

# **VILLAGE OF NASHVILLE**

# **ZONING ORDINANCE**

Effective February 18, 2012

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## **PREAMBLE**

An Ordinance enacted by the Village of Nashville under the Michigan Planning Enabling Act, being Public Act 33 of 2008, and any amendments thereto, and the Michigan Zoning Enabling Act, Public Act 110 of 2006, and any amendments thereto, to provide for the establishment of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by the Ordinance, and within which district provisions are adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings and structures, including tents and mobile homes; to provide for appeals and for the organization and procedures to be followed by the Zoning Board of Appeals; to provide for penalties for the violation of said Ordinance, and various other matters.

### **THE VILLAGE OF NASHVILLE (the “Village”) ORDAINS:**

#### **ARTICLE 1 TITLE, PURPOSES AND LEGAL CLAUSES**

##### **SECTION 1.01 TITLE**

This Ordinance shall be known and may be cited as: The Village of Nashville Zoning Ordinance.

##### **SECTION 1.02 REPEAL OF PRIOR ORDINANCE**

The 1976 Zoning Ordinance of the Village of Nashville, adopted August 26, 1976 and all amendments thereto, are hereby repealed effective concurrently with the effective date of this Ordinance; except that such repeal shall not have any effect upon existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of such Ordinance so repealed.

##### **SECTION 1.03 PURPOSES**

It is the intent and purpose of this Ordinance to promote and foster the following:

- A. Promoting and protecting the public health, safety and general welfare.
- B. Protecting the character and the stability of the agricultural, recreational, residential, commercial, and other areas within the Village and promoting the orderly and beneficial development of such areas.
- C. Regulating the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light and air to protect the public health and convenience of access to property.
- D. Lessening and avoiding congestion on the public highways and streets.

- E. Providing for the needs of agriculture, recreation, residences, commerce and other land uses regarding future growth.
- F. Specifying reasonable standards to which buildings or structures shall conform.
- G. Prohibiting uses, buildings, and structures that are incompatible with the character of development or the uses, buildings, or structures permitted within specified zoning districts.
- H. Preventing such additions to or alterations or remodeling of existing buildings or structures in such a way as to avoid the regulations and limitations imposed hereunder.
- I. Protecting against fire, explosion, noxious fumes and odors, dust, smoke, glare, noise and other nuisances and hazards in the interest of the public health, safety, and general welfare.
- J. Preventing the overcrowding of land and undue concentration of buildings and structures so far as is possible and appropriate in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them.
- K. Conserving the taxable value of land, buildings, and structures throughout the Village.
- L. Providing for the substitution or elimination of nonconforming uses.
- M. Creating a Zoning Board of Appeals and defining the powers and duties thereof.
- N. Designating and defining the powers and duties of the official or officials in charge of the administration and enforcement of this Ordinance.
- O. Providing for the payment of fees for permits and approvals.
- P. Providing penalties for the violation of this Ordinance.

**SECTION 1.04 SECTION VALIDITY AND SEVERALTY CLAUSE**

If any court of competent jurisdiction shall declare any part of this Ordinance to be unconstitutional or invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling and the balance of this Ordinance shall remain valid and in full force and effect.

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

**SECTION 1.05      CONFLICT WITH OTHER LAWS**

- A.     Where any condition or requirement imposed by any provision of this Ordinance upon the use of any lot or regarding any building or structure is either more restrictive or less restrictive than any comparable condition or requirement imposed by any other provision of this Ordinance or by the provision of an Ordinance adopted by the Village under any other law, the provision that is more restrictive or imposes a higher standard or requirement shall govern.
  
- B.     This Ordinance is not intended to abrogate or annul any easement, covenant or other private agreement, provided that where any provision of this Ordinance is more restrictive, or imposes a higher standard or requirement, than such easement, covenant, or other private agreement, the provisions and requirements of this Ordinance shall govern.

**SECTION 1.06      PERIOD OF EFFECTIVENESS**

This Ordinance shall remain in full force and effect henceforth unless expressly repealed by the Village.

**ARTICLE 2**  
**CONSTRUCTION OF TERMS AND DEFINITIONS**

**SECTION 2.01 CONSTRUCTION OF LANGUAGE**

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

- A. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates to the contrary.
- B. The word “person” shall also mean a corporation, association, partnership, trust, firm, or other entity, as well as an individual.
- C. The word “building” shall also mean the word “structure” and either includes any part thereof.
- D. The word “lot” shall also mean the word “plot,” “tract,” or “parcel.”
- E. The term “shall” is always mandatory and not discretionary; the word “may” is permissive.
- F. The word “used” or “occupied” as applied to any land, building, or structure shall be construed to include the words intended, arranged, maintained for or designed to be used or occupied.
- G. The words “this Ordinance” means the text of this Ordinance as well as all maps, tables, graphics, and schedules as included or attached as enacted or subsequently amended.
- H. Unless the context clearly indicates to the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or,” “either ... or,” the conjunction shall be interpreted as follows:
  - (1) “And” indicates that all the connected items, conditions, provisions, or events shall apply.
  - (2) “Or” indicates the connected items, conditions, provisions, or events may apply singly or in any combination.
  - (3) “Either ... or” indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
- I. The “Community” is the collective jurisdiction of the Village of Nashville in Barry County, Michigan.
- J. Any word or term not interpreted or defined by this Ordinance shall be used with a meaning of common or standard utilization. A widely-circulated national dictionary may be consulted.

K. "Days" means calendar days unless otherwise stated.

## SECTION 2.02 DEFINITIONS

A. Definitions of Words and Phrases Beginning With the Letters "A" Through "E":

**Accessory Building:** A building or structure customarily incidental and subordinate to the principal building and located on the same lot as the principal building.

**Accessory Retail Sales:** An industrial operation that has as a minor part of its operation retailing products produced by said industry.

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

**Adult Entertainment Facilities:** Means any of (1), (2), (3), (4), or (5) below. Also, the following definitions shall apply:

- (1) *Adult bookstore* means an establishment that has, as a substantial or significant portion of its stock in trade, sexual paraphernalia, books, periodicals, magazines, newspapers, pamphlets, pictures, photographs, motion picture films, and/or videotapes that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to nudity, sadomasochistic abuse or sexual conduct.
- (2) *Adult motion picture theater* means an establishment, whether in a completely enclosed building or not, that offers, for an admission fee, membership fee, or other valuable consideration, the viewing during more than 25 percent of its operating hours of motion picture films, pictures or photographs that are distinguished or characterized by their emphasis on nudity, sadomasochistic abuse, or sexual conduct.
- (3) *Adult theater* means an enclosed building or any portion of a building that is used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual conduct, nudity, or sadomasochistic abuse by any means of display, including, without limitation, by motion picture, mechanical amusement devices, television, including videotape or closed circuit, or live performance for observation by patrons therein.
- (4) *Adult Personal Service Business* means a business whose activities include a person, while partially nude, providing personal service for another person on an individual bases in a closed room. It includes but is not limited to, the following activities and services: modeling studios, photographic studios, wrestling studios, individual theatrical performances, body painting studios, and massage studios.
- (5) *Adult Cabaret* means an establishment that features topless dancers, and/or bottomless dancers, partially nude or seminude dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers, or topless

and/or bottomless and/or partially nude or seminude waitpersons or employees or any other form of nude or partially nude or seminude service or entertainment.

- (6) *Nudity* means uncovered or less than opaquely covered postpubertal human male or female genitals, pubic areas or buttocks, or female breasts.
- (7) *Sadomasochistic abuse* means flagellation or torture by or upon a human.
- (8) *Sexual conduct* means any of the following actual or simulated acts of:
  - (a) Human sexual intercourse, homosexual or heterosexual;
  - (b) Human or animal masturbation;
  - (c) Bestiality;
  - (d) Fellatio;
  - (e) Cunnilingus;
  - (f) Human excretory functions;
  - (g) Sodomy; or
  - (h) Fondling or erotic touching of human genitals, pubic region, buttocks, or breasts.

**Adult Foster Care:** A facility for the care of adults, over eighteen (18) years of age, as licensed and regulated under the Adult Foster Care Facility Licensing Act, as amended, and the associated rules promulgated by the state of Michigan. Such organization shall be defined as follows:

- (1) *Adult Foster Care Family Home:* A private residence with capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days a week and for two (2) or more consecutive weeks.
- (2) *Adult Foster Care Small Group Home:* An adult foster care facility with capacity for not more than twelve (12) adults who are provided foster care.
- (3) *Adult Foster Care Large Group Home:* An adult foster care facility with capacity for at least thirteen (13) but not more than twenty (20) adults who are provided foster care.

**Agriculture:** Any land, buildings, and machinery used in the commercial production of farm products as defined in the Michigan Right to Farm Act, P.A. 93 of 1981, MCLA 286.471 *et seq.*; including but not limited to pasturage, floriculture, dairying, horticulture, forestry, and livestock or poultry husbandry.



**Agricultural Business:** The sales, service, repair, storage, and processing activities that are directly dependent upon the agricultural community and are necessary to support agricultural enterprise.

**Alteration:** Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams, posts, or girders; or any change that may be referred to herein as altered or reconstructed.

**Apartment:** A room or suite of rooms, including bath and kitchen facilities, in a two-family or multiple family dwelling intended and designed for use as a residence by a single family.

**Basement:** That portion of a building that is partly or wholly below 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.

**Bed and Breakfast:** A single family residential building used for the purpose of renting bedrooms on a nightly basis, including the provision of bathing and lavatory facilities and a breakfast meal.

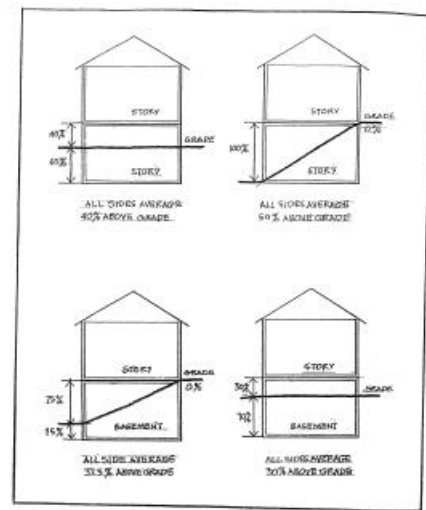
**Berm:** A mound of earth graded, shaped, and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes that may be used to provide a transition between uses of differing intensity.

**Billboard:** A sign, other than off premises directional signs and political signs, which does not advertise or pertain to the principal use of the lot upon which it is located. Also, any sign that advertises or designates an establishment, service, merchandise, use, entertainment, activity, produce, or message that is not conducted, sold, produced, manufactured, or furnished upon the parcel or lot where the sign is located (e.g., billboards, off-premise signs).

**Buffer Area:** A strip 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 in different zoning districts.

**Board of Appeals:** The Zoning Board of Appeals of the Village.

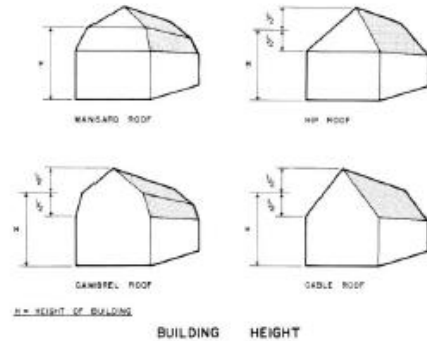
**Building:** Any structure, either temporary or permanent, having a roof supported by columns, walls, posts, or any other supports, that is used for the purpose of housing,



**BASEMENT & STORY**

sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business activities. This definition includes but is not limited to: dwellings, mobile homes, tents, carports, gazebos, sheds, garages, greenhouses, barns, and other principal or accessory structures.

**Building Height:** For any building, the vertical distance measured from the finished grade at the center of the building where the building abuts the front yard to the highest point of the roof surface, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs. The measurement of height of an accessory building or structure shall be determined as the vertical distance from the average finished grade to the highest point of the roof surface.



**Building Lines:** A line that defines the minimum distance (as determined by the minimum front, side, or rear yard setback) that any building shall be located from a property line, existing street right-of-way, or ordinary high water mark.

**Building, Main or Principal:** A building in which is conducted the principal use of the lot on which it is situated.

**Building Permit:** A permit signifying compliance with the provisions of this Ordinance as to use, activity, bulk, and density, and with the requirements of all other codes and ordinances of the Village.

**Child Care Institution:** A child care facility that is organized for the propose 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.

**Child Care Organization:** A governmental or nongovernmental organization having as its principal function receiving minor children for care, maintenance, training, and supervision. Such organization shall be defined as follows:

- (1) *Child Care Center or Day Care Center:* A facility, other than a private residence, receiving one (1) or more preschool or school age children for care for periods of less than twenty-four (24) hours a day and where the parents, guardians, family member, or court appointed fiduciary or care giver is not immediately available to the child or adult. Child care center or day care center includes a facility that provides care for not less than two (2) 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. Child care center or day care center does not include any of the following:

- (a) Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than three (3) hours per day for an indefinite period or for not more than eight (8) hours per day for a period not to exceed four (4) weeks during a 12-month period.
  - (b) A Facility operated by a religious organization where children are in the religious organization's care for not more than three (3) hours while persons responsible for the children are attending religious service.
  - (c) A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training.
  - (d) A program that is primarily an incident of group athletic or social activities for school-age-children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age-child is engaged in the group athletic or social activities and if the school-age child can come and go at will.
- (2) *Private Home:* A private residence in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, a group child care home, or a family child care home, as follows:
- (a) *Foster Family Home:* A private home in which one (1) but not more than four (4) minor children who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for twenty-four (24) hours a day for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
  - (b) *Foster Family Group Home:* A private home in which more than four (4) but less than seven (7) minor children who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

- (c) *Family Child Care Home*: A private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family Child Care Home includes a home that gives care to all unrelated minor children for more than four (4) weeks during a calendar year.
- (d) *Group Child Care Home*: A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption, but including a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

**Certificate of Occupancy**: A document issued by the Village that allows the occupancy or use of a building provided such occupancy or use is in compliance with the provisions of this Ordinance and any other applicable codes or laws.

**Church and Place of Worship**: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

**Clinic**: A building or group of buildings wherein more than one professional, such as a physician, dentist, veterinarian or the like, examines and treats patients, except that such patients are not lodged therein overnight.

**Club or Lodge, Private**: A nonprofit association of persons who are bona fide members paying dues, that owns, hires or leases a building, or portion thereof, the use of such premises being restricted to members and their guests.

**Communication Tower**: Any structure or system, including but not limited to, wires, poles, rods, reflecting discs, or similar devices attached to the ground or any other structure or any other equipment, used to facilitate, improve, support, or constructed primarily for the purpose of transmission, reception or transfer of radio, telephone, television, microwave, other telecommunication signals and similar communication purposes, including but not limited to, self-supporting lattice towers, guyed towers, or monopole towers. The term includes the structures and supports thereto.

