executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of section 108 and 109 of the Land Division Act, P.A. 288 of 1967, MCL 560.108 to 560.109, as amended. Division does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act, P.A. 288 of 1967, as amended or the requirements of an applicable local ordinance.

Dock. A structure built over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other recreational uses.

Driveway. A private means of vehicular access connecting a public right-of-way such as a street or alley to a parking or loading area, garage, dwelling, or other structure or area.

Driveway, Shared. A driveway connecting two or more contiguous properties to the public road system.

Dwelling, Multiple-Family. A residential building containing three or more dwelling units, each with not more than one family.

Dwelling, Single-Family. A detached residential building containing only one dwelling unit, and occupied by not more than one family.

Dwelling, Two-Family (Duplex). A detached residential building containing two dwelling units, each with not more than one family. Also known as a duplex.

Dwelling Unit. One or more rooms connected together but structurally divided from all other rooms in the same structure, constituting a separate, independent housekeeping establishment and containing independent kitchen, bathroom and sleeping facilities.

SECTION 15.7. DEFINITIONS – E

Earth Material. Any mineral, rock, natural soil, overburden, or fill, or combination of such materials.

Earthwork. The removal of earth materials, clearing of vegetation, mass grading, or re-grading of a site.

Easement. That portion of a lot or lots reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement may be for use under, on, or above said lot or lots.

Eave. The overhanging lower edge of a roof.

ECHO (Elderly Cottage Housing Opportunity) Housing or ECHO Unit. A temporary accessory structure and use on a single residential lot for occupancy only by immediate family members of the occupiers of the principle structure on the lot.

Egress. An exit.

Electrical Code. The electrical code as currently enforced pursuant to the laws of the State of Michigan.

Erected. Includes built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises required for construction. Excavation, fill, drainage, installation of utilities and the like, shall be considered a part of erection.

Erosion. The removal of soil through the actions of water, wind, gravity, or a combination.

Essential Services. Means the erection, construction, alteration or maintenance by public utilities or municipal departments, of overhead, surface, or underground gas, electrical, steam, fuel, or water transmission or distribution systems; collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, hydrants, and similar accessories in connection therewith, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare. Does not include communication towers or office buildings, substations, or structures for service equipment or maintenance depots.

Expansion (same as Addition). Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

PROOFS

Extractive Industries. Industries engaged in excavating and removing rock, stone, ore, soil, gravel, sand, minerals, and similar materials from the surface and/or subsurface.

SECTION 15.8. DEFINITIONS – F

Façade. That portion of an exterior building elevation facing the street space. Building elevations facing interior courts, common lot lines, and alleys are not facades.

Family. A basic unit having at its nucleus one or two persons who may be providing care for their children (whether related by blood, marriage, guardianship, duly authorized custodial relationship, or adoption) and/or elderly parents plus not more than two other persons; or, not more than four unrelated persons living together as a single housekeeping unit.

Farm. The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products, per the Michigan Right to Farm Act, P.A. 93 of 1981, MCL 286.472, as amended.

Farm Operation. The operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products as outlined in the Michigan Right to Farm Act, P.A. 93 of 1981, MCL 286.472, as amended.

Farm Product. Those plants and animals useful to human being produced by agriculture and includes, but is not limited to, biomass crops, forages and sod crops, grains, feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, trees and tree products, mushrooms, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Commission of Agriculture. Per the Michigan Right to Farm Act, P.A. 93 of 1981, MCL 286.472, as amended.

Farm Stand (same as Food Stand). A building or structure used for the retail sales of agricultural produce.

Farmer's Market. An occasional or periodic market held in an open area or in a structure where individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages.

Fence. A structure of definite height and location to serve as an enclosure in carrying out the requirements of this Ordinance; a barrier designed to bound an area.

Fence Height. The average distance between the top element in the fence and the adjacent grade along any unbroken run of fence.

Fence, Living. A grouping of plants including, but not limited to hedges, shrubs, bushes, or trees, arranged and/or growing in such a manner as to enclose, secure, partially enclose or secure, provide privacy, or mark a boundary for all or any part of a lot.

Fence, Privacy. A solid fence erected or constructed to prevent views across the fence line.

Fill. Any material, including by way of illustration earth material, concrete, rubble, and wood waste, that is placed or deposited on the surface of the ground resulting in a change in natural surface elevation.

Flag. A flexible piece of fabric or other material used as a symbol of a unit of government or political subdivision.

Floodplain. A relatively flat or low land area adjoining a river, stream, lake, or watercourse which is subject to partial or complete inundation; or, an area subject to the unusual and rapid accumulation of runoff or surface waters from any source. This area includes floodway (channel and flood areas with flow), and flood fringe (flood areas with little or no flow).

Floor. The level base of the room, hollow structure, or enclosed area, including basements.

Floor Area. The sum of the total gross area of all floors as measured to the outside surfaces of exterior walls.

Footcandle. A measure of illumination on a surface that is one foot from a uniform source of light of one candle and equal to one lumen per square foot.

PROOFS

Foster Care. The provision of supervision, personal care, and protection in addition to room and board for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

Foster Family Group Home. A private home in which more than four but fewer than seven minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household pursuant to chapter X of P.A. 288 of 1939, MCL 710.21 to 710.70, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian. Per P.A. 116 of 1973, MCL 722.11, as amended.

Fraternity or Sorority House. A building occupied and maintained exclusively for students affiliated with and formally recognized as a group by an academic or professional college or university or other recognized institution of higher learning.

Frontage (as pertains to sign regulation). A property line shall be said to be a property frontage whenever it is coterminous with the boundary of a public right-of-way.

Frontage Road (same as Front Service Drive). A local street/road or private road typically located in front of principle buildings and parallel to an arterial to give access to abutting properties for the purpose of controlling access to the arterial.

SECTION 15.9. DEFINITIONS – G

Garage Sale (same as Yard Sale). The sale or offering for sale to the general public of items of personal property by the owner or tenant of a lot on which a dwelling unit is located, whether within or outside the dwelling unit, a garage or other accessory building.

Garden. A tract of land devoted to outdoor cultivation of flowers, fruits, vegetables, or small plants, and unenclosed by any structure other than a fence.

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

Glare. The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Grade. The vertical elevation of the ground surface.

[GRAPHIC – FIGURE 15-8 – GRADE]

Grade, Average. The arithmetic average of the lowest and highest grade elevations in an area within five feet of the foundation line of a building or structure not including window wells or required basement egress. (See Figure 15-8)

Grade, Finished. The final grade of the site after man-made alterations that conforms to the approved plan.

Grade, Natural or Existing. The elevation of the ground surface in its natural state, before man-made alterations.

Greenhouse (same as Hoop House). A building or structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other tender plants.

Greenway. A contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes. Per P.A. 110 of 2006, MCL 125.3102, as amended.

Ground Cover. Living plants designed to grow low to the ground (generally one foot or less), forming a continuous vegetative surface, and intended to stabilize soils and protect against erosion.

Ground Story. The first level of a building at or above grade.

SECTION 15.10. DEFINITIONS – H

Hard Surface. Compacted gravel, concrete or asphalt pavement, pavers or other products designed for parking.

Hazardous Substance. Any substance that, because of its quantity, concentration, or physical or chemical

PROOFS

characteristics, poses a significant present or potential hazard to the public health, safety, or welfare or to the environment. Includes "Hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Public Law 96-510, 94 Stat. 2767, and "Hazardous waste" as defined in the Natural Resources and Environmental Protection Act of 1994, MCL 324.11103, and "Petroleum" as defined in the Natural Resources and Environmental Protection Act of 1994, MCL 324.21303(d)(ii).

Height, Building (see Building, Height)

Height, Sign (see Sign, Height)

Home Occupation. A commercial activity, whether for profit or otherwise, carried on by an occupant of a dwelling unit as a secondary use which is clearly subordinate and incidental to the use of the dwelling unit as a residence, and does not alter the exterior of the property or affect the residential character of the neighborhood.

Hospital. An institution providing health services for inpatient and/or outpatient medical or surgical care of the sick or injured and including related facilities such as, but not limited to, laboratories, outpatient departments, central staff service facilities, and staff offices which are an integral part of the institution.

Hotel. A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a boarding or rooming house as defined in this Ordinance.

SECTION 15.11. DEFINITIONS – I

Impervious Surface. Any which prevents, impedes, or slows infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation-bearing soils, including building roofs, paved asphalt or concrete surfaces, and dense gravel surfaces.

Impervious Surface Coverage. A measure of intensity of land use that represents the portion of a site that is impervious. This portion includes, but is not limited to, all areas covered by buildings, parked structures, driveways, roads, sidewalks, concrete, asphalt, or other hard surface.

Industrial Service Establishment. Establishment engaged in the repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products, generally not attracting the general public.

Industry. The manufacture, fabrication, processing, assembly, reduction, or destruction of any article, substance, or commodity in such a manner as to change the form, character, or appearance thereof, and may include associated warehousing and/or storage facilities.

Ingress. Access or entry point or entrance.

Institution. A building or premises occupied by a nonprofit corporation or a nonprofit establishment for public use.

Intersection. The location where two or more roadways cross at grade without a bridge.

SECTION 15.12. DEFINITIONS – J

Junk. Any worn out or discarded materials including but not necessarily limited to scrap metal, inoperable motor vehicles and parts, construction material, household wastes including garbage and discarded appliances, and yard debris, which is collected, stored for salvage, destruction, or conversion to some use.

SECTION 15.13. DEFINITIONS – K

Kennel. Any premises where domestic animals, such as dogs and cats, are confined, boarded, trained, treated, or groomed for compensation or bred or raised for sale purposes.

SECTION 15.14. DEFINITIONS – L

Landscaping. An area set aside from structures and parking which is characterized by the installation and permanent maintenance of vegetation and natural features. It includes the preservation of existing vegetation and the continued maintenance thereof and the installation of minor decorative features such as permeable paving materials, walls, fences, and street furniture.

Loading Zone. An off-street area on the same lot with a building, or group of buildings, for temporary access and parking of a commercial vehicle while loading and unloading merchandise or materials.

PROOFS

Lot (same as Parcel). Land described in a recorded plat or by metes and bounds description, including a condominium unit in a condominium subdivision, occupied or to be occupied by a building, structure, land use or group of buildings having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage and buildable area requirements of this Ordinance, and having its principle frontage upon a public street or on an approved private road or approved access easement.

Lot, Corner. A platted parcel of land abutting two road rights-of-way at their intersection, or a lot abutting upon a curved street or streets involving a change of direction. *(See Figure 15-11)*

Lot, Flag. A lot whose access to the public street is by a narrow, private right-of-way that is either a part of the lot or an easement across another property. *(See Figures 15-10 and 10-11)*

[GRAPHIC – FIGURE 15-9 – LOT FRONTAGE, WIDTH & DEPTH]

Lot, Interior. Any lot other than a corner lot which has only one lot line fronting on a street. For this purpose, an alley is not considered a street unless the lot has no lot line fronting on a street. *(See Figure 15-11)*

Lot Lines, Common. Lot lines shared by adjacent private lots.