**Community Master Plan**: The Master Plan of the Village of Nashville.

**Condominium Project**: A plan or project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act, Public Act 59 of 1978, MCL 559.101 *et seq.*, *as amended*.

**Condominium Subdivision:** A division of land on the basis of condominium ownership, that is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, MCL 560.101 *et seq.*, as amended.

**Condominium Subdivision Plan:** The drawings attached to the master deed for a condominium subdivision that 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.

**Condominium Unit:** That portion of a condominium project or condominium subdivision 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. A condominium unit may consist of either vacant land or space that either encloses or is enclosed by a building structure. Any “condominium unit,” or portion thereof, constituting land shall be equivalent to the term “lot” for the purposes of determining compliance of the condominium subdivision with the provisions of this Ordinance including minimum lot size, minimum lot width, maximum lot coverage and setbacks.

**Deed Restriction:** A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the Barry County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant. Unless the Village has an ownership interest in the property, a deed restriction is enforced by the parties to the agreement, not by the Village.

**Density:** The number of existing or proposed dwelling units or buildings per net acre of land. Net acreage is the gross acreage of a lot, less the street public rights-of-way, private access easements, and lake or river bottomlands.

**District:** An area of land for which there are regulations governing the use of buildings and land, density of development, yard requirements and height regulations. Also, the various districts shown on the Village’s Zoning Map (which is part of this Ordinance). A “district” is also known as a “zone” or “zoning district.”

**Drive-in:** A business developed so that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to service patrons while in the motor vehicle rather than within a building or structure or to permit patron self-service.

**Drive-through:** An establishment developed so that some portion of its retail or service character is dependent upon providing a driveway approach and a staging area specifically designed to serve patrons remaining in their motor vehicles at the point of sale.

**Dwelling Unit:** A building or portion thereof, designed for occupancy by one (1) family for residency purposes and having cooking facilities.

**Dwelling, One-Family:** A building designed exclusively for one dwelling unit for one (1) family.

**Dwelling, Two-Family:** A building designed exclusively for two dwelling units.

**Dwelling, Multiple Family:** A building or portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.

**Efficiency Apartment:** Is a dwelling unit containing a minimum of at least one hundred fifty (150) square feet of floor area consisting of not more than one (1) room in addition to kitchen and sanitary facilities.

**Equipment Sales and Servicing:** A place of business where equipment such as farm machinery and similar equipment is sold or rented and serviced.

**Erected:** Built, constructed, reconstructed, moved upon, or any physical activity upon a premises or lot required for the building. Excavation, fill, drainage, and the like, shall be considered a part of the erection when done in conjunction with a structure or building.

**Essential Services:** The phrase “essential services” means the erection, construction, alteration or maintenance of public utilities or municipal department of commissions of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment, and accessories in connection therewith, but not including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare.

**Extraction Operations:** The removal, extraction, processing, crushing, or mining of sand, gravel, stone, minerals, or similar material for profit or commercial gain. Also called “mining” or “mining operations.”

B. Definitions of Words and Phrases Beginning With the Letters “F” Through “J”:

**Family:**

**Domestic Family or Family:** An individual or group of two or more persons related by blood, marriage, or adoption, including foster children and servants, together with not more than two additional persons not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit. A family shall not include college or other students living together, nor any society, club, fraternity, sorority, association, lodge, or other group of individuals whose domestic relationship is of a transitory or seasonal nature.

**Functional Equivalent Family:** A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition

shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period. The Zoning Administrator shall presume that a functional equivalent of a domestic family is limited to six (6) or fewer persons. A property owner may rebut this presumption to allow more than six (6) persons subject to the standards set forth in this Ordinance. This definition shall not apply in instances of group care centers, or state licensed residential facilities as established under P.A. 110 of 2006, as amended, MCL 125.3101 *et seq.* A “functional equivalent family” shall be deemed a family or domestic family for purposes of this Ordinance.

**Farm:** Land used for commercial agriculture comprising at least twenty (20) contiguous acres, and that may contain other noncontiguous acreage, all of which is operated by a sole proprietorship or corporation and including all necessary farm buildings, structures, and machinery.

**Fence:** An accessory structure artificially constructed to serve as an enclosure, obscuring screen, physical barrier, and/or decorative landscape element.

**Fence, Privacy:** A fence that serves as an obscuring screen.

**Fence, Ornamental:** A fence of open construction that serves as a decorative landscape element.

**Flood or Flooding:** A temporary partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Hazard Area:** Land that, on the basis of available flood-plain information, is subject to a one percent (1%) or greater chance of flooding.

**Flood Hazard Boundary Map:** An official map of a community, issued by the Federal Insurance Administration, whereon the boundaries of the areas of special flood hazards have been designated as Zone A.

**Flood Insurance Rate Map:** An official map of a community, on which the Federal Insurance Administration has delineated both the areas of special hazards and the risk premium zones applicable to the community.

**Flood Insurance Study:** The official report provided by the Federal Insurance Administration, containing flood profiles, the Flood Hazard Boundary Floodway Map and the water surface elevation of the base flood.

**Floodway:** The channel of a river or the other watercourse and the adjacent land areas designated in the Flood Insurance Study that must be reserved in order to discharge the base flood.

**Floor Area, Gross:** The sum of all gross areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed and uncovered porches, decks, unenclosed and covered porches, court yards, or patios shall not be considered as part of the gross area except where they are utilized for commercial purposes such as the outdoor sale of merchandise.

**Floor Area, Minimum (for a dwelling unit):** The sum of all gross floor areas of all stories of a dwelling unit, measured from the outside dimensions of the outside face of the outside wall. Unenclosed and uncovered porches, decks, court yards, or patios shall not be considered as part of the minimum floor area.

**Floor Area, Usable:** For the purposes of computing parking requirements, usable floor area shall be considered as that area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area that is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for restrooms and janitorial service rooms, shall be excluded from this computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior walls, and total usable floor area for a building shall include the sum of the usable floor area for all floors.

**Foster Care Facility:** An establishment that provides supervision, assistance, protection, or personal care, in addition to room and board, to persons. A foster care facility does not include a home for the aged or nursing home, licensed under PA 139 of 1956, as amended, or a mental hospital for mental patients licensed under PA 151 of 1923.

(1) *Family Home:* A facility that provides foster care to six (6) or fewer persons.

(2) *Group Home:* A facility that provides foster care to seven (7) or more persons.

**Frontage:** The total continuous length of the front lot line. For the purpose of determining the yard requirement on corner lots, all sides of a lot adjacent to streets shall be considered frontage. On a circular turn around or cul-de-sac the minimum frontage requirement shall be measured at the front setback line. Also the frontage of a lot on a public street right-of-way, private road easement, lake, or river.

**Garage, Commercial:** Any garage other than a private garage, available to the public, operated for gain, and used for storage, repair, rental, greasing, washing, sales, servicing, adjusting or equipping of automobiles or other motor vehicles.

**Garage, Private:** An accessory building not over one (1) story or fifteen (15) feet in height used for parking or storage of vehicles as may be required in connection with the permitted use of the principal building.



**Gasoline Service Station:** A building or premises used for the retail sale of fuel, lubricants, air, water, and other commodities designed for motor vehicles, aircraft and boats. Such an operation may include space and facilities for selling, installing, or adjusting tires, batteries, parts and accessories within a completely enclosed building, and may include accessory convenience store merchandise primarily sold to patrons purchasing gasoline and/or services.

**Governing Body:** The Village Council of the Village of Nashville.

**Grade:** The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

**Greenbelt:** A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring or buffer strip in carrying out the requirements of this Ordinance.

**Home Occupation:** An accessory use of a dwelling unit for gainful employment that is conducted entirely within a dwelling and which is clearly incidental and secondary to the residential use of the lot, does not change the character of the dwelling, and meets all applicable provisions of this Ordinance.

**Hospital:** An institution or place where sick or injured in-patients are given medical or surgical care at either public or private expense, and operating under license from the Michigan Department of Public Health.

**Household Pet:** Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include domestic dogs, domestic cats, domestic tropical birds, domestic tropical fish, and domestic rodents, but excluding animals that meet this Ordinance's definition for "livestock" or "wild animal."

**Inoperable Motor Vehicle:** An automobile, truck, or other motor vehicle that has been damaged, dismantled or is deteriorated to such an extent that it cannot be operated under its own power and will require repairs before being made usable; or such a vehicle that does not comply with state or Village laws or ordinances.

**Junk:** Miscellaneous solid waste, rubbish, scrap, debris, and reclaimable material located outside of a completely enclosed building, including, but not limited to, paper, rags, scrap metal and equipment, glass, household appliances, garbage, tires, junk vehicles, vehicle parts, or motor vehicles that are inoperable, partially dismantled, wrecked, or abandoned, excluding farm machinery.

**Junk Yard:** Any land or building used: (1) for the abandonment, storage, keeping, sale, processing, collecting, or baling of paper, rags, scrap metals, or other scrap or discarded materials; or (2) for the abandonment, demolition, dismantling, storage or salvaging of

machinery, automobiles or other vehicles not in normal running conditions, or parts thereof.

C. Definitions of words and phrases beginning with the letters “K” through “O”:

**Kennel:** Any lot or premises on which four (4) or more dogs, cats, or other household pets are either permanently or temporarily boarded or kept.

**Livestock:** Cattle, horses, sheep, goats, llamas, swine, poultry, and other animals or fowl, that are being produced primarily for commercial profit or slaughter, or home use, but excluding animals that meet this Ordinance’s definition for “wild animal.”

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

**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 principal frontage upon a public street or on an approved private road.

**Lot Area, Net:** The area within the lot lines of a lot, exclusive of any public street right-of-way, private street easement, and lake or river bottomlands.

**Lot, Corner:** Any lot having at least two (2) contiguous sides abutting upon one or more streets or approved private roads, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot abutting a curved street(s) shall be a corner lot if the arc of the street has a radius less than one hundred and fifty (150) feet.

**Lot Coverage:** The amount of a lot, stated in terms of percentage, that is covered by all buildings, structures, and impermeable surfaces located thereon. This shall be deemed to include all buildings, roofed porches, arbors, breezeways, paved areas, patio roofs, whether open box types and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, or unroofed decks or patios. Lot coverage for a building shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof.

**Lot, Depth of:** The distance between the front and rear lot lines, measured along a line midway between the side lot lines.

**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 and does not meet the frontage requirements of the district in which it is located.

**Lot, Interior:** A lot other than a corner lot that, with the exception of a “through lot,” has only one lot line fronting on a street

**Lot Lines:** The lines bounding a lot or parcel

- (1) *Front Lot Line:* The line(s) separating the lot from any street right-of-way, private road or other access easement.
- (2) *Rear Lot Line:* The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line.
- (3) *Side Lot Line:* Any lot line other than a front or rear lot line.

**Lot of Record:** A lawful lot that is part of a subdivision, the map of which has been recorded in the office of the Barry County Register of Deeds prior to the adoption or amendment of this Ordinance (or prior Zoning Ordinance), or a lawful tract, parcel, or lot described by metes and bounds, the deed to which has been recorded in the office of the Barry County Register of Deeds prior to the adoption or amendment of this Ordinance (or prior Zoning Ordinance).

**Lot, Through:** An interior lot having frontage on two (2) more or less parallel streets.

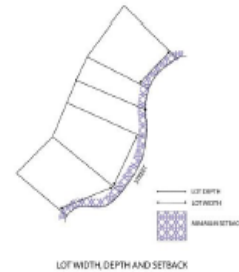
**Lot Width:** The straight line distance between the side lot lines.

**Major Thoroughfare:** A public street, the principal 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 that is classified as a county primary road by Barry County or as a principal or minor arterial by the Michigan Department of Transportation or as a major thoroughfare on the Master Plan.

**Manufactured Housing.** A dwelling unit that is wholly or substantially constructed at an off-site location. Manufactured housing includes mobile homes and modular housing units.

**Major Automobile Service and Repair Station:** Buildings and premises for the primary purpose of engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame and fender repair, and painting.

**Master Plan:** The statement of policy by the Planning Commission relative to the agreed upon desirable physical pattern of future community development consisting of a series of maps, charts, and written material.



**Medical Marihuana Dispensary:** Any business, facility, association, cooperative, location, or operation, whether fixed or mobile, where medical marihuana is made available to, sold, grown, processed, delivered, or distributed by or to one or more of the following:

- (1) A primary caregiver (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended).
- (2) A qualifying patient (as defined by Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended).
- (3) Members of the public.

A medical marihuana dispensary shall also include any place, location, facility, or operation, whether fixed or mobile, where medical marihuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marihuana or such medical marihuana smoking or consumption is occurring on the property of a business, association, cooperative, or commercial operation or facility.

A medical marihuana dispensary shall not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five (5) qualified patients (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended) so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and it is done in full compliance with not only this Ordinance and any other applicable Village ordinances, but also all applicable Michigan and federal laws and regulations.

**Mini Storage (warehouse) Facilities:** A building or group of buildings in a controlled access or fenced area that contains individual compartmentalized and controlled storage of customer's goods or wares that are generally not accessed on a daily basis.

**Minor Automobile Service and Repair Station:** Buildings and premises for the primary purpose of the retail sales of gasoline, oil, grease, batteries, tires and other operational fluids and accessories for automobiles, and the installation of such items, and for other minor automobile repair not to include auto refinishing, body work or painting, dismantling of vehicles for the purpose of reuse or resale of parts, or storage of automobiles other than those in for immediate repair. Retail sales may include convenience store merchandise sold primarily to patrons purchasing fuel or services.

**Minor Thoroughfare:** A public street identified as a county local road by Barry County, except that no street in a platted subdivision, nor any private road, shall be considered a minor thoroughfare under this Ordinance.

**Mobile Home:** A structure, transportable in one or more sections, that 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. The term mobile home shall not include pick-up campers, travel trailers, motor homes, modular homes, recreational vehicles, converted buses, tent trailers, or other transportable structures designed for temporary use.

**Mobile (or Manufactured) Home Park:** A parcel or tract of land licensed by the state as a Mobile Home Park or Manufactured Housing Community under the control of a person upon which 3 or more mobile homes are located on a continual, nonrecreational basis and that 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.

**Modular (Pre-Manufactured) Housing Unit:** A dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation, meeting all construction codes and regulations.

**Motel:** A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for travelers and providing for accessory off-street parking facilities. The term “motel” shall include buildings designated as hotels, auto courts, tourist courts, motor courts, motor hotel, and similar appellations that are designed as integrated units of individual rooms under common ownership. A motel shall not be considered or construed to be a multiple family dwelling.