Lot Lines, Front. In the case of an interior lot, the line separating that lot from the street, a private road, or other access easement. In the case of a corner lot or through lot, the line separating that lot from either the street, a private road, or other access easement, and bearing the assigned street address for that lot. In the case of a flag lot, the line parallel and nearest to the main roadway. *(See Figures 15-9 and 15-10)*

Lot Lines, Side. Any lot line other than the front lot line or rear lot line. *(See Figures 15-9 and 15-10)*

[GRAPHIC – FIGURE 15-10 – LOT LINE & YARDS]

Lot of Record. A lot which is part of a plat or a lot or parcel described by metes and bounds recorded in the Office of the County Register of Deeds at the time of adoption of this Ordinance.

Lot, Through. An interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. All sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required. *(See Figure 15-11)*

[GRAPHIC – FIGURE 15-11 – LOT TYPES]

Lot Width. The horizontal distance between the side lot lines, measured at the front setback, or if no front setback is established, the distance between the side lot lines measured along the lot line abutting a named or numbered street. For corner lots having only one side lot line, the distance shall be measured from that side lot line to the opposing front lot line. *(See Figure 15-10)*

SECTION 15.15. DEFINITIONS – M

Major Street. Any street designated as a major street pursuant to P.A. 51 of 1951.

Manufactured Home. Factory-built, single-family dwelling units prefabricated in part or total which meet the HUD Code 42 USC Sec 5401 (Federal Manufactured Home Construction and Safety Standards Act), and is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

Marihuana Related Business. Any marihuana facility or business, as defined and licensed by the State of Michigan to grow, process, manufacture, test, transport or retail marihuana or marihuana based products as defined by the Michigan Regulation and Taxation of Marihuana Act, the Michigan Medical Marihuana Act and the Medical Marihuana Facilities Licensing Act, as amended.

Master Plan. A compilation of policy statements, goals and objectives, standards, maps, and statistical data for the physical, social, and economic development, both public and private, of the community, and complying with the standards of the Michigan Planning Enabling Act, P.A. 33 of 2008.

Mixed Use Development. The development of a tract of land or building or structure with two or more different

PROOFS

uses such as but not limited to residential, office, retail, public, or entertainment, vertically or horizontally integrated, and sharing a common circulation system including both vehicular and pedestrian ways and possibly a system of common open spaces including recreational and natural areas.

Mobile Home. Per the Mobile Home Commission Act P.A. 96 of 1987, MCL 125.2302, a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

Mobile Home Park. A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home, or as otherwise defined in the Mobile Home Commission Act P.A. 96 of 1987, MCL 125.2302, as amended.

Motel. A series of rental units, each containing at least a bedroom and bathroom, provided for compensation to transient guests for overnight lodging, and in which access to and from each room or unit is through an exterior door.

Mural. A graphic displayed on the exterior of a building or structure generally for purposes of decoration or artistic expression, and not containing any brand name, product name, letters of the alphabet spelling or abbreviating the name of any product, company, profession, or business, or any logo.

SECTION 15.16. DEFINITIONS – N

Native Species. Plant and animal species that occur naturally in aquatic and terrestrial habitats.

Natural Areas. Land or water that is essentially unimproved and characterized by natural features, and devoted to open space or habitat use.

Neighborhood. A subarea of the Village in which the residents share a common identity focused around a school, park, community business center, or other feature which is usually within walking distance of their homes, or which is bounded by physical barriers or natural features that distinguish it from other areas of the community.

Non-Conforming. A condition that occurs when an existing lot, structure, building, sign, development, or use of an existing lot or structure fails to conform to one or more of the regulations currently applicable to the zoning district in which the lot, structure, building, sign, development, or use is located, but which was conforming ("of record") prior to the enactment of this Ordinance and became non-conforming on the effective date of adoption of this Ordinance, or an Ordinance text amendment or rezoning,

Nuisance. Any thing, condition, or conduct that annoys, injures, or endangers the safety, health, comfort, or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance.

Nursing Home (same as Convalescent Home and Extended Care Facility). A building having a principle purpose of providing of sleeping, eating, and gathering rooms where infirm persons are housed, often for extended periods of time, and furnished with meals and full-time nursing care.

SECTION 15.17. DEFINITIONS – O

Occupancy. The purpose for which a building is used or intended to be used. Change of occupancy is not intended to include change of tenants or proprietors.

Office. A building or portion of a building wherein services are performed including, predominantly administrative, professional, or clerical operations.

Off-Site. Outside the limits of the area encompassed by the lot or parcel of record on which the principle use is conducted.

On-Site. Within the limits of the area encompassed by the lot or parcel or record on which the principle use is conducted.

PROOFS

Opacity. The degree to which materials or objects block light or view; the degree of nontransparency.

Open Space. Any unoccupied, at-grade area open to the sky and not covered by structures or devoted to vehicular use on the same lot with a building, as well as any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

Open Space Preservation. A condition where land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land than specified in the Zoning Ordinance, and as long as a percentage of the land area will remain perpetually in an undeveloped state, and meeting certain conditions as defined in this Ordinance.

Outdoor Sales. The outdoor display and sales of goods or services in parking areas, sidewalks, and other locations outside of an enclosed building (does not apply to farmer's markets, produce stands, or yard sales as defined in this Ordinance).

Outdoor Storage. Keeping of personal or business property in an area outside of a building (does not apply to junk/salvage operations and yards or auto recycling centers as defined in this Ordinance).

Owner. An individual, firm, association, organization, partnership, trust, company, corporation, or any other legal entity who owns or holds title to real property; a mortgagee or vendee in possession; an assignee of rents; one who has control as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the beneficial owner.

SECTION 15.18. DEFINITIONS – P

Parapet. The extension of the main walls of a building above the roof line.

Parcel (same as Lot). Land described in a recorded plat or by metes and bounds description, including a condominium unit in a condominium subdivision, occupied or to be occupied by a building, structure, land use or group of buildings having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage and buildable area requirements of this Ordinance, and having its principle frontage upon a public street or on an approved private road or approved access easement.

Park. Land that is publicly owned or controlled for the purpose of providing recreation or open space for public use.

Parking Lot. A ground level area, other than a street or other public way, improved for the temporary storage of motor vehicles, and available for public or private use whether for a fee or as an accommodation for clients, customers, residents, or employees. Improvements may include hard surface, pavement (impervious or permeable), or other approved, permeable, reinforced system.

Parking, Reserved. Parking not available to the public, but only to specifically identified users (either a single user per space or a set of users for a group of spaces), whether for free or at a fee.

Parking, Shared. The approved use of a public or private parking area jointly by two or more uses.

Parking Space. An area of definite length and width, exclusive of driveways and aisles giving access thereto, and so prepared as to be usable for the parking of permitted vehicles and so located as to be readily accessible to a public street or alley.

Parking Structure. A structure, whether privately or publicly owned, fully or partially enclosed or located on the deck surface of a building, designed to accommodate vehicular parking spaces and access drives, aisles, and ramps. A separate structure that is accessory to a residential use is a garage and is not included as structured parking.

Path. A right-of-way or easement dedicated for non-motorized public pedestrian access.

Path, Multi-Use. An off-street path physically separated from motorized vehicular traffic by an open space or barrier and that can be used by several transportation modes, including bicycles, pedestrians, and other non-motorized modes. Multi-use paths accommodate two-way travel.

Pavement. A uniform, hard, and durable material composed of concrete or asphalt.

Pedestrian Pathway. A public right-of-way or public access easement, separate and protected from vehicular

PROOFS

traffic, developed according to standards specified in this Ordinance, that provides pedestrian and bicycle passage through blocks running from a street-space to a building entrance, another street-space, an alley, or through a block interior parking area.

Performance Guarantee. Cash, completion bond, certified check, irrevocable bank letter of credit or other financial security acceptable to the municipality as assurance that required improvements or conditions associated with project approval are properly built and brought to completion or conformance.

Permanent Structure. Any building, structure, or utility/waste system designed, constructed, and intended for more than short-term use. Excluded are recreational vehicles, picnicking shelters, moveable storage sheds, stairways, docks, or erosion control structures.

Permeable (same as Pervious). Surface maintained in its natural condition or covered by a material that permits infiltration or percolation of storm water directly into the ground at the rate of absorption of vegetation-bearing soils.

Person. Any individual, partnership, corporation, joint stock association, organization, association, trust, or any Village or state or any subdivision thereof; and includes any trustee, receiver, assignee, heir, executor, administrator, agent, or personal representative thereof.

Planned Unit Development (PUD). A development of flexible design that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages according to the PUD requirements of this Ordinance, other applicable sections of this Ordinance and any additional requirements placed upon it by the Planning Commission. The development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements but meets the goals and criteria of the Planned Unit Development as stated in this Ordinance and as illustrated through the discretionary review process. A PUD shall not be allowed where approval is sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated objectives.

Plat. A map of a subdivision of land recorded with the County Register of Deeds pursuant to the Land Division Act, P.A. 288 of 1967, MCL 560.102, or a prior statute.

Pole Barn. A farm or storage building with no foundation and with sides consisting of corrugated steel or aluminum panels supported by poles set in the ground, typically at eight foot intervals.

Porch. A roofed open area, which may be glazed or screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air conditioned and when the percentage of window area to wall area is less than fifty (50) percent.

Practical Difficulty. The circumstances that may prevent a property owner from conforming with the strict letter of the Ordinance and from which a dimensional variance may be granted; provided that doing so will not be contrary with the intent and purpose of the Ordinance, will not cause a substantially adverse effect upon adjacent properties, will not essentially alter the character of the surrounding area, will not increase hazards or traffic congestion, and provided, however, that the plight of the owner is due to unique circumstances of the property and is not self-created.

Premises. A lot, parcel, tract or plot of land together with the buildings and structures thereon.

Principle Building. A building in which is conducted the primary or predominant use of the lot on which it is located.

Principle Use. The primary or predominant use of any lot, building, or structure.

Private. Belonging to, or restricted for the use or enjoyment of particular persons.

Professional Engineer. An engineer registered in the State of Michigan.

Projection. A portion of the main building that projects from the wall or established foundation line, such as overhanging eaves, bay windows, balconies, etc.

Property. A lot, parcel, tract, or plot of land together with the buildings and structures thereon that is owned or possessed.

PROOFS

Public. The people as a whole; belonging or open to members of the community; anything owned or operated by government.

Public Art. Any visual device, element, or feature whose primary purpose is the expression of aesthetic qualities or ideas, accessible to public view on public or private property, but which does not contain characteristics of an advertising sign and does not draw attention to a business, profession, industry, products, or services.

Public Facility. Land and structures providing public services, including, but not limited to transportation, water, wastewater, stormwater, fire, police, emergency, utility, and communication systems or other publicly owned uses such as government offices, schools, libraries, museums, tourist information centers, marinas, and trails.

Public Space. Open space or improved land and facilities commonly open to view by the public or accessible to the public.

Public Use. Government-owned facilities to which the public has access.

Public Utility. Any person, firm or corporation, municipal department, board, or commission duly authorized to furnish and furnishing under Federal, State, or Municipal regulation to the public gas, steam, Electric Village, sewage disposal, communication, transportation, or water services.

SECTION 15.19. DEFINITIONS – Q

SECTION 15.20. DEFINITIONS – R

Ramp. A sloping walkway, roadway, or passage used to join and provide a smooth transition between two levels of different elevation, including between land and water at a boat launching site or between structures and the ground for handicap access to buildings.