**Motor Home:** A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

**Municipality:** The Village of Nashville

**Nonconforming Lot of Record (Substandard Lot):** A lot lawfully existing prior to the effective date of this Ordinance, or a subsequent amendment thereto, and that fails to meet the area and/or dimensional requirements of the zoning district in which it is located. This definition includes and expands upon any definition of a nonconforming lot of record, and/or substandard lot as may be provided by relevant law.

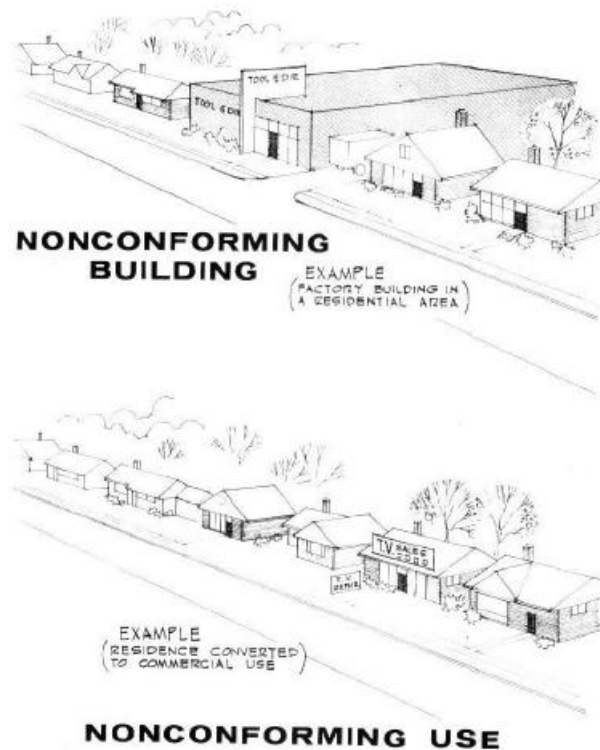
**Nonconforming Sign:** A sign that was lawful prior to the adoption, revision, or amendment of this Ordinance (or prior Zoning Ordinance), that renders the sign nonconforming, because it does not conform to all the standards and regulations of the adopted or amended Ordinance.

**Nonconforming Structure:** A building or structure (or portion thereof) lawfully existing at the time of adoption of this Ordinance (or prior Zoning Ordinance) or a subsequent amendment thereto, that does not conform to the provisions of this Ordinance relative to height, bulk, area, placement or yards for the zoning district in which it is located.

**Nonconforming Use:** A use of a building or structure or of a parcel or tract of land, lawfully existing at the time of adoption of this Ordinance (or prior Zoning Ordinance) or subsequent amendment thereto, that does not conform to the provisions of the Ordinance. This definition includes and expands upon any definition of a nonconforming use as may be provided by relevant law.

**Nonconforming Use or Structure-Class A:** A nonconforming use or structure that has been designated to be allowed to be perpetuated and improved under the provisions of this Ordinance.

**Nonconforming Use or Structure-Class B:** A nonconforming use or structure that has been designated to be allowed to be perpetuated within the restricted provisions of this Ordinance.



**Nuisance:** An offensive, annoying, unpleasant, or obnoxious thing or practice or a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line that can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things including but not limited to: noise, dust, smoke, odor, glare, fumes, flashes, vibration, objectionable effluent, noise of a congregation of people—particularly at night, passing traffic, or invasion of street frontage by traffic generated from an adjacent land use that lacks sufficient parking and circulation facilities. Farm operations, as defined by (and in compliance with) the Michigan Right to Farm Act, P.A. 93 of 1981, MCL 286.471 *et seq.* as amended, shall not be considered nuisances where generally

accepted agricultural and management practices of the Michigan Commission of Agriculture are adhered to.

**Nursing Home:** An installation other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury, or an infirmity.

**Outdoor Commercial Recreation Use:** An outdoor recreational facility operated as a business and open to the public for a fee including, but not limited to, campgrounds, riding stables, rental cottages, swimming beaches, boat rentals, shooting preserves, and athletic fields.

D. Definitions of Words and Phrases Beginning With the Letters “P” Through “T”:

**Parcel:** A lot.

**Park:** A parcel of land, building or structure open to the public for recreational purposes including but not limited to playgrounds, sport fields, game courts, trails, picnicking areas, and leisure time activities.

**Parking Area, Off-Street:** A land surface or facility providing off-street vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide vehicular access to the parking spaces.

**Parking Space:** An accessible area of land provided for vehicle parking, exclusive of drives, aisles, or entrances giving access thereto.

**Pavement:** Asphalt or Portland cement concrete.

**Personal Services:** An establishment or place of business primarily engaged in the provisions of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, beauty and nail salons, barbershops, shoe repair shops, tailor shops, laundromats, and dry cleaners.

**Planned Commercial Center:** means a business development consisting of two or more retail outlets characterized by a unified grouping of stores, under common architecture, served by a common circulation and parking system.

**Planned Unit Development (or PUD):** A tract of land or lot, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public uses and may include commercial, or industrial areas in such range or ratios of nonresidential to residential uses as shall be specified and in accord with the goals and objectives of the Master Plan.

**Planning Commission:** The Village of Nashville Planning Commission established pursuant to Public Act 110 of 2006, as amended.

**Plat:** A map of a subdivision of land recorded with the Register of Deeds pursuant to the Land Division Act, as amended, MCL 560.101 *et seq.*, or a prior statute.

**Plot Plan:** Depicts all salient features of a proposed development. A plot plan generally contains less comprehensive and detailed information about improvements proposed on the site than does a site plan, and is required for such uses as single and two family dwellings. Also a type of site plan.

**Principal Building:** A building on a lot in which the principal use exists or is served by such building.

**Principal Use:** The main use to which a lot is devoted and the main purpose for which the premises exist.

**Private Road:** Also called a “private street.” Any undedicated path, trail, street, access, or road that provides or is intended to provide the primary means of ingress and egress to two (2) or more lots or two (2) or more principal buildings, dwelling units, structures, or combination thereof, whether created by a private right-of-way agreement, a joint ownership, a license, a lease, or an easement. Any and all extensions, additions, or branches of or to a private road shall be considered part of the private road that abuts the public road. A private road shall also include the following:

- (1) An access serving one (1) lot if that lot does not have the requisite amount of frontage on a public road as required by this Ordinance.
- (2) Where two (2) or more lots or dwellings share or utilize a common access drive, even if each lot has the required frontage on a public road.

**Private Sanitary Sewage Disposal System:** An individual on-site sewage disposal system as defined in the Barry-Eaton District Health Department Sanitary Code.

**Private Water Supply:** A well or other water supply system approved by Barry-Eaton District Health Department pursuant to Part 127 of Act 368 of the Public Acts of 1978, as amended, MCL 333.12701 *et seq.*

**Prohibited Use:** A use of land that is not permitted within a particular zoning district or by this Ordinance.

**Public Sanitary Sewer:** A system of pipe owned and maintained by a governmental unit used to carry human, organic, and industrial waste from the point of origin to a point of discharge.

**Public Uses:** Public parks, schools and administrative, cultural, and service buildings, not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

**Public Utility:** Any person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal



regulations to the public; gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

**Reasonable Accommodation Use:** housing accommodations for handicapped persons in residential districts.

**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 (Act 96, Michigan Public Acts of 1987, MCL 125.2301 *et seq.* as amended).

**Recreational Vehicle Park:** All lands and structures that are owned and operated by private individuals, or a business or corporation that are predominantly intended to accommodate recreational vehicles and provide for outdoor recreational activities.

**Restaurant, Drive-through:** A restaurant in which all or a substantial portion of the business consists of serving foods and beverages in a ready to-consume state from a drive-through window to patrons in motor vehicles. A drive-through restaurant may also have indoor seating.

**Restaurant, Standard:** An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state primarily for on-premise consumption, and whose principal method of operation includes one or both of the following characteristics:

- (1) Customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee, at the same table or counter at which food and beverage are consumed;
- (2) Cafeteria-type operation where food and beverage generally are consumed within the restaurant building.

**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.

**School:** An educational institution under the sponsorship of a private or public agency providing elementary or secondary curriculum, and accredited or licensed by the state of Michigan; but excluding profit-making private trade or commercial schools.

**Satellite Dish Antenna:** Any apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

**Screen:** A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be nonstructural, consisting of shrubs or other growing materials.

**Seasonal Mobile Home Park:** A parcel or tract of land licensed for such by the state of Michigan under the control of a person upon which 3 or more mobile homes are located on a continual or temporary basis but occupied on a temporary basis only, and that 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. A seasonal mobile home park does not include a campground licensed pursuant to P.A. 368 of 1978.

**Secondary Residences:** An accessory dwelling unit (ADU) on a lot with a principal dwelling in compliance with all the requirements of this and other ordinances of the Village.

**Setback:** The unoccupied distance between lot lines and principal and accessory buildings or uses required to meet the front, side and rear yard open space requirements of this Ordinance.

**Sign:** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, structures, designs, trade names or marks, or other representation, or combination thereof, by which anything is made known, that is located upon any land or on or in any building, in such manner as to attract attention from outside the premises and intended to convey information to the public. Also, a device, structure, painting, fixture, or placard using color, graphics, symbols and /or written copy designed and/or utilized for the purpose of advertising or identifying any event, establishment, product, good, service or displaying or depicting other information.

**Site Condominium (Condominium Subdivision):** A method of subdivision where land ownership of sites is regulated by the Condominium Act (P.A. 59 of 1978, as amended MCL 559.101) as opposed to the Subdivision Control Act of 1976 (MCL 560.101). "Condominium subdivision" shall be equivalent to the term "subdivision" as used in this Ordinance.

**Site Plan:** A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance. A site plan contains more comprehensive and detailed information about improvements proposed on the site than does a plot plan because of the more complex nature of land uses required to receive site plan approval, such as business, industrial, and multiple family developments.

**Solid Waste:** Garbage, rubbish, paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials, ashes, incinerator residue, street cleanings, municipal and industrial sludges, and solid commercial and solid industrial waste, animal waste, but does not include human body waste, liquid or other waste regulated by statute, ferrous or nonferrous scrap directed to a scrap metal processor or to a reuser of ferrous or nonferrous products, and slag or slag products directed to a slag processor or to a reuser of slag or slag products.

**Special Land Uses:** Uses that are reasonably compatible with the permitted primary uses and structures within a zoning district, but that require special consideration in relation to the health, safety, convenience, and general welfare of Village’s inhabitants.

**Spot Zoning:** Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the objectives of the Master Plan.

**Stop Work Order:** An administrative order served on the property owner that directs a person not to continue, or not to allow the continuation of an activity that is in violation of this Ordinance.

**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 space between the floor and the ceiling or roof next above it.

**Story, Height of:** The vertical distance from the top surface of one floor to the top surface of the next above. The height of the top-most story is the distance from the top surface of the floor to the top surface of the ceiling joists.

**Street:** Also called a “road.” A public thoroughfare or approved private road that affords the principal means of access to one or more lots.

**Street Line:** The legal line of demarcation between a street right-of-way and abutting land.

**Street, Major:** A public way, the principal use of which is to provide an arterial route for through traffic and has as its secondary use the provision of access to abutting properties.

**Street, Minor:** A public way, the principal use of which is to give access to abutting properties.

**Structure:** Anything constructed, installed, or erected, the use of which requires location on the ground or attachment to something on the ground. Also, any constructed, erected, or placed material or combination of materials in or upon the ground having a fixed location, including but not limited to buildings, radio towers, billboards, light posts, signs, swimming pools, animal enclosures (other than fences), garages, sheds, decks, platforms, portable or movable vehicle carports or enclosures, satellite dishes, towers, windmills, gazebos, tennis courts, signs, and storage bins.

The following are excluded from the definition of “structure”:

- (1) Lawful fences, sidewalks, and paving on streets, driveways, or parking areas.
- (2) Decks or patios, no portion of which is located:
  - (a) More than one (1) foot above the ground (natural grade); or

- (b) Closer than five (5) feet to any lot line; or
  - (c) Within thirty (30) feet of the high water mark of any lake or river.
- (3) Retention walls or seawalls, unless they are installed adjacent to a dwelling and are used to aid in accessing the dwelling.

**Structural Alteration:** The erection, strengthening, removal, or other change of the supporting elements of a building, such as footings, bearing walls, beams, columns, posts, and the like.

**Trailer Coach:** Same as Mobile Home.

**Trailer Coach Park:** Same as Mobile Home Park.

**Transition:** For the purposes of this Ordinance, one or more of the following:

- (1) A zoning district that may serve as a district of transition, i.e., a buffer zone between various land use districts or land use types;
- (2) A residential rear or side yard, lot or land parcel arrangement abutting a land use of more intense development character; or
- (3) A device such as an earth berm, wall, screening fence, heavy shrub and tree planting or a combination of such devices providing a buffer between land use types.

**Tree Canopy:** The total spread of limbs and branches of a tree.

E. Words and phrases beginning with the letters “U” through “Z”:

**Undevelopable Land:** Land that has soil types or a high water table condition that present severe limitations upon the use or type or types of construction that should be placed thereon.

**Usable Floor Area:** The area within a building used for or intended to be used for the sale of merchandise or services or to serve patrons, clients, or customers. Usable floor area shall be the sum of the gross floor areas of the several floors of the building measured from the interior faces of the exterior walls, less floor area used or intended to be used principally for the storage or processing of merchandise or utilities.

**Use:** The purpose for which land, structures, or building(s) thereon are arranged, occupied, maintained, let, or leased. Also, actual use.

**Use, Accessory:** A use subordinate to the main use of a lot, and used for purposes clearly incidental to those of the principal or main use.

**Use, Main:** The principal use to which the lot is devoted and the principal purpose for which the lot exists.

**Variance:** A modification of the literal provisions of this Ordinance that the Zoning Board of Appeals is permitted to grant when strict enforcement of said provisions would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought and not the result of action of the applicant.

**Village:** The Village of Nashville.

**Village Council:** The governing and legislative body of the Village of Nashville.

**Wind Energy Systems:** A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment

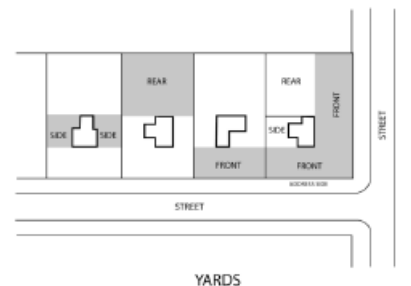
**Wild Animal:** Any animal not domesticated by humans; or that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or that because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals; or that a person is prohibited from possessing by law.

**Woodland:** A lot, parcel, or tract of land containing fifty percent (50%) or more of its area covered by a canopy of trees.

**Yard:** An open space, on the same lot with a principal building, unoccupied and unobstructed from the ground upward by a building or structure, except as otherwise permitted in this Ordinance and as defined herein (see Figure at end of this Section):

(1) Front Yard: An open space extending the full width of the lot, the depth of which is the minimum distance between the front lot line and the nearest point of the principal building foundation. There is a front yard on each street side of a corner lot.