Recreational Vehicle. A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle per the Mobile Home Commission Act P.A. 96 of 1987, MCL 125.2302, as amended.

Regulating Plan. Part of the Form-Based Code that is the coding key for the regulations that apply to each parcel. The Regulating Plan also shows how each parcel relates to adjacent street-space, the overall Form District, and the surrounding neighborhoods.

Required Building Line (RBL) & Required Building Zone (RBZ). The Required Building Line is a line(s) indicated in each district Building Form Standard and Site Layout. Two RBL lines as specified in the Building Form Standard define a Required Building Zone (RBZ) between which the building Facade shall be placed. The RBZ is a requirement, not a permissive minimum as is a set-back. The minimum length of building that is required to be built within the RBZ is shown on the appropriate Building Form Standard.

Residential. Activities in which occupants regularly use land as a permanent place for dwelling. Residential uses shall be considered to encompass all of the following: Dwelling Units (single family, two family, multiple family, mobile or manufactured home on an individual lot), Bed and Breakfasts, ECHO unit, Family Child Care Homes, Group Child Care Homes, Adult Foster Care Family Home, Adult Foster Care Small and Large Group Homes, Foster Family Home, Foster Family Group Home, State Licensed Residential Facility, Institutions for Human Care and Habitation, Community Residential Care Facilities, Group Housing, Mobile Home Park or Manufactured Housing Community, PUD with dwelling units, Resorts with Dwelling Units, Open Space or Rural Cluster Development as defined in this Ordinance.

Resort. A place of typically seasonal entertainment, recreation and/or lodging. Resort lodging, if provided, may include hotels, motels, single or multiple-family residential dwelling units, cottages, campgrounds, bed and breakfasts, or some combination, as regulated by appropriate sections of this Ordinance.

Restaurant. A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principle building, but may also include carry-out services for consumption off premises.

Restaurant, Drive Thru. A commercial establishment where food and beverages are served to the public via direct service to vehicular passengers for consumption off premises, even if the premises also include areas where food and beverages are prepared, served, and consumed within the principle building or to vehicular passengers for consumption on premises.

PROOFS

Restoration. The reconstruction or replication of an existing building's original architectural features.

Restrictive Covenant. A restriction on the use of land set forth in a formal binding agreement. Restrictive covenants run with the land and are binding on subsequent owners of the property.

Retail Establishments. An establishment whose principle activity is the purchase and resale, leasing, or renting of goods or merchandise to the public for personal, household, or business use or consumption and rendering of services incidental to the sale of such goods.

Retention. The permanent on-site maintenance of stormwater.

Right-of-Way. A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries, and is dedicated or deeded to the public for public use and under the control of a public agency.

Riparian Buffer. A vegetated buffer strip along a watercourse that filters stormwater and provides wildlife habitat.

Road. All property dedicated or intended for public or private vehicular travel, including parking lanes and utility easements that are located in the area between the regularly established curb lines.

Road, Public. A road dedicated to the public, such dedication having been accepted by the appropriate road authority, which meets the minimum construction standards of said road authority.

Roadside (Food) Stand. An accessory structure for the seasonal retail sale of agricultural products.

Roof. The top cover of any building or structure, including the eaves and similar projections but excluding chimneys, antennas, vents, solar collectors, mechanical equipment, and similar structures.

Rooming House (see also Boarding House). A building where sleeping accommodations are available for remuneration for periods of one week or longer. Board may or may not be included with the accommodations.

Runoff. Water that flows at a rate above the infiltration rate of the surface material which causes water to flow over the ground surface.

SECTION 15.21. DEFINITIONS – S

Salvage. Any article or material that is to be or intended to be reclaimed or saved from destruction.

Sauna. An accessory structure or room utilizing a steam bath or dry heat used for the purpose of bathing, relaxation, or reducing.

Sawmill. A facility where logs or partially processed trees are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

Screen/Screening. A structure or vegetative barrier meeting the buffer requirements of this Ordinance that provides a visual or noise barrier between the area enclosed and the adjacent property.

Service. A useful labor which does not produce a tangible commodity.

Service Drive (see Frontage Road or Rear Service Drive)

Service Establishment. Any establishment whose primary activity is the provision of assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.

Setback. The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

Setback Line. A line parallel to and equidistant from the relevant lot line (front, back, and side) between which no buildings or structures may be erected as prescribed in this Ordinance.

Sexually Oriented Businesses (SOB). Business or commercial enterprises engaging in the provision of sexually oriented products and services to adults. Often of an adult entertainment character. SOBs include but are not limited to adult book or video store, adult entertainment establishment, adult mini-theater, adult motion picture theater, and adult novelty business as defined below.

PROOFS

- Adult Book or Video Store: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, periodicals, films, computer software or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein.
- Adult Entertainment Establishment: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of "nudity" or live performances presented for the observations of the patrons which have paid or promised to pay an admission fee, and which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".
- Adult Mini-Theater: A commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten (10) persons, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".
- Adult Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," as defined herein.
- Adult Novelty Business: A business that has as a substantial or significant portion of its activity in the sale of devices which stimulate human genitals or devices designed for sexual stimulation.
- Nudity or State of Nudity: The appearance or display of specified anatomical areas as defined below.
- Specified Anatomical Areas Includes:
    - Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;
    - Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- Specified Sexual Activities Includes:
    - Acts of human masturbation, sexual intercourse, or sodomy;
    - Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
    - Human genitals in a state of sexual stimulation or arousal.
- Substantial or Significant Portion: A SOB will be deemed to have a substantial or significant portion of its stock in trade or services if it meets at least one of the following criteria:
    - Thirty-five (35) percent or more of the stock, materials, or services provided describes or relates to specified sexual activities, specified anatomical areas, or both.
    - Thirty-five (35) percent or more of the usable floor area of the building is used for the sale, display, or provision of services describing or relating to specified sexual activities, specified anatomical areas, or both.
    - The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business, describes or relates to specified sexual activities, specified anatomical areas, or both.

Shipping Container. A steel container for shipping cargo and goods. Typically carried on container ship and trains that are repurposed for storage uses.

Shopping Center. A group of five or more separate commercial establishments with separate customer access which is planned, constructed, and managed as a unified entity fronting on privately owned common areas or shared on-site parking rather than a public street.

Shoreline. The area of the shoreland where land and water meet.

Sidewalk Café. An outdoor dining area on a public sidewalk or right of way where patrons consume food and

PROOFS

beverages provided by an abutting food service establishment. Such establishments include either table service in the outdoor area or takeout items to be consumed there.

Sight Distance. The distance of unobstructed view for the driver of a vehicle, as measured along the normal travel path of a roadway to a specified height above the roadway.

Sign. Any name, figure, character, image, outline, display, announcement, or illustration which is affixed to or located on, a piece of land, and which is designed to attract public attention from any street, right-of-way, sidewalk, alley, park, or other public property and shall include all parts, portions, units, and materials composing the same, together with the frame, background, and supports or anchoring thereof. Customary displays of merchandise or objects and material placed behind a store window are not signs or parts of signs. A sign shall not include any architectural or landscape features that may also attract attention.

Sign, Abandoned. A sign which for a period of at least ninety (90) consecutive days or more no longer advertises or identifies a legal business establishment, product, or activity.

Sign, Advertising. Any sign which identifies a product, or service or brand name offered to the public.

Sign, Area. Refer to measurement standards in Section 5.7.4.

Sign, Canopy. Any permanent sign attached to or constructed underneath a canopy.

Sign, Changeable Copy. A sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means (for example, time and temperature units), or manually through placement of letters or symbols on a panel mounted in or on a track system.

Sign, Directional. A permanent instructional sign located on private property at or near the public right-of-way, directing or guiding vehicular traffic onto the property and/or toward parking or other identified uses on the property.

Sign, Entrance. A sign that designates the street entrance way to a residential or industrial subdivision, apartment complex, condominium development, or permitted institution from a public right-of-way.

Sign Face. An exterior display surface of a sign including nonstructural trim exclusive of the supporting structure.

Sign, Freestanding. Any sign which is permanently affixed in or upon the ground, supported by one or more structural members, with air space between the ground and the sign face.

Sign, Flexible. A sign made of fabric, plastic, or other flexible material, two-dimensional in nature.

Sign, Governmental. A sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance, or other governmental regulation.

Sign, Height. Refer to measurement standards in Section 5.7.4.

Sign, Identification. A sign containing the name of a business operating on the premises where located, the type of business, owner or resident, and/or the street address, and sets forth no other advertisement display.

Sign, Illuminated. Any sign for which an artificial source of light is used in order to make readable the sign's message, including internally and externally lighted signs and reflectorized, glowing, or radiating signs.

Sign, Informational. A small, non-advertising sign used to identify architectural features of a land use such as building entrances, drop boxes, restrooms, handicapped ramps, and similar features.

Sign, Marquee. Any sign painted on or attached to or supported by a marquee, which is a permanent roof like shelter extending from part or all of a building face and constructed of some durable material which may or may not project over a public right-of-way.

Sign, Nonconforming. A sign lawfully existing on the effective date of this Ordinance which does not conform to one or more of the regulations set forth in this Ordinance.

Sign, Permanent. A sign of durable construction and durable materials designed to remain in one location and position either through attachment to a building element or mounting on a standard secured to a below grade footing.

Sign, Portable. A freestanding sign not permanently anchored or secured to either a building or the ground

PROOFS

(such as a sandwich sign), including trailered or similarly mounted signs or signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object while it is parked.

Sign, Projecting. A sign which is affixed to any building or structure other than a marquee and projects in such a way that the message is not parallel to the wall to which it is attached.

Sign, Real Estate. Any nonpermanent sign pertaining to the sale, exchange, lease, rental, or availability of land, buildings, condominium and similar units, or apartments. Such signs may include building name and address, price and amenities, identity of seller or broker, and similar information.

Sign, Roof. Any sign erected upon a roof, parapet, or roof-mounted equipment structure and extending above a roof, parapet, or roof-mounted equipment structure of a building or structure.

Sign, Sidewalk. A portable sign of A-frame or swinging-style construction used during the hours a business is open and stored inside when not in use.

Sign, Special Event. Any temporary or non-permanent sign advertising or pertaining to any civic, patriotic, or special event of general public interest.

Sign, Temporary. A sign intended to be displayed for a limited period of time and one which is without permanent foundations or attachment to a permanent building.

Sign, Wall. Any sign attached or painted on the wall of a building or structure in a plane parallel or approximately parallel to the plane of said wall.

Sign, Window. Any sign viewable through and/or affixed in any manner to a window or exterior glass door such that it is intended to be viewable from the exterior (beyond the sidewalk immediately adjacent to the window), including signs located inside a building but visible primarily from the outside of the building.

Site. One or more lots under the same ownership or control which are proposed to the Zoning Administrator as a whole for the purpose of compliance with the requirements and regulations of this Ordinance.

Site Plan. A plan, to scale, showing existing site conditions and proposed alterations, construction, and uses for a site submitted in compliance with the requirements of this Ordinance.