(2) Rear Yard: An open space extending the full width of the lot, the depth of which is the minimum distance between the rear lot line and the nearest point of the foundation of the principal building. In the case of corner lots, the rear yard designated by the owner.



(3) Side Yard: An open space between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the distance from the nearest point of the side lot line to the nearest point of the foundation of the principal building.

(4) Interior side yard: a side yard abutting a side yard of an adjacent lot.

(5) Exterior side yard: A side yard abutting a street.

**Zoning Administrator:** The person or persons designated to administer and enforce this Ordinance.

**Zoning Board and Board of Appeals:** Also called the “ZBA.” The Village of Nashville Zoning Board of Appeals.

**Zoning Enabling Act:** Also called the “Zoning Act.” Public Act 33 of 2008, as amended.

**Zoning Lot:** A lot or combination of lots utilized by a single use that for the purpose of determining setback requirements shall be considered as a single lot or parcel.

**Zoning Permit:** Also called a “zoning compliance permit.” The permit that must be issued by the Zoning Administrator before a use can commence or a structure or building can be constructed, installed, or altered.

### **SECTION 2.03 USES NOT ALLOWED**

Any use, activity, structure, or building not expressly allowed by this Ordinance is prohibited.

**ARTICLE 3  
ZONING DISTRICTS AND MAP**

**SECTION 3.01 ESTABLISHMENT OF DISTRICTS**

For the purpose of this Ordinance, the Village of Nashville is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names:

Article 3	Zoning districts, maps and requirements
Article 4	AG Agricultural district
Article 5	RA Single family district
Article 6	RB Single family district
Article 7	RC Single and Two family district
Article 8	RD Multiple family district
Article 9	CBD Central Business district
Article 10	GB General business district
Article 11	I-1 Light industrial district
Article 12	PUD Planned Unit Development district
Article 13	F Flood Plain Overlay district
Article 14	W Wellhead Protection Overlay district

**SECTION 3.02 ZONING MAP**

- A. **Zoning map incorporated.** The zoning map delineating the zoning districts throughout the Village as set forth in Section 3.01 is hereby declared to be a part of this Ordinance and this Article. The Zoning Map is hereby incorporated into this Ordinance. Except where reference is shown on the map to a street line or other line designated by dimensions, the district boundary lines follow lot lines or the centerlines of streets, alleys, streams and railroads, as they existed at the time of the adoption of this Ordinance.
- B. **Lot divided by zone line.** Where a district boundary line, as established in this section, or as shown on the zoning map, divides a lot shown or recorded as being in single ownership at the time of enactment of this section, the district regulations and uses shall be observed on the respective side of the district line to which they apply.

**SECTION 3.03 ZONING TEXT INTERPRETED**

Where uncertainty exists with respect to uses permitted in any district, or any condition set forth in this Ordinance, the following rules shall apply:

- A. No use of land shall be allowed in any district except those uses specifically permitted in a zoning district.
- B. Uses, buildings, or structures not specifically permitted in a zoning district shall be prohibited in such district.

- C. Unless otherwise provided for in this Ordinance, where uses of yard areas are indicated as being permitted, the use of any yard area for any use other than that permitted shall be prohibited.

**SECTION 3.04      RESERVED**

**SECTION 3.05      ZONING OF VACATED LANDS**

Whenever any street, alley or other public way within the Village shall be vacated, such street, alley or other public way or portion thereof shall automatically be classified in the same zone district as the property to which it attaches.

**SECTION 3.06      DISTRICT REQUIREMENTS**

All buildings, structures, and uses in any district shall be subject to all of the applicable provisions of the zoning district within which the land is located, as well as any other applicable provisions of this Ordinance.



**ARTICLE 4**  
**AG – AGRICULTURAL DISTRICT**

**SECTION 4.01      PURPOSE**

The purpose of this district is to protect and stabilize the essential characteristics of agricultural areas within the Village and to ensure proper maintenance of conditions for healthful and economically productive agricultural activities by preserving those areas that are predominately agricultural in nature, and that are most appropriate for present and future agricultural developments.

**SECTION 4.02      PERMITTED USES**

- A.     Agricultural operations in compliance with the Michigan Right to Farm Act, being Public Act 93 of 1981, as amended.
- B.     One family dwellings.
- C.     Farm employee accessory buildings.
- D.     Public and private conservation area and structures for the development, protection and conservation of open space, watersheds, water, soil, forest, and wildlife resources.
- E.     Schools, parks, institutional and public uses.
- F.     Childcare facilities limited to foster family homes and family day care homes.
- G.     Churches and places of worship.
- H.     Public Recreation and conservation areas.
- I.     Essential Services.
- J.     Accessory structures, buildings, and uses customarily incident to the above permitted uses, provided such buildings, structures, and uses are located on the same lot with a permitted use.

**SECTION 4.03      SPECIAL LAND USES**

- A.     Agricultural business.
- B.     Camping facilities and campgrounds.
- C.     Cemeteries.
- D.     Communication towers.
- E.     Mining and extraction operations.

- F. Group homes.
- G. Kennels.
- H. Private landing strips.
- I. Bed and Breakfast.
- J. Satellite dish antenna over thirty nine (39) inches in diameter.
- K. Mobile home or secondary residence.
- L. Reasonable accommodation use.
- M. Day care group homes and foster care family homes.
- N. Wind Energy Systems.
- O. Planned unit developments.
- P. Single family cluster and open space.
- Q. Country clubs and golf courses.
- R. Home Business.

**SECTION 4.04 REQUIRED CONDITIONS AND REGULATIONS**

- A. The following conditions and regulations shall apply in the AG district:
  - (1) *Site plan review.* Site plan review and approval must be obtained for all new construction and uses, other than farm buildings and single family dwellings.
  - (2) Area, dimension, and bulk requirements as provided in Article 15.

**ARTICLE 5**  
**RA – SINGLE FAMILY DISTRICT**

**SECTION 5.01      PURPOSE**

The RA Single Family district is designed to provide for low density dwelling sites and residentially related uses in keeping with the Master Plan for residential development in the Village. The uses permitted by right and as special land uses are intended to promote a compatible arrangement of land uses for homes, with the intent to keep neighborhoods quiet and free of unrelated traffic, and other noises.

**SECTION 5.02      PERMITTED USES**

- A. One family detached dwellings.
- B. Schools, parks, recreation and conservation areas, institutional and public uses.
- C. Childcare facilities limited to foster family homes and family day care homes.
- D. Public and private recreation and conservation areas for the development, protection, and conservation of open space, watersheds, water, soil, forest and wildlife resources.
- E. Essential services.
- F. Home occupations subject to the following:
  - (1) Home occupations that create any of the following conditions shall not be permitted:
    - (a) Changes to the outside appearance of the dwelling visible from the street;
    - (b) Traffic, parking, sewage, or water use in excess of what is normal in the residential neighborhood;
    - (c) Noise, vibration, glare, fumes, odors, or resulting in electrical interference, or becoming a nuisance;
    - (d) Outside storage or display of anything other than a sign in accordance with Article 21;
    - (e) Employment of more than one (1) person in the home other than the dwelling occupants;
    - (f) Exterior building alterations to accommodate the occupation;
    - (g) Occupation of more than twenty-five (25) percent of the floor area of the dwelling;

- (h) Off-street parking for customers, or a requirement of more than one (1) parking space at curb side on the street;
  - (i) The delivery of goods or the visit of customers before 6:00 a.m. and after 9:00 p.m.;
  - (j) Any home occupation use occurring outdoors or in an accessory building or detached garage; or
  - (k) Deliveries made other than by small vehicles such as step vans and similar vehicles.
- (2) The following are permitted home occupations provided they do not violate any of the provisions of Section 5.02F(1):
- (a) Dressmaking, sewing and tailoring;
  - (b) Painting, sculpturing or writing;
  - (c) Telephone answering;
  - (d) Home crafts, such as model making, rug weaving and lapidary work;
  - (e) Tutoring limited to four (4) students at a time;
  - (f) Computer application including software and not including sale of computers;
  - (g) Salespersons office or home office of a professional person;
  - (h) Laundering and ironing;
  - (i) Repair of clocks, instruments or other small appliances that do not create a nuisance due to noise, vibration, glare, fumes, odors or results in electrical interference;
  - (j) Barber shops and beauty parlors, limited to one (1) operator;
  - (k) Dance studios, limited to four (4) students; or
  - (l) Use of a single-family residence by an occupant of that residence to give instruction in a craft or fine art within the residence pursuant to MCL 125.3204.

**SECTION 5.03 SPECIAL LAND USES**

- A. Day care group homes and foster care family homes.
- B. Functional equivalent family.

- C. Reasonable accommodation use.
- D. Satellite dish antenna over thirty-nine (39) inches in diameter.
- E. Churches and places of worship.
- F. Cemeteries.
- G. Country clubs and golf courses.
- H. Funeral homes.
- I. Two family dwellings.
- J. One-Family Cluster and Open Space.
- K. Bed and Breakfast.
- L. Public Uses.
- M. Secondary Residence (ADU).
- N. Wind Energy Systems.

**SECTION 5.04      REQUIRED CONDITIONS**

- A. Site plan review and approval must be obtained for all new construction other than single-family dwellings and permitted accessory structures pursuant to Article 22.
- B. Dwelling unit review.
  - (1) All dwelling units shall be reviewed by the Zoning Administrator.
  - (2) Dwelling units shall conform to all applicable codes and ordinances. Any such local requirements are not intended to replace or lessen applicable state or federal requirements with respect to the construction of the dwelling.
  - (3) Dwelling units shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, then a perimeter wall shall also be constructed. Any such perimeter wall shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction and necessary foundations below the frost line. Any such wall shall also provide an appearance which is compatible with the dwelling and other homes in the area.
  - (4) Each dwelling unit shall have exterior finish materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

- (5) Each dwelling unit shall have a roof design and roofing material similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.
- (6) Each dwelling unit shall have an exterior building wall configuration which represents an average width to depth or depth to width ratio which does not exceed three (3) to one (1), or is in reasonable conformity with the configuration of dwelling units on adjacent properties or in the surrounding residential neighborhood.
- (7) Each dwelling shall contain storage capability in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling. Said storage area shall be equal to ten (10%) percent of the square footage of the dwelling or not less than one hundred (100) square feet, whichever shall be more, and shall be anchored by a system approved by the Zoning Administrator.
- (8) The Zoning Administrator may request a review by the Planning Commission of any dwelling unit with respect to this section. The Zoning Administrator or Planning Commission shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the community at large. In reviewing any such proposed dwelling unit, the Zoning Administrator may require that the applicant furnish such plans, elevations and similar documentation as he/she deems necessary to permit a complete review and evaluation of the proposal. When comparing the proposed dwelling unit to similar types of dwelling units consideration shall be given to comparable types of homes within three hundred (300) feet. Should the area within three hundred (300) feet not contain any such homes, then the nearest twenty (20) dwellings shall be considered for comparison purposes.

#### **SECTION 5.05      AREA AND BULK REQUIREMENTS**

All uses and buildings in this district shall comply with the area, dimension, and bulk requirements in Article 15.

**ARTICLE 6**  
**RB – SINGLE FAMILY DISTRICT**

**SECTION 6.01      PURPOSE**

The RB Single-Family district is designed to provide for medium density dwelling sites and residential related uses in keeping with the Master Plan for residential development in the Village. The uses permitted by right and as special land uses are intended to promote a compatible arrangement of land uses for homes, with the intent to keep neighborhoods quiet and free of unrelated traffic, and other noises

**SECTION 6.02      PERMITTED USES**

All permitted uses in the RA district in Section 5.02.

**SECTION 6.03      SPECIAL LAND USES**

- A. All special land uses in the RA District in Section 5.03.
- B. Secondary Residences (ADU).
- C. Bed and Breakfast.

**SECTION 6.04      REQUIRED CONDITIONS**

All required conditions of the RA District Section 5.04.

**SECTION 6.05      AREA AND BULK REQUIREMENTS**

All uses in this district shall comply with the area, dimension, and bulk requirements in Article 15.

**ARTICLE 7**  
**RC – SINGLE AND TWO FAMILY DISTRICT**

**SECTION 7.01      PURPOSE**

The RC Single and Two Family district is designed to provide for medium density sites for one and two family dwellings and residential related uses in keeping with the Master Plan for residential development in the Village. The uses permitted by right and as special land uses are intended to promote a compatible arrangement of land uses for homes, with the intent to keep neighborhoods quiet and free of unrelated traffic, and other noises

**SECTION 7.02      PERMITTED USES**

- A. All permitted uses in the RB District in Section 6.02.
- B. Two family dwellings.

**SECTION 7.03      SPECIAL LAND USES**

- A. All special land uses in the RB District in Section 6.03.
- B. Mobile homes outside of mobile home parks in accord with other applicable requirements of this Ordinance.
- C. Secondary Residence (ADU).
- D. Bed and Breakfast.

**SECTION 7.04      REQUIRED CONDITIONS AND REQUIREMENTS**

- A. Two (2) family dwellings shall meet the requirements of both Article 15 and the following:
  - (1) Dwelling exterior design shall be compatible with single family dwellings within three hundred (300) feet of the two (2) family dwelling.
  - (2) Conversion of an existing one (1) family dwelling to a two (2) family dwelling shall only be permitted provided all codes and ordinances are complied with and all requirement of Article 15 are met.
- B. All uses in this district shall comply with the area, dimension, and bulk requirements in Article 15.



**ARTICLE 8**  
**RD – MULTIPLE FAMILY DISTRICT**

**SECTION 8.01      PURPOSE**

The RD Multiple Family district is designed to provide sites for low to moderate density one and two-story planned attached multiple dwelling structures. The multiple dwelling is further provided to serve the limited needs for the apartment type of unit.

**SECTION 8.02      PERMITTED USES**

- A. All permitted uses in the RA District in Section 5.02.
- B. Multiple family dwellings.

**SECTION 8.03      SPECIAL LAND USES**

- A. Subject to the requirements of the RA district, all special land uses in the RA District in Section 5.03
- B. General hospitals.
- C. Bed and Breakfasts.
- D. Mobile home parks.
- E. Nursing Homes.

**SECTION 8.04      REQUIRED CONDITIONS**

- A. All required conditions of the RA District shall apply.
- B. All uses in this district shall comply with the area, dimension, and bulk requirements in Article 15.

**ARTICLE 9**  
**CBD CENTRAL BUSINESS DISTRICT**

**SECTION 9.01      PURPOSE**

The CBD Central Business district is established to create and preserve a central business district convenient and attractive for a range of retail uses and business, government and professional offices and places of amusement in a setting conducive to and safe for pedestrian traffic.

**SECTION 9.02      PERMITTED USES**

- A.      Stores for retail sales and retail services.
- B.      Theaters and social clubs.
- C.      Printing or publishing.
- D.      Restaurants and taverns.
- E.      Private clubs and lodge halls.
- F.      Public parks and recreation areas.
- G.      Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting, and sales.
- H.      Medical office and dental offices, including clinics and laboratories.
- I.      Banks, credit unions, savings and loan associations, and similar uses; drive-through facilities as an accessory use.
- J.      Laundry and dry cleaning establishments.
- K.      Public Uses.
- L.      Personal service establishments including barber shops, beauty shops, and health salons.
- M.      Off-street parking lots.
- N.      Business schools.
- O.      Essential services.
- P.      Foster family homes and family day care homes.
- Q.      Funeral homes.
- R.      Uses Similar to the above uses.

- S. Accessory structures and uses customarily incident to the above permitted uses, provided that such structures and uses are located on the same lot with a permitted use.

**SECTION 9.03 SPECIAL LAND USES**

- A. Bed and Breakfast.
- B. Apartments above stores.
- C. Sidewalk cafes.
- D. Motels and hotels.
- E. Group day care and foster care facilities.
- F. Satellite dish antenna over thirty-nine (39) inches in diameter.
- G. Churches and religious institutions.
- H. Schools, institutional and public uses.
- I. Wind Energy Systems.
- J. Minor Auto Service Station and Vehicle Repair.

**SECTION 9.04 REQUIRED CONDITIONS AND REGULATIONS**

- A. Area and bulk requirements limiting height and bulk of buildings, minimum size of lots, and for yard setback and other requirements as are specified in Article 15.
- B. Site Plan Review and approval in compliance with Article 22 shall be obtained for all new construction, uses, and expansions.

**ARTICLE 10**  
**GB GENERAL BUSINESS DISTRICT**

**SECTION 10.01      PURPOSE**

The GB General Business district is characterized by diversified types of uses and of automotive services and goods often located to serve passerby traffic.

**SECTION 10.02      PERMITTED USES**

- A. All uses permitted in the CBD district.
- B. Indoor sales for new automobiles, boats, and recreational vehicles.
- C. Automobile car wash.
- D. Bus passenger station.
- E. Bowling alleys, pool or billiard halls, and other recreational facilities.
- F. Plumbing and electrical shops.
- G. Lumber, fuel, and building supply.
- H. Open air business such as, but not limited to, retail sales of plant materials, lawn furniture, playground equipment and garden supplies.
- I. Uses similar to the above uses.
- J. Accessory structures and uses customarily incident to above permitted uses, provided that such structures and uses are located on the same lot with a permitted use.

**SECTION 10.03      SPECIAL LAND USES**

- A. All special land uses in the CBD district, subject to requirements of the CBD district.
- B. Major auto service stations and major automobile repair.
- C. Drive in establishments.
- D. Communication towers.
- E. Outdoor commercial recreation.
- F. Mini Storage.
- G. Outdoor sales space for new or used automobiles, recreational vehicles, mobile homes, and boats.

H. Equipment Sales and Services.

**SECTION 10.04 REQUIRED CONDITIONS AND REGULATIONS**

A. All required conditions and requirements of the CBD district must be met.

B. The area, dimension, and bulk requirements in Article 15 must be met.

**ARTICLE 11**  
**I-INDUSTRIAL DISTRICT**

**SECTION 11.01      PURPOSE**

The I-Industrial district is designed so as to accommodate wholesale and warehouse activities, and industrial operations whose external physical effects are restricted to the area of the district and do not affect in a detrimental way any of the surrounding districts. The district is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly, and/or treatment of finished or semi-finished products from previously prepared material.

**SECTION 11.02      PERMITTED USES**

- A. Any of the following uses when conducted wholly within a completely enclosed building, or within a designated area enclosed on all sides by an eight (8) foot tall solid fence that shall obscure the view from any adjacent districts zoned for residential use:
- (1) Warehousing, wholesale establishments, and trucking facilities.
  - (2) The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, chemicals (excluding heavy chemicals manufacturing such as, but not limited to, soda ash manufacturing, cement manufacturing and the like), pharmaceuticals, toiletries, food products; hardware and cutlery; tool, die, gauge, and machine shops, grinding, welding, reprocessing, or reconditioning of manufacturing equipment.
  - (3) The manufacture, compounding, assembling, or treatment of articles or merchandise from the following previously prepared materials: bone, canvas, cellophane, chemicals, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wax, wood (excluding rough saw and rough planning mills), and yarns.
  - (4) The manufacture of articles or merchandise from sheet metal (including stampings of metals of seven (7) gauge or lighter), hot or cold forging of products made from wire of no greater diameter than 5/16 inch.
  - (5) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
  - (6) Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other small molded rubber products.
  - (7) Manufacture or assembly of electrical appliances, electronic instruments and devices, radio, and phonographs.
  - (8) Laboratories-experimental, film, or testing.

- (9) Plumbing, electrical, and welding shops.
- (10) Printing and publishing.
- (11) Equipment sales and servicing.
- (12) Manufacture and repair of electronic or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves, and the like.
- (13) Outdoor storage upon issuance of a permit by the Zoning Administrator as follows: On a permanent basis if annually renewed for contained scrap materials generated from on-site operations; on a temporary basis for obsolete machinery if stored for more than ninety (90) days and inventory that is part of the principal activity if stored for more than ninety (90) days.
- (14) Storage facilities for building materials, sand, lumber, and similar materials, open storage of contractor's equipment and supplies, provided such is enclosed within an obscuring wall or fence on those sides abutting all Residential or Business Districts, and on any front yard abutting a public thoroughfare. In any I- District the extent of such fence or wall shall be eight (8) feet in height. A chain link type fence, with heavy shrubbery, in a continuous greenbelt five (5) foot wide inside of said fence, shall be considered an obscuring fence.
- (15) Lumber, fuel and building supply yards.
- (16) Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.
- (17) Essential services.
- (18) Accessory retail sales.
- (19) Public Uses.
- (20) Off street parking lots.
- (21) Trade or industrial school.
- (22) Uses similar to the above uses.
- (23) Accessory structures and uses customarily incidental to the above permitted uses, provided that such buildings and uses are located on the same lot with a permitted use.

**SECTION 11.03 SPECIAL LAND USES**

- A. Outdoor sales space.
- B. Towers and antennae for wireless communication facilities.
- C. Major automobile service and repair station.
- D. Adult entertainment facilities.
- E. Satellite dish antenna over thirty-nine (39) inches in diameter.
- F. Kennels.
- G. Mini storage.
- H. Public Uses.
- I. Major auto station and major auto repair.
- J. Extraction operations.
- K. Junk Yards.
- L. Wind Energy Systems.

**SECTION 11.04 REQUIRED CONDITIONS AND REQUIREMENTS**

- A. Any use established shall be operated so as to comply with all of the performance standards set forth hereinafter in Section 23.02 of this Ordinance.
- B. Area, dimension, and bulk requirements limiting height and bulk of buildings, minimum size of lots, and for yard setback and other requirements as provided in Article 15.



**ARTICLE 12**  
**PUD PLANNED UNIT (“PUD”) DEVELOPMENT DISTRICT**

**SECTION 12.01      PURPOSE**

The Planned Unit Development (PUD) district is intended to permit the private or public development or redevelopment of areas throughout the community that shall be substantially in accord with the goals and objectives of the Master Plan in providing for a balanced land use pattern for homes, businesses, industry, community facilities, and services. The land use patterns of the areas involved shall provide a desirable environment and shall be harmonious to the general surrounding uses permitting flexibility in overall development while ensuring adequate safeguards and standards for public health, safety, convenience, and general welfare. It is further the intent of this Article to provide for development that will be carried out in such manner as to preserve natural features such as waterfront areas and their accessibility to the public and to promote energy efficient development. Such Planned Unit Development may embrace a mixture of one (1) or more uses or zoning categories all in accord with the Nashville Master Plan.

**SECTION 12.02      PROCEDURE FOR APPLICATION**

Each PUD shall require a rezoning to the PUD zoning district and also site plan approval. Both a Site Plan and a PUD application shall be filed with the Zoning Administrator. The applicant shall also submit the following material for review:

- A. A property area survey of the exact area being requested (scale: one (1) inch equals one hundred (100) feet).
- B. Proof of ownership of the land.
- C. A topography map of the entire area at a contour interval showing two (2) foot changes in elevation. This map shall indicate all natural and man-made features (scale: one (1) inch equals two hundred (200) feet).
- D. A preliminary plan of the entire area carried out in such detail as to show the land use being requested, the business area, industrial buildings and uses, the housing densities being proposed where applicable, the system of collector streets, and off-street parking system.
- E. A written statement explaining in detail the full intent of the applicant indicating the specifics of the development plan as it related to the type of dwelling units contemplated and resultant population; the extent of nonresidential development and the resultant traffic generated and parking demands created; and providing supporting documentation such as, but not limited to, market studies, supporting land use request, and the intended scheduling of development.

**SECTION 12.03      ACCEPTANCE AND APPROVAL OF PRELIMINARY (STAGE 1)  
SITE PLAN AND REZONING**

- A. The preliminary plan shall be reviewed and a recommendation shall be made by the Planning Commission to the Village Council relative to the plan, meeting the intent and the requirements of the Master Plan and for the rezoning of the property to the PUD District. The PUD rezoning shall be contingent on approved Stage II plans becoming part of the rezoning. Approval of the preliminary plan by the Village Council shall be effective for a period of two (2) years and such accepted plan may not be renewed upon expiration of said two (2) year period provided conditions have not changed that would be cause for denial of such extension.
- B. Public hearings shall be held for both the preliminary site plan and the PUD rezoning by both the Planning Commission and the Village Council.
- C. Approval of the preliminary plan by the Village Council shall not constitute final site plan approval. Rezoning procedures under this section will rely on the plan submitted for both Stage I and Stage II and the supporting documentation and the plan, therefore, is basic to the rezoning.
- D. Once an area has been rezoned to a PUD District, no development shall take place therein nor use made of any part thereof except in accordance with the preliminary plan as originally approved, or in accordance with an approved amendment thereto.
- E. Approval of the preliminary plan by the Village Council shall not constitute approval of the final site plan. It shall be deemed as approval of the land use plan submitted and shall serve as a guide in the preparation of the final plan.
- F. The proposed PUD District shall be of such area as to represent a sound carrying out of the Master Plan of Future Land Use, it not being the intention of this district that an unrelated parcel rezoning be effectuated.
- G. The Zoning Ordinance amendment which effectuates the rezoning to the PUD District shall refer to and incorporate by reference the Stage I site plan and the Stage II site plan and such zoning amendment shall be carried out in accordance with rezoning procedures of this Ordinance.

**SECTION 12.04      FINAL SITE SUBMITTAL (STAGE II SITE PLAN) (PRIOR TO  
BUILDING PERMIT)**

A presentation of the final site plan shall be made to the Planning Commission for review and recommendation to the Village Council (for final approval by the Village Council) of the following:

- A. A final overall site plan for the entire area being requested under this PUD District shall be submitted to the Village. This plan shall be worked out in detail showing specific uses, building location, off-street parking, street alignments, open spaces and other physical plan details being proposed. Supporting documentation in the form of building

plans, and schedule of construction shall be submitted. The final site plan shall conform to all site plan requirements and all site plan review requirements of this Ordinance.

- B. The final plan shall reflect and adhere to those use patterns as approved in the preliminary plan. Standards for building, bulk, and off-street parking shall be equal to at least the minimum standards set forth for like uses in this Ordinance and off-street parking requirements of this Ordinance unless otherwise modified by the Village Council.

**SECTION 12.05 STAGE II SITE PLAN; APPROVAL OF SITE PLAN:**

Approval of the final site plan by the Village Council shall be valid for a period of three (3) years. If development is not completed in this period, the Planning Commission shall review progress to date and make a recommendation to the Village Council as to action relative to permitting continuation under an extension of the original approval. In reviewing and approving the final plan, the following conditions shall be set forth:

- A. A Stage II certificate of compliance may be granted by the Village provided that the Stage II site plan is accepted and approved by the Village Council.
- B. All dedications of the public rights-of-way or planned public open spaces shall be made prior to any construction taking place on the site and shall be recorded by the developer.
- C. In residential use areas, any prorated open space shall be permanently committed by dedication to an association of residents, either as rights-in fee, easement or in a Master Deed and retained as open space for park, recreation and related uses, as approved by the Village. All lands dedicated in fee or easement shall meet the requirements set forth by the Village Council. Provisions satisfactory to the Village Council shall be made to provide for the financing of any improvements by a means satisfactory to the Village Council. This may include a development agreement. Such documents shall be recorded with the County Register of Deeds.
- D. In those instances where a subdivision plat or site condominium is being utilized as a planned unit development or a part of such development, the procedures and expiration dates of the Land Division Act or Condominium Act shall govern.

**SECTION 12.06 GENERAL DESIGN STANDARDS**

- A. All regulations applicable to setbacks, parking and loading, general provisions, and other requirements shall be approved by the Village Council for the PUD except as otherwise expressly provided herein.
- B. Residential density shall be regulated as follows:
  - (1) The maximum permitted overall residential density for single-family dwellings shall not exceed the density allowed for the RA single family district. Yard setbacks for the RA district shall apply, unless modified by the Village Council.

- (2) The maximum permitted overall residential density for multiple-family areas shall not exceed the requirements of the RD district and shall meet setback requirements of the RD district, unless modified by the Village Council.
- C. Requirements for height, bulk and density for all nonresidential uses shall be in accord with zoning district standards most nearly reflecting policies in the Village's Master Plan or as may be modified if appropriate by the Village Council.
- D. Density calculations shall meet the following requirements:
  - (1) Land areas to be used in calculating gross residential density as provided in this section shall each be delineated on the Stage I site plan and the Stage II site plan so that the acreage and density computations can be confirmed.
  - (2) The land area for calculating gross residential density shall include the total residential land area designated on the plan, where applicable, less any area within existing public street rights-of-way.
  - (3) The Village Council may require, as part of a final site plan review of a phase of a PUD, that land shown as open space on the approved plan be held in reserve as part of the phase to be developed, in order to guarantee that density limits for the entire approved PUD will not be exceeded when the subject phase is completed. Such reserved land may be included in the development of subsequent phases if the density limits will not be exceeded upon completion of that phase or if other land is similarly held in reserve.
  - (4) The surface area of lakes, streams, ponds (natural, manmade or storm water retention), marshlands and similar areas may be included in the acreage used for calculating density if at least 50 percent of the frontage of such area are part or lands devoted to parks and open space used for and accessible to all residents in the PUD districts.
  - (5) Common open space, other common properties and facilities, individual properties, and all other elements of a PUD district shall be so planned that they will achieve a unified open space and recreation area system, with open space and all other elements in appropriate locations, suitably related to each other, the site and surrounding lands.
- E. To the maximum extent feasible, the development shall be designed so as to preserve natural resources and natural features.
- F. There shall be a perimeter setback and berming, for the purpose of buffering the development in relation to surrounding properties. Such perimeter setback shall be established in the discretion of the Village Council taking into consideration the use or uses in and adjacent to the development. The setback distance need not be uniform at all points on the perimeter of the development.