Site Work. Any of the following:

- Physical expansion of any principle or accessory building
- Alteration, replacement, addition, or removal of exterior building features.
- Alteration of the size, number, or location or curb cuts.
- Alteration of loading or unloading facilities.
- Alteration of existing off-street parking spaces or installation of new off-street parking spaces.
- Modification of landscaping.
- Relocation of an existing freestanding sign or installation of a new freestanding sign.

Slope. The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

Slope, Steep. Slopes of twenty-five percent (25%) or more for a distance of fifty (50) feet or more.

Sod. A section of grass covered surface soil held together by matted roots.

Soil (Topsoil). The top layer of native soil.

Solar Access. The ability to receive sunlight across real property to protect active or passive solar energy systems from shadows blocking exposure to the sun during specific hours.

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

Special Land Use. A use that is not essentially incompatible with the uses permitted by right or with conditions in a zoning district, but possesses characteristics which require individual review and discretion in order to assure conformance with other agency standards or licensing requirements, avoid incompatibility with the surrounding area, and provide protection against nuisances or negative traffic, visual, environmental, privacy, and safety

PROOFS

impacts. A special use is permitted in a particular district only after review by the Planning Commission and issuance of a permit, in accordance with the standards set forth in this Ordinance.

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

Stoop. A structure that serves as an exterior floor with a finished floor elevation higher than the adjacent ground level, primarily utilized as an access platform to a building or structure.

Story. That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story unless it is a walkout basement. *(See Figure 2-3)*

Street. A dedicated public right-of-way which affords the principle means of vehicular access to abutting property. A street includes the entire right-of-way and any improvements constructed thereon.

Street Frontage. That portion of the lot or building that is coincident with the RBL as required by this Ordinance.

Street Light. A luminaire installed on both sides of streets.

Streetscape. The visual image of a street, including the combination of buildings, signs, and other various components making up the street right of way area, including pavement, parking spaces, planting areas, street trees, streetlights, sidewalks, public amenities, etc.

Street-Space. Includes all space between fronting RBLs (travel-lanes, sidewalks, squares, pedestrian pathways, pedestrian spines, sidewalks, parks) including any transit service operator passenger platform – but not garage entries or alleys.

Structural Soils. An approved design medium which can meet or exceed pavement design and installation requirements while remaining root penetrable and supportive of tree growth.

Structure. Anything constructed or erected, the use of which requires permanent fixation on the ground or attachment to something having permanent fixation on or in the ground; including but not limited to all buildings, independently supported decks, satellite dishes and free-standing signs; excepting anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as essential public services. A paved, uncovered parking lot is not considered a structure.

Structure Height. For all structures other than buildings, the vertical distance measured from the finished grade to the highest point of the structure. For buildings, see building height.

Subdivision. The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of the Land Division Act, P.A. 288 of 1967, MCL 560.108 and 560.109. Does not include a property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of P.A. 288 of 1967, as amended or the requirements of this Ordinance.

Swimming Pool, Private. Any artificially constructed basin or other structure for the holding of water for use by the possessor, his family or guests, for aquatic activity and recreation. Does not include any plastic, canvas, or rubber pool temporarily erected upon the ground holding less than three hundred (300) gallons of water.

SECTION 15.22. DEFINITIONS – T

Tavern. An establishment serving alcoholic beverages in which the principle business is the sale of such beverages at retail for consumption on the premises and where sandwiches and snacks may be available for consumption on the premises. May also include dancing and musical entertainment.

Telecommunications. Any origination, creation, transmission, emission, storage-retrieval, or reception of signs, signals, writing, images, sounds, or intelligence of any nature, by wire, radio, television, optical, or other

PROOFS

means.

Tiny House/Home. Any structure of less than 400 square feet in size that is intended as a permanent or temporary dwelling unit. Tiny homes are typically constructed on a frame with wheels for mobility or may be constructed in a manner that is not a fixed to a foundation.

Thoroughfare, Major. A public street, the principle use or function of which is to provide an arterial route for through traffic, with its secondary function the provision of access to abutting property and which is classified as a Village major street, county primary, state trunkline, or interstate highway.

Topography. The physical land surface relief describing the terrain elevation and slope.

Tourist Home. Any dwelling unit that is leased or rented by the owner for less than thirty (30) days for a short term rental. Tourist homes are typically rented on a daily or weekly basis.

Tower. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

Tower Story. An allowable additional Story above the maximum building story height.

Traffic Calming. A concept fundamentally concerned with reducing the adverse impact of motor vehicles on built-up areas. Usually involves reducing vehicle speeds, providing quality space for pedestrians and bicyclists, and improving the visual interest of the public space.

Transit. The conveyance of persons or goods from one place to another by means of a local, public transportation system.

Travel Trailer. A vehicular portable structure mounted on wheels and of a size and weight as not to require special highway movement permits when drawn by a stock passenger automobile or when drawn with a fifth wheel hitch mounted on a motor vehicle, and is primarily designed, constructed, and used to provide temporary living quarters for recreational camping or travel.

SECTION 15.23. DEFINITIONS – U

Underground Storage Tank. A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain hazardous substances, and the volume of which, including the volume of the underground pipes connected to the tank or tanks, is ten percent (10%) or more beneath the surface of the ground.

Undeveloped State. A natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course, but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public per P.A. 110 of 2006, MCL 125.3102.

Use. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied, or any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land. Uses may be permitted by right *(see Use, Permitted by Right)*, permitted with conditions *(see Conditional Land Use)*, or by special use permit *(see Special Land Use).*

Use, Accessory (See Accessory Use)

Use, Change of. A use of a building, structure or parcel of land, or portion thereof which differs from the previous use in the way it is classified in this Ordinance.

Use, Civic. Community uses open to the public including: meeting halls; libraries; schools; police and fire stations; governmental offices; places of worship; rooming houses; museums; cultural, visual and performing art centers; transit centers; public buildings; recreational facilities; and government functions open to the public.