- G. Thoroughfare, drainage, and utility design shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.
- H. There shall be underground installation of utilities, including cable, electricity and telephone, as found necessary by the Village Council, upon the recommendation of the Planning Commission.
- I. Signage, lighting, landscaping, building architecture and materials, and other features of the project, shall be designed to achieve an integrated and controlled development, consistent with the character of the community, surrounding development or developments and natural features of the area.
- J. Where nonresidential uses adjoin residentially zoned property, noise reduction and visual screening mechanisms such as landscape berms and/or decorative walls shall be employed.

**SECTION 12.07      REQUIRED CONDITIONS**

Before approving the plan in either the preliminary Stage I site plan or final Stage II plan submittal, the Planning Commission and the Village Council shall determine that:

- A. The cost of installing all streets, sidewalks, bike paths, street lights, park areas and necessary utilities and maintenance thereof has been assured by a means satisfactory to the Village Council. The Village Council shall have the option of requiring a suitable guarantee in a form acceptable to the Village for the provision of any or all site improvements.
- B. The final plan of each project area of the approved plan shall be in conformity with the overall approved plan.
- C. Proceeding with a Planned Unit Development shall only be allowed if it is mutually agreeable to the Village Council and the developer.

**SECTION 12.08      DEVIATIONS FROM APPROVED PLANNED UNIT DEVELOPMENT FINAL SITE PLAN**

Major changes to an approved PUD site plan must be approved by the Village Council (upon recommendation of the Planning Commission). Minor changes to a previously approved planned unit development site plan may be approved without necessity of Planning Commission or Village Council action thereon if the Zoning Administrator certifies in writing that the proposed revision constitutes a minor alteration and does not alter the basic design nor any specific conditions of the plan as agreed upon by the Planning Commission and Village Council. The Zoning Administrator shall record all such changes on the original PUD site and shall advise the Planning Commission and Village Council of all said minor revisions within 15 days of said administrative approval. Minor alterations or revisions under this section shall be limited to:

- A. Addition or relocation of fire escapes.

- B. Shifting of building heights and elevations, providing such shifting does not exceed 10 percent of the previously approved dimension and providing such shifting does not significantly alter the conceptual integrity of the plan.
- C. Construction of additional, or alteration of, approved sidewalks, provided that the full intent of pedestrian movement through and around the site is not inhibited thereby.
- D. Shifting of, additions to, changes in species of landscape materials, provided such change does not reduce minimum landscape requirements.
- E. Relocation of refuse collection stations.
- F. Internal rearrangement of parking lots and curb cut locations, not including the relocation of parking lots, provided such functional rearrangement does not reduce the total number of parking spaces required and further provided that the minimum landscape requirements are maintained and further provided that such rearrangement does not inhibit good traffic flow or circulation.
- G. Any decrease in building size or changes in bedroom counts per dwelling unit in no more than 10 percent of the total number of units.
- H. Installation of recreational or maintenance facilities that do not require the erection of a structure intended for human use or occupancy.

**SECTION 12.09 FILING OF ZONING AMENDMENT:**

Upon adoption by the Village Council of the PUD rezoning amendment, the site plan, building elevation and other development proposals (including the proposed uses) shall become an integral part of the zoning amendment to the PUD District and for the purposes of recordation, shall be referred to as “Planned Unit Development No. \_\_.” All approved plans shall be filed with the Village Clerk and Zoning Administrator.

**SECTION 12.10 FEES:**

Fees to be paid by applicants for the costs of all legal, engineering, and planning reviews of the site plans incurred by the Village shall be established by the Village Council.

**ARTICLE 13**  
**F FLOOD PLAIN OVERLAY DISTRICTS**

**SECTION 13.01      PRIMARY INTENDED USES**

This district is intended primarily to protect those undeveloped areas of the Village that are subject to predictable flooding in the flood plain area of the Thornapple River so that the reservoir capacity will not be reduce to impede, retard, accelerate or change the direction of flow or carrying capacity of the river valley or to otherwise increase the possibility of flood. Said regulations, while permitting reasonable use of such properties, will help to protect human, life, prevent or minimize material and economic losses and reduce the cost to the public in time of emergency through public aid or relief occasioned by the unwise occupancy of such flood areas.

**SECTION 13.02      FLOOD PLAIN AREAS**

The flood plain areas to be included within this district are those areas within the flood plain designated by the Federal Emergency Management Agency as shown on a map dated December 6, 1999, as amended, which map is on file with the Village Clerk.

**SECTION 13.03      PERMITTED USES**

Notwithstanding any other provisions of this Ordinance, within this district, no building or structure shall be erected, converted, or structurally altered and no land and/or structure shall be used except for one or more of the following uses: open space uses such as farms, truck gardens, nurseries, parks, playgrounds, golf courses, preserves, bridle trails, nature trails, and recreation. Provided no alteration is made to the existing level of the flood plain or structure provided that may interfere with the flow of the river or flood plain capacity.

**SECTION 13.04      USES ALLOWED WITH SPECIAL LAND USE APPROVAL**

Land may be used and structures allowed by special land use approval from the Planning Commission subject to the following conditions and requirements:

- A. The applicant has first obtained approval from the Michigan Department of Environmental Quality in accordance with the provisions of the state's Flood Plain Regulatory Authority found in Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 P.A. 451, as amended.
- B. The use pattern and structures proposed to accomplish said use shall be so designed as not to reduce the water impoundment capacity of the flood plain or significantly change the volume or speed of the flow of water.
- C. All buildings constructed under special land use approval shall have a minimum first floor elevation of not less than one foot above the established flood plain.
- D. Utilities, roads, off-street parking, railroads, structures, and buildings for public or recreational uses may be allowed when designed so as not to increase the possibility of flood or be otherwise detrimental to the public health, safety, and welfare.

**ARTICLE 14**  
**W WELLHEAD PROTECTION OVERLAY DISTRICT**

**SECTION 14.01      PURPOSE**

The Village of Nashville has determined that:

- A.     Certain groundwater underlying the Village is the sole source of the Village’s drinking water.
  
- B.     Groundwater aquifers are integrally connected with the surface water, lakes, and streams that constitute significant public health, recreational and economic resources of the Village and surrounding area.
  
- C.     Spills and discharges of petroleum products, sewage, and hazardous substances upon Village land or surface waters threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.
  
- D.     It is in the public interest to initiate the following actions, in part, through the enforcement of this district:
  - (1)    Preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the Village, and to protect them from adverse land use development or land use practices.
  - (2)    Preserve and protect sources of drinking water supply for public health and safety.
  - (3)    Conserve the natural resources of the Village.
  - (4)    Provide a level of protection for the financial investment that the Village has in its drinking water supply system.
  - (5)    Seek to assure that state regulations that help protect groundwater are implemented consistently when new or expanded development proposals are reviewed.

**SECTION 14.02      DEFINITIONS**

- A.     The following words and phrases shall apply within this Article 14:
  - (1)    *Aquifer*: Means a geologic formation, group of formations or part of formation capable of storing and yielding a significant amount of groundwater to wells or springs.
  - (2)    *Best Management Practices*: Means measures, either managerial or structural, to prevent or reduce pollution inputs to soil, surface water or groundwater.



- (3) *Development*: Means the construction, reconstruction, alteration of land or structure or a change of land use or intensity or use.
- (4) *Environmental Contamination*: Means the presence or release of a hazardous substance or other substance, in a quantity, that is or may become injurious to the environment, or to the public health, safety, or welfare, or that violates any federal or state laws, rules or regulations.
- (5) *Facility*: Means any building, structure, installation, equipment, or property from which there may be a discharge of hazardous substances.
- (6) *Hazardous Substance*: Means a chemical or other material that is or may become injurious to the public health, safety, or welfare, or to the environment. The term “hazardous substance” includes, but is not limited to, any of the following:
  - (a) Hazardous Substances as defined in the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510.
  - (b) Hazardous Waste as defined in Part 111 of the state of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.
  - (c) Regulated Substance as defined in Part 213 of the state of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.
  - (d) Hazardous Substance as defined in Part 201 of the state of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.
  - (e) Used oil.
  - (f) Raw sewage, urine, animal waste or byproducts, or carcasses.
- (7) *Primary Containment Facility*: Means a tank, pit, container, pipe, or vessel of first containment of a hazardous substance.
- (8) *Secondary Containment Facility*: Means a second tank, catchment pit, or vessel that limits and contains liquid or hazardous substance leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of sufficient thickness, density, and composition to prevent future environmental contamination of land, ground water, or surface water.
- (9) *Underground Storage Tank System*: Means a tank or combination of tanks, including underground pipes connected to the tank or tanks, that is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 213 of the state of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

- (10) *Used Oil*: Means any oil that had been (a) refined from crude oil, (b) used, and (c) as a result of such use contaminated by physical or chemical impurities.
- (11) *Well*: Means a permanent or temporary opening in the surface of the earth for the purpose of removing fresh water, testing water quality, irrigation water, industrial processing water, fire protection water, heat exchange, measuring water characteristics, liquid recharge, waste disposal, or dewatering purposes during construction, as defined in the Michigan Water Well Construction and Pump Installation Code, Part 127, Act 368 of the Public Acts of 1978, as amended, and rules.
- (12) *Wellhead Protection Area (WHPA)*: Means the area around and up gradient from the public water supply wells delineated by the ten-year travel time contour capture boundary.
- (13) *Wellhead Protection Overlay District*: Means the Wellhead Protection Area as outlined on the overlay zoning map adopted by the Village Council and maintained in the Village Clerks office, depicted in the drawing attached as Attachment A that is incorporated into this subsection by reference. Within this overlay zone, the provisions this Article 14 shall apply in addition to those provisions governing the zoning district in which the property is also located. Where the provisions of this Article 14 conflict with the provisions of another section of this Ordinance, the more restrictive provisions shall apply.

### **SECTION 14.03      PRINCIPAL LAND USES PERMITTED, PROHIBITED**

The permitted uses in the Wellhead Protection Overlay district include any permitted uses as allowed in the underlying zoning district, except for that the following uses are not allowed:

- A. Petroleum product manufacturing (including coal).
- B. Junk or material salvage yards.
- C. Oil and gas drilling.
- D. Vehicle maintenance services, including public and private garages.
- E. Chemical and paint manufacturing.
- F. Laundries and dry cleaners.
- G. Electronic equipment manufacturing.
- H. Electro-plating and chemical coating operations.
- I. Golf courses.
- J. Bulk storage of agricultural chemicals.

- K. Small engine and electrical equipment repair.
- L. Fuel oil dealers.
- M. Transportation terminals.
- N. Photofinishers.
- O. Furniture repair and refinishing.
- P. Lawn care businesses.
- Q. Any vehicle garages where repair or maintenance occurs.
- R. Storage of chemical products, including paints.
- S. Metal fabrication.
- T. Paper and allied product manufacturing.
- U. Tanning.
- V. Printing and publishing.
- W. Chemical treatment of wood or wood products.
- X. Mining.
- Y. Petroleum pipelines.
- Z. Power plants.
- AA. Landfills and dumps, transfer stations, and recycling facilities.
- BB. Land application of septage waste.

**SECTION 14.04 GENERAL PROVISIONS**

- A. The provisions in this Section 14.04 shall apply to any use or development within the Wellhead Protection Overlay district, which use include the storage or generation of hazardous substances in quantities greater than 100 kilograms (approximately 220 pounds or 25 gallons) during any month, and which use require site plan review under provisions of this Ordinance. These provisions apply to an entire parcel, if the parcel is at least partially included in the Wellhead Protection Overlay district.
  - (1) *Groundwater Protection Standards.*
    - (a) The use and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains and

groundwater, and to ensure the absence of an impairment, pollution, and/or destruction of water, natural resources, and the public trust therein.

- (b) Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding, or the potential for environmental contamination, on-site or off-site, and shall not result in loss of the use of property by any third party.
- (c) Industrial facilities with a point source discharge of storm water shall maintain a Storm Water Pollution Prevention Plan in accordance with applicable state and federal regulations.
- (d) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a state surface or groundwater discharge permit. If connected to the public sewer system then the volumes and concentrations of waste discharged to the floor drain shall require compliance with applicable ordinance provisions governing use of the Village's sewer system.
- (e) Uses that at any time, store or generate hazardous substances in quantities greater than 100 kilograms shall be designed so as to prevent spills and un-permitted discharges to air, surface of the ground, groundwater, lakes streams, rivers or wetlands.
- (f) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport, and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without applicable permits and approvals
- (g) Bulk storage of pesticides shall be in accordance with applicable county, state, and federal regulations.

(2) *Aboveground Storage and Use Areas for Hazardous Substances.*

- (a) Primary containment of hazardous substances shall be product tight.
- (b) Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers with a volume of less than 40 gallons and packaged for retail use shall be exempt from this item.
- (c) Outdoor storage of hazardous substances shall be prohibited except in product-tight containers that are protected from weather, leakage, accidental damage, and vandalism, including an allowance of the expected accumulation of precipitation.

- (d) Outbuildings, storage rooms, sheds and pole barns that are utilized as secondary containment shall not have floor drains that outlet to soil, public sewer system, groundwater, or nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained pursuant to applicable county, state and federal laws, rules and regulation.
  - (e) Areas and facilities for loading and unloading of hazardous substances as well as areas where such materials are handled and stored, shall be designed and constructed to prevent un-permitted discharges to floor drains, rivers, lakes, wetlands, groundwater, or soils.
- (3) *Underground Storage Tank Systems.*
- (a) Existing and new underground storage tanks shall be registered as required by law.
  - (b) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable requirements including, without limitation, those of the Michigan Department of Environmental Quality. Leak detection, secondary containment, corrosion protection, spill prevention and overflow protection requirements shall be met.
- (4) *Well Abandonment.* Out of service water wells shall be sealed and abandoned in accordance with applicable state requirements.
- (5) *Well Construction.*
- (a) Well drilling, construction and installation shall only be performed by state of Michigan Registered Well Drillers.
  - (b) Well construction shall be completed in accordance with Part 127 of Act 368 of the Public Acts of 1978, as amended, and rules.
  - (c) Well construction shall include fully grouting the entire length of the well casing in accordance with Part 127 of Act 368 of the Public Acts of 1978, as amended, and rules.
- (6) *Sites with Contaminated Soils and/or Groundwater.*
- (a) Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and environment.
  - (b) Information must be provided regarding the type, concentration, and extent of identified contamination, land use deed restrictions, and any remedial action plans.

- (c) Excavation, drilling, direct-push, and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil and shall be performed only in accordance with appropriate “due care” plans for the site.
- (7) *Construction Standards.*
- (a) The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances.
  - (b) Hazardous substances stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and un-permitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Any storage container volume of over 40 gallons that contains hazardous substances shall have secondary containment.
  - (c) If the contractor will be storing or handling hazardous substances that require a Material Safety Data Sheet (MSDS), the contractor shall familiarize him/herself with the sheet, and shall be familiar with procedures required to contain and clean up any releases of the hazardous substance.
  - (d) Upon completion of construction, all hazardous substances, and containment systems no longer used, or not needed in the operation of the facility shall be removed from the construction site by the responsible contractor, and shall be disposed of, recycled, or reused in a proper manner as prescribed by applicable state and federal laws rules and regulations.
  - (e) Excavation, drilling, direct-push, and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.
- (8) *Maintenance.* In areas where hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of chemicals to soil and groundwater. Cracks and holes in floors, foundations, and walls must be repaired in areas where hazardous substances are handled or stored.
- (9) *Exclusions.*
- (a) A limited exclusion from the General Provisions contained in Section 14.05 is authorized as follows:

- (i) The hazardous substances is packaged for personal or household use or is present in the same form and concentration as a product packaged for use by the general public, and
- (ii) The total excluded substances containing hazardous substances may not exceed fifty (50) gallons or four hundred (400) pounds at any time.

This exclusion does not apply to hydrocarbon solvents or halogenated hydrocarbon solvents.

- (b) A limited exclusion from the General Provisions contained in Section 14.04 is authorized for nonroutine maintenance or repair of property in the Wellhead Protection Overlay Zone provided the uses are limited as follows:
  - (i) The aggregate of hazardous substances may not exceed the lesser of fifty (50) gallons or four hundred (400) pounds at any time.
  - (ii) The total use of substances containing hazardous substances may not exceed one-hundred (100) gallons or eight hundred (800) pounds at any time.

#### **SECTION 14.05 SITE PLAN REQUIREMENTS**

- A. In addition to any other site plan requirements contained elsewhere in this Ordinance, the following specific requirements shall also be applied to uses in the Wellhead Protection Overlay district:
  - (1) Specify the location and size of interior and exterior area(s) and structure(s) to be used for on-site storage, use, load/unloading, recycling, or disposal of hazardous substances.
  - (2) Specify the location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous substance storage, collection of contaminated storm water or wash water, and all similar uses.
  - (3) Specify the location of existing and proposed wells.
  - (4) Specify the location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
  - (5) Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of any site remedial action plan and land use deed restrictions, if applicable.

- (6) Submit “Nashville Wellhead Protection Environmental Permits Checklist.”
- (7) Submit “Nashville Hazardous Chemical Survey Form”

**SECTION 14.06 DETERMINATION OF APPLICABILITY**

It shall be the responsibility of any person owning real property and/or owning and operating a business within the Village to make a determination as to the applicability of this Article 14 as it pertains to the property and/or business under his or her ownership or operation and his or her failure to do so shall not excuse any violations of said ordinance.

**SECTION 14.07 CONDITIONS FOR APPROVAL OR DENIAL**

The Planning Commission, upon reviewing a site plan, shall take one of the following actions:

- A. **Approval.** If the site plan meets all the Zoning Ordinance and related development requirements and standards, the Planning Commission shall record such approval, with or without conditions, and the Chairman shall sign three copies of the site plan filing one in the official site plan file, forwarding one to the Building Inspector and Zoning Administrator, and returning one to the applicant.
- B. **Disapproval.** If the site plan does not meet all Zoning Ordinance (including this Article 14) and related development requirements and standards, the Planning Commission shall record the reasons for denial. The applicant may subsequently refile a corrected site plan under the same procedures followed for the initial submission.
- C. **Table.** If the site plan does not meet all requirements of this Ordinance (including this Article 14), the Planning Commission may table the site plan until a public hearing can be scheduled to determine specific improvement requirements the Planning Commission feels are necessary but the applicant is not in agreement with.

**SECTION 14.08 EXEMPTIONS AND WAIVERS**

The transport of any hazardous substance shall be exempt from the provisions of this Ordinance provided the transporting motor vehicle or rail is in continuous transit, or that it is transporting substances to or from a state licensed hazardous waste treatment, storage, or disposal facility.

**SECTION 14.09 EXEMPTIONS**

The Village Council may grant an exemption from one or more of the requirements of this Article 14 if it finds by written decision that the proposed use:

- A. Meets the intent of this section as well as its specific criteria;
- B. Will not, during construction or thereafter, have an actual or potential adverse impact on any aquifer or recharge area in the district; and



- C. Will not actually or potentially adversely affect the domestic or municipal water supply; and is consistent with existing and probable future development of surrounding areas.

**ARTICLE 15  
SCHEDULE OF REGULATIONS**

**SECTION 15.01 SCHEDULE OF REGULATIONS FOR USES PERMITTED (a)**

The following shall apply as indicated:

Zoning District	Minimum Lot Area (In SQ. FT)	Minimum Lot Width & Frontage (in feet)	Maximum Building Height	Minimum Yard Setback in Feet				Maximum Lot Coverage (%)
			Feet	Front Yard	One Side Yard	Total of Side Yard	Rear Yard	
AG AGRICULTURAL	40,000 <sup>(h)</sup>	100	35 <sup>(b)</sup>	35	10	25	50	35
RA SINGLE FAMILY <sup>(e)(f)</sup>	12,000	80	35	15 <sup>(i)</sup>	10	25	35	35
RB SINGLE FAMILY <sup>(e)(f)</sup>	6,600	60	35	15 <sup>(i)</sup>	8	14	35	35
RC SINGLE FAMILY <sup>(e)(f)</sup>	6,600	60	35	15 <sup>(i)</sup>	8	14	35	35
RC TWO FAMILY <sup>(e)(f)</sup>	12,000	100	35	15 <sup>(i)</sup>	8	14	35	35
RD MULTIPLE FAMILY	20,000 <sup>(c)(d)</sup>	100	35	30 <sup>(i)</sup>	10 <sup>(d)</sup>	20 <sup>(d)</sup>	35 <sup>(d)</sup>	35
CBD CENTRAL BUSINESS	-	-	50	-	-	-	-	-
GB GENERAL BUSINESS	-	-	-	10	<sup>(g)</sup>	-	10	-
I INDUSTRIAL	-	-	-	30	15	30	20	-
PUD PLANNED UNIT DEVELOPMENT	SEE ARTICLE 12 FOR STANDARDS							
FLOOD PLAIN OVERLAY	SEE ARTICLE 13 FOR STANDARDS							
WELLHEAD OVERLAY DEVELOPMENT	SEE ARTICLE 14 FOR STANDARDS							

**SECTION 15.02 FOOTNOTES FOR SCHEDULE OF REGULATIONS**

- (a) This schedule summarizes basic site development standards and district requirements. The specific district regulations and other regulations should be consulted to identify additional standards and regulations, and clarifications of the above standards, and all other applicable site development provisions. Where this Schedule contradicts the text of the Ordinance, the Ordinance text shall govern. See Article 12 for site development standards regarding planned unit developments and Article 16 for development standards regarding cluster housing and open space plans.
- (b) Height regulations for dwellings and nonfarm buildings and structures.

- (c) Standards for mobile home parks shall be required in accord with Article 17 special land uses, Section 17.32.
- (d) In the RD Multiple family district, the total number of rooms (not including kitchen, dining and sanitary facilities) shall not be more than the area of the parcel, in square feet, exclusive of public road right-of-way, divided by one thousand five hundred (1500). In all instances, where wetlands exist on the site, such wetlands shall not be utilized for determining the number of rooms allowed on the site. All units shall have at least one living room and one bedroom, except that not more than ten percent (10%) of the units may be of an efficiency apartment type. For the purpose of computing the permitted number of dwelling units per acre, the following room assignments shall control:

- Efficiency = 1 room
- One bedroom = 2 rooms
- Two bedroom = 3 rooms
- Three bedroom = 4 rooms
- Four bedroom = 5 rooms

Plans presented showing one, two, or three bedroom units and including a “den,” “library” or other extra room shall count such extra room as a bedroom for the purpose of computing density.

In the RD district, the minimum distance between any two buildings shall be regulated according to the length and height of such buildings, and in no instance shall this distance be less than thirty feet (30). Parking may be permitted within a required side or rear yard but shall not cover more than thirty (30) percent of the area of any required side or rear yard or any minimum distance between buildings. Yards abutting major thoroughfares shall have a minimum depth of fifty (50) feet. The formula regulating the required minimum distance between two buildings as follows:

$$S = \frac{L_A + L_B + 2(H_A + H_B)}{6} \quad \text{where:}$$

S = Required minimum horizontal distance between any wall of building A and any wall of building B or the vertical prolongation of either.

L<sub>A</sub> = Total length of building A.

The total length of building A is the length of that portion or portions of a wall or walls of building A from which, when viewed directly from above, lines drawn perpendicular to building A will intersect any wall of building B.

L<sub>B</sub> = The total length of building B.

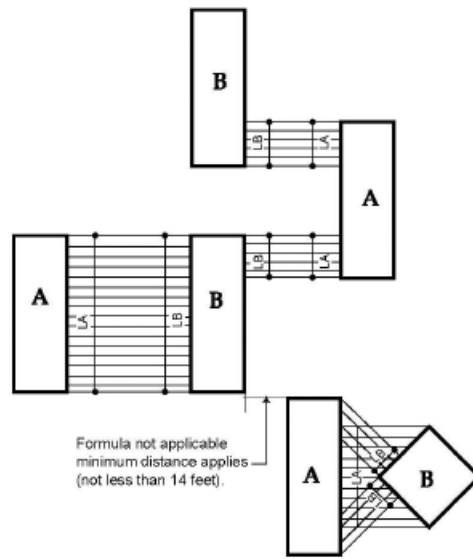
The total length of building B is the length of that portion or portions of a wall or walls of building B from which, when viewed directly from above, lines drawn perpendicular to building B will intersect any wall of building A.

$H_A$  = Height of building A.

The height of building A at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building A. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

$H_B$  = Height of building B.

The height of building B at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building B. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.



MINIMUM DISTANCE BETWEEN BUILDINGS

$$= L_A + L_B + 2(H_A + H_B)$$

### DISTANCE SPACING BETWEEN BUILDINGS

- (e) Single-family detached condominium dwellings in site condominium subdivisions shall meet all minimum requirements and standards of the district in which such dwellings are to be constructed. Minimum yards for site condominiums shall be provided in accord with this section and shall be computed as follows.
- (1) Minimum front yard setbacks shall be equal to the distance between the front yard area line and the condominium dwelling.
  - (2) Minimum rear yard setbacks shall be equal to the distance between the rear yard area line and the condominium dwelling.

- (3) Minimum side yard setbacks shall be equal to the distance between the side yard area line and the condominium dwelling.
- (f) See Article 16 regarding one family cluster and open space plan options.
- (g) No side yards are required along the interior side lot lines of the district, except as other-wise specified in the building code, provided that if walls of structures facing such interior side lot lines contain windows or other openings, side yards of not less than ten (10) feet shall be provided. Where a lot borders on a residential district or a street, there shall be provided a setback of not less than ten (10) feet on the side bordering the residential district or street.
- (h) Land may be developed, at the option of the land owner, with the same number of dwelling units on a parcel of land as specified in the zoning district where the land is located, but not more than eighty (80%) percent (as determined by the Village) as could otherwise be developed, under this Ordinance on the entire land area being developed if all of the following apply:
  - (1) A percentage of the land area specified in the zoning ordinance, but not less than fifty (50%) percent, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, and approved by the Village Council.
  - (2) 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 the option provided by this subsection would also depend upon such an extension.
  - (3) The option provided pursuant to this subsection has not previously been exercised with respect to that land.
  - (4) The development is subject to all other applicable ordinances, laws, codes, and rules, including rules relating to suitability of groundwater for onsite water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.
- (i) In a block on one side of the street fifty (50) percent or more occupied, the depth of the front yard need not be more than the average depth of front yards of existing buildings and in no instance shall such yard be less than ten (10) feet

**ARTICLE 16**  
**ONE FAMILY CLUSTER AND OPEN SPACE PLAN OPTION**

**SECTION 16.01      PURPOSE**

The intent of this Article 16 is to, by Special Land Use approval, provide for the development of a one family residential pattern that, through design innovation, will permit an alternative means for development of single family areas. To accomplish this, modifications to the one-family residential standards, as outlined in the schedule of regulations (Article 15), may be allowed by Special Land Use approval in the R-A, R-B, and R-C districts.

**SECTION 16.02      STANDARDS FOR ONE FAMILY CLUSTER OPTION**

In R-A, R-B, and R-C residential districts, the requirements of the schedule of regulations may be waived and the attaching of one-family dwelling units, one to another, may be allowed (via Special Land use approval) subject to the standards of this Article 16.

**SECTION 16.03      CONDITIONS AND QUALIFICATIONS**

A. The Village Council (upon recommendation by the Planning Commission) may approve the clustering or attaching of buildings on parcels of land under single ownership and control, that, in the opinion of the Village Council, have characteristics that would make sound physical development under the normal subdivision approach impractical because of parcel size, shape or dimension or because it is located in a transitional use area or the site has natural characteristics that are worth preserving or that make platting difficult. In approving an area for cluster development, the Village Council shall find at least one of the following conditions to exist:

- (1) The parcel contains floodplain or wetland soil conditions that result in a substantial portion of the total area of the parcel being un-buildable.
- (2) The parcel contains natural assets that would be preserved through the use of cluster development. Such assets may include natural stands of large trees, land that serves as a natural habitat for wildlife, unique topographic features, or other natural assets that should be preserved.
- (3) The parcel has water frontage that would be preserved and enhanced by the clustering of housing units.
- (4) The parcel is shaped in such a way that the angles formed by its boundaries make a subdivision difficult to achieve.
- (5) The parcel has a substantial portion of its perimeter bordered by land that is located in an R-D, CBD, GB, or I1 districts.

B. In order to qualify a parcel for development for cluster housing, the Village Council shall determine that the parcel has characteristics as stated in Section 16.03A above, and the request shall be supported by written and/or graphic documentation, prepared by a

landscape architect, engineer, professional community planner, architect, or environmental design professional. Such documentation shall include the following as appropriate: soil test borings, floodplain map, topographic map at a maximum two (2) foot contour interval, inventory of natural assets, including plant material.

**SECTION 16.04 PERMITTED DENSITIES**

- A. Dwelling unit densities shall not utilize storm water detention basins or more than twenty-five (25) percent of any wetland in computing the maximum permitted densities. The maximum permitted densities are as follows.
- B. For those areas qualifying under Section 16.03 the following shall apply.
  - R-A district- 3.5 dwelling units/acre
  - R-B district- 5.5 dwelling units/acre
  - R-C district- 5.5 dwelling units/acre
- C. Water bodies within the parcel, not to include streams, may be included in the computation of density provided that land adjacent to the water is substantially developed as open space.