Use, Conditional (see Conditional Land Use)

PROOFS

Use, Conforming. Any use of a structure or land that is permitted by right, permitted with conditions, or permitted by special land use permit in the zoning district in which the lot, structure, building, sign, development, or land is located and which conforms to all regulations of this Ordinance.

Use, Non-Conforming. A condition that occurs when a use of an existing structure or land fails to conform to one or more of the regulations currently applicable to the zoning district in which the lot, structure, building, sign, development, or land is located, but which was conforming ("of record") prior to the enactment of this Ordinance and became non-conforming on the effective date of adoption of this Ordinance, or an Ordinance text amendment or rezoning.

Use, Principal (see Principal Use)

Use, Special (see Special Land Use)

Utility. All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm, and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity.

SECTION 15.24. DEFINITIONS – V

Variance. A modification of the literal provisions of the Zoning Ordinance, granted by the Zoning Board of Appeals, when certain findings have been made as outlined in the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended. These findings seek to ensure that no variance is granted unless: (a) in the case of non-use variances, strict enforcement of the Zoning Ordinance would cause practical difficulty, as outlined in the aforementioned Act (b) in the case of use variances, the applicant demonstrates an unnecessary hardship exists as outlined in the aforementioned Act, (c) doing so would not be contrary to the public interest or the intent and purpose of the Zoning Ordinance (d) there are circumstances unique to the individual property on which the variance is granted, (e) the variance request is not due to actions of the applicant, (f) doing so will not cause a substantially adverse effect upon adjacent properties, or essentially alter the character of the surrounding area, or increase hazards, or increase traffic congestion.

Vegetation. Grasses, shrubs, trees, ground cover, and other plants which among other functions hold and stabilize soils and provide visual or aesthetic relief.

Vending. Any activity involving the display, sale, offering for sale, offering to give away, or giving away of anything of value including any food, beverage, goods, wares, merchandise, or services from a nonpermanent location or structure.

Vibration (as in nuisance). A rapid oscillation of a particle or elastic surface back and forth across a central position which may produce pulsing, throbbing, reverberation, or resonance.

View (same as View Corridor or View Shed). The route that directs a viewer's attention to a visually sensitive area from a defined observation point.

SECTION 15.25. DEFINITIONS – W

Waterbody. Any significant accumulation of water, including any creek, stream, canal, river, lake or bay, or any other source, natural or artificial, except a swimming pool or ornamental pool located on a single lot.

Watercourse. Natural or once naturally flowing (perennially or intermittently) water including rivers, streams, and creeks. Includes natural waterways that have been channelized, but does not include manmade channels, ditches, and underground drainage and sewage systems.

Waterfront. The land-water edge and the immediately adjacent property providing access to it.

Wetland. Those areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

Wind Energy Conversion System (WECS). A machine that converts the kinetic energy in the wind into a useable form, commonly known as a "wind turbine", "wind generator" or "windmill"; the WECS includes all parts of the system, including, but not limited to, the tower, pylon or other structure upon which any, all or some combination of components are mounted. The following associated definitions are also pertinent.

PROOFS

- WECS: A combination of:
  - A surface area, either variable or fixed, for utilizing the wind for generation of electrical power; and
  - A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity producing device; and
  - The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
  - The tower, pylon or other structure upon which any, all, or some combination of the above are mounted.
- Tower Height:
  - Horizontal Axis Wind Turbine Rotors: The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which the rotor blade on a horizontally mounted WECS exceeds the structure which supports the rotor and blades;
  - Vertical Axis Wind Turbine: The distance between the ground and the highest point of the WECS.
- Survival Wind Speed: The maximum wind speed as designated by the WECS manufacturer, at which a WECS, in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.
- Interconnected WECS: A WECS which is electrically connected to the local electrical power utility system and which could feed power back into the local electrical power utility system.

Whole Food Stands. A temporary or permanent structure for the sale of canned, baked or other goods. This definition does not include prepared foods for immediate consumption.

SECTION 15.26. DEFINITIONS – X

SECTION 15.27. DEFINITIONS – Y

Yard. Required open space on the same site as a principal building, unoccupied and unobstructed form the ground upward except as otherwise provided in this Ordinance.

Yard, Front. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance permitted between the front lot line and the nearest point of the building.

Yard, Rear. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance permitted between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage, but there shall only be one rear yard.

Yard, Side. An open space between the main building and the side lot line, extending from the front yard to the rear yard, the width of which is the minimum horizontal distance permitted between the nearest point on the side lot line to the nearest point of the main building.

Yurt. A generally round domed building constructed of a membrane stretched on a collapsible or rigid frame used for transient recreational activities.

SECTION 15.28. DEFINITIONS – Z

Zone or Zoning district. A mapped area to which a uniform set of regulations governing the use of buildings and premises applies.

Zoning Administrator. The official hired for the purposes of enforcing and administering this Ordinance, and for carrying out certain duties and responsibilities as defined in this Ordinance.

Zoning Board of Appeals. The body appointed by the Village Council to hear appeals by any aggrieved party by a decision or order of the Zoning Administrator, or where it is alleged that the literal enforcement of this Ordinance would involve practical difficulties or would cause unnecessary hardship to the property owner.

Zoning Permit. A document signed by the Zoning Administrator according to procedures established in this

PROOFS

Ordinance, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, that indicates that a site plan, and/or other zoning application or request for special zoning approval or variance for a use, structure or building has been reviewed and determined to comply with the requirements of this Ordinance or has been granted a variance therefrom, or has been granted a planned unit development approval or a Conditional or Special Land Use Permit.

PROOFS