**SECTION 16.05 DEVELOPMENT STANDARDS AND REQUIREMENTS**

In areas meeting the criteria of this Article 16, the minimum yard setback and minimum lot sizes per unit as required in Article 15 may be waived by the Village Council and the attaching of dwelling units may be accomplished subject to the following:

- A. The attaching of one-family dwelling units, one to another, may be permitted when the homes are attached by means of one of the following:
  - (1) Through a common party wall forming interior room space that does not have over fifty (50) percent of its length in common with an abutting dwelling wall, excluding garage;
  - (2) By means of architectural wall detail that does not form interior room space;
  - (3) Through abutting garage party walls of adjacent structures;
  - (4) The number of units attached in this manner shall not exceed four (4).
- B. Yard requirements shall be provided as follows:
  - (1) Spacing between groups of attached buildings or between each group of four (4) unattached buildings shall be equal to at least thirty (30) feet measured between the nearest points of adjacent buildings. The minimum distance between any single detached unit and any adjacent building shall be fifteen (15) feet.

- (2) Building setbacks from dedicated streets shall be equal to the front yard setback of the district.
  - (3) Buildings shall not be closer than twenty-five (25) feet to the pavement edge of interior private drives.
- C. The area in open space (including recreation areas and water) accomplished through the use of one-family cluster development shall represent at least fifteen (15) percent of the total parcel area. The provision of walks, trails, and recreation facilities is required within the open space areas.
- D. In order to provide an orderly transition of density, where the parcel proposed for use as a cluster development abuts a one-family residential district, the Village Council shall determine that the abutting one-family district is effectively buffered by means of one of the following within the cluster development:
- (1) Single-family lots subject to the standards of the schedule of regulations.
  - (2) Detached one-family buildings with setbacks as required by the schedule of regulations for the applicable residential district.
  - (3) Open or recreation space not less than one hundred (100) feet in depth.
  - (4) A densely planted landscaped buffer not less than fifty (50) feet in depth.

**SECTION 16.06 PROCEDURES**

**A. Qualification for Cluster Development.**

- (1) A Special Land Use application and Site Plan, as provided in Article 17 and Article 22 of this Ordinance, shall be filed with the Zoning Administrator for review and recommendation by the Planning Commission. The documents filed shall include evidence sustaining one or more of the characteristics outlined in Section 16.03 of this Article.
- (2) The Planning Commission may make a preliminary determination as to whether or not a parcel qualifies for the cluster option under one of the provisions of Section 16.03 of this Article based upon the documentation submitted. Such review is not a requirement but may be requested by the applicant.
- (3) A preliminary determination by the Planning Commission that a parcel qualifies for cluster development does not ensure approval. It does, however, give an initial indication as to whether or not a petitioner should proceed to prepare a site plan.



**B. Preliminary Site Plan Approval.**

- (1) A preliminary site plan shall be submitted to the Planning Commission for review in two stages:
  - (a) An initial review of the plan concept including the information called for below in Section 16.05B(2),
  - (b) Review of the plan at a Public Hearing, including information called for below in Section 16.05B(3).
- (2) In submitting a proposed lay out under this section, the applicant shall include, along with the site plan, typical building elevations and floor plans, topography drawn at two (2) foot contour intervals, all computations relative to acreage and density, a preliminary grading plan, and any other details that will assist in reviewing the proposed plan.
- (3) Site plans submitted under this option shall be accompanied by information as required in plats of the Village provided, however, that:
  - (a) Submission of an open space plan and project cost estimates for the initial review of the preliminary site plan shall be submitted at the option of the applicant.
  - (b) The open space plan and cost estimate shall be submitted for review at the public hearing.
- (4) The Planning Commission shall give notice of the Public Hearing in accordance with provisions of 0 of this Ordinance.
- (5) If the Planning Commission is satisfied that the proposal meets the letter and spirit of the Zoning Ordinance and should be approved, it shall set forth any conditions upon which such approval may be recommended. If the Planning Commission is not satisfied that the proposal meets the letter and spirit of this Ordinance, or finds that approval of the proposal would be detrimental to existing development in the general area and should not be approved, it shall record the reasons therefore in the minutes of the Planning Commission meeting. Notice of recommendation of approval or disapproval of the proposal together with copies of all layouts and other relevant information shall be forwarded to the Village Council.
- (6) The Village Council shall review the action of the Planning Commission together with relevant material submitted by the applicant, and shall take action consistent with Article 25 to approve or disapprove the application for Special Land Use, or refer the application back to the Planning Commission with direction for further review. The Planning Commission shall approve or disapprove a Site Plan only after approval of a Special Land Use permit by the Village Council.

**SECTION 16.07 FINAL SITE PLAN**

- A. After approval of a preliminary site plan, a final site plan shall be submitted in accordance with the requirements of Article 22.
- B. As a condition for the approval of the final site plan and open space plan, the applicant may be required to deposit cash, irrevocable letters of credit, or other equivalent form of security as approved by the Village Council in the amount of the estimated cost of the proposed improvements to the open land guaranteeing the completion of such improvements within a time to be set by the Village Council. Actual development of the open space shall be carried out concurrently with the construction of dwelling units. The Village Council may require landscape improvement for the entire site frontage where such site abuts public streets as an initial site improvement even though such frontage is not part of any early stage of project development.

**SECTION 16.08 RESERVED**

**SECTION 16.09 RESERVED**

**SECTION 16.10 STANDARDS FOR OPEN SPACE PLAN OPTION**

The purpose of a subdivision or site condominium open space plan is to promote the preservation of open space while allowing a reduction in lot sizes, by Special Land Use permit, in instances where the reduction would be compatible with lot sizes existing in the surrounding area. In reviewing a subdivision open space plan, the Planning Commission and Village Council shall consider the following standards:

- A. Whether the proposal will encourage appropriate relationships in orientation and size of yards and open spaces with other developed parcels in the area.
- B. Whether the proposal will provide a more desirable living environment by preserving the natural character of wetlands, strands of trees, brooks, hills, and similar natural assets;
- C. Whether the proposal will encourage developers to use a more creative approach in the development of residential areas;
- D. Whether the proposal will encourage the provisions of open space within reasonable distance of all lot development of the subdivision and to further encourage the development of recreational facilities or preservation of natural environmental assets and to lessen the impact on existing park and open space in the Village.
- E. Whether the proposal will encourage a more efficient, aesthetic, and desirable use of open area while recognizing a reduction in development costs and by allowing the developer to bypass natural obstacles on the site.

**SECTION 16.11      MODIFICATION TO STANDARDS**

A.     Modifications of the standards as outlined in Article 15 may be made by the Village Council for a proposed development when the following conditions are met:

- (1)     Lot dimensions may be reduced in accordance with the following schedule, provided that the number of residential lots shall be no greater than if the land area to be subdivided was developed in the minimum square foot lot areas as required for each one-family district under Article 15. All calculations of density for residential development shall be predicated upon the one-family districts having the following gross densities (including roads):

District	Dwellings Per Acre	Minimum Lot Width
RA	3.5	70
RB	5.5	55
RC	5.5	55

- (2)     For each square foot of land gained under the provisions of the above subsection 2 within a residential district, through the reduction of lot sizes below the minimum requirements as outlined in Article 15, the property owner shall record an irrevocable conservation easement, plat, site condominium, restrictive covenant, or restriction by other legal means that is satisfactory to the Village, for an equal amount of open space land area, which restriction shall run with the land and which shall mandate that the designated open space will perpetually remain in an undeveloped state.
- (3)     The land area necessary to meet the minimum requirements of the density and dimensional standards of Article 15 shall not include bodies of water or wetlands that would make land unsuitable for recreation purposes, except that lakes or ponds, when landscaped and maintained as portions of larger open space areas within the development, may be included in density computations. All land reserved for recreation shall maintain its natural drainage. The entire open land area may, however, be located in a floodplain.
- (4)     A parcel to be dedicated for the common use of the subdivision or site condominium shall be in no instance be fewer than two (2) acres and shall be in a location and shape approved by the Village Council, provided that, a parcel divided by a road or stream shall be considered as one (1) parcel.
- (5)     Access shall be provided to areas dedicated for the common use of the subdivision for those lots not bordering on such dedicated areas by means of streets or pedestrian ways.
- (6)     Under this open space approach, the proprietor shall dedicate sufficient park area so that each final plat is within maximum density requirements; provided,

however, that the entire park area within a single block shall be dedicated as a whole.

- (7) An application for approval of an open space plan shall be submitted at the same time a preliminary subdivision plat or site condominium plan is submitted for approval.

#### **SECTION 16.12 OWNERSHIP, IMPROVEMENT AND MAINTENANCE OF OPEN SPACE AREAS**

- A. A plan for the open space areas shall be submitted and shall include a cost estimate of improvements to be made within the open space.
- B. Whenever a developer or proprietor employs the terms of this Article 16, provision shall be made for the incorporation of a Home Owners Association or equivalent to assure the maintenance of all common open space areas.
- C. Prior to approval, the Village Attorney shall review the proposed open space plan and render an opinion with respect to:
  - (1) The proposed manner of holding title to the open land;
  - (2) The proposed manner of payment of taxes;
  - (3) The proposed method of regulating the use of the open land;
  - (4) The proposed method of maintenance of property and financing thereof;
  - (5) Any other factor related to the legal or practical problems of ownership, use and maintenance of the open land.

#### **SECTION 16.13 SITE PLAN AND SPECIAL LAND USE PERMIT PROCEDURES AND APPROVAL**

- A. **Special Land Use.** Review and approval of a proposed open space plan for Special Land Use approval shall be pursuant to the provisions of this Article and Article 17.
- B. **Site Plan.** Review and approval of a Final Site Plan for an open space plan for which a Special Land Use approval has been granted by the Village Council, shall be pursuant to this Article and Article 22.
- C. **Procedures.** Procedures for a subdivision or site condominium development shall be in accord with the applicable Land Division Act, Public Act 288 of 1967, MCL 560.101 *et seq.*, as amended or the Condominium Act, Public Act 597 of 1978, MCL 559.101 *et seq.*, as amended.

**ARTICLE 17**  
**SPECIAL LAND USES**

The development and execution of this Article 17 is based upon the division of the Village into districts within which the uses of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are special land uses that, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, on the impact of those uses upon neighborhood land. These uses include public uses and uses entirely private in character, but of such nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

**SECTION 17.01      GENERAL PROVISIONS**

- A.    **Initiation of special land use.** Any person having a freehold interest in land, a possessory interest entitled to exclusive possession, or a contractual interest that may become a freehold interest, and that is specifically enforceable, may file an application to use the land for one or more of the special land uses as provided for in the zoning district in which the land is located.
  
- B.    **Application of special land use.** An application for special land use shall be filed with the Village on a form prescribed by the Village, accompanied by the appropriate fee or fees as may have been adopted by resolution of the Village Council. The application shall be accompanied by any plans or data prescribed by the Village and shall include as a minimum the requirements for site plan review, the applicant's written statement of intent, and adequate evidence showing that the proposed special land use will conform to the standards set forth in this section.
  
- C.    **Public Hearing.** Upon receipt of an application for a special land use, a Public Hearing shall be held by the Planning Commission. Notice that a request for special land use approval has been received shall be provided pursuant to requirements of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, MCL 125.3101 *et seq.* See Section 24.07 of this Ordinance.

**SECTION 17.02      STANDARDS**

- A.    No special land use shall be approved by the Planning Commission or Village Council (where applicable) unless it shall find all of the following:
  - (1)    The establishment, maintenance, or operation of the special land use will not be detrimental to or endanger the public health, safety, or general welfare, or the natural environment.
  
  - (2)    The special land use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor shall it substantially diminish and impair property values within its neighborhood.

- (3) The establishment of the special land use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (4) Adequate utilities, access roads, drainage, and necessary facilities have been or are being provided.
- (5) Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
- (6) The special land use shall, in all other respects, conform to the applicable regulations of the district in which it is located and to any additional conditions or procedures as specified in this or other ordinances of the Village.
- (7) The special land use shall be consistent with the Village's Master Plan.

**B. Conditions and guarantees.** Prior to the granting of any special land use approval, the Planning Commission (or Village Council where applicable) shall impose the conditions and restrictions upon the establishment, location, construction, maintenance, and operations of the special land use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in this section. In all cases in which special land uses are granted, the Planning Commission (or Village Council where applicable) shall require any evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Any conditions imposed shall remain unchanged except upon the mutual consent of the Planning Commission (or Village Council where applicable) and the land owner. The Planning Commission (or Village Council where applicable) shall maintain a record of changes granted in the conditions.

**C. Effect of denial of a special land use.** No application for a special land use that has been denied wholly or in part by the Planning Commission (or Village Council where applicable) shall be resubmitted for a period of one year from the date of the order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission (or Village Council where applicable).

**SECTION 17.03 SPECIAL LAND USES DESIGNATED**

The following are many of the uses identified as special land uses elsewhere in this Ordinance and the additional provisions or conditions that must be met so as to be approved in whole or conditionally. Such standards and requirements are in addition to the standards contained in Section 17.02.

<b>Section No.</b>	<b>Use</b>
Section 17.04	Adult entertainment
Section 17.05	Agricultural business
Section 17.06	Major automobile service & repair station

<b>Section No.</b>	<b>Use</b>
Section 17.07	Minor automobile service & repair station
Section 17.08	Bed & Breakfast
Section 17.09	Cemeteries
Section 17.10	Churches and places of worship
Section 17.10E	Communication towers
Section 17.12	Drive in establishments
Section 17.13	Extraction operations
Section 17.14	Group home day care & foster care family homes
Section 17.15	Junk yards
Section 17.16	Kennels
Section 17.17	Mini storage facilities
Section 17.18	Motels and hotels
Section 17.19	Nursing homes
Section 17.20	Outdoor commercial recreation
Section 17.21	Airports and landing strips
Section 17.22	Schools, institutions, public uses
Section 17.23	Reserved
Section 17.24	Camping facilities
Section 17.25	Golf & country club
Section 17.26	Sidewalk café
Section 17.27	Apartment above store
Section 17.28	Reserved
Section 17.29	Outdoor sales space for auto, RV, mobile home & boat
Section 17.30	Day care center
Section 17.31	Mobile home park
Section 17.32	Mobile home or Secondary residence
Section 17.33	Reserved
Section 17.34	Home occupation
Section 17.35	Satellite dish antenna
Section 17.36	Functional equivalent family

<b>Section No.</b>	<b>Use</b>
Section 17.37	Reasonable accommodation use
Section 17.38	Hospital
Section 17.39	Non accessory signs (See Section 21.08)
Section 17.40	Funeral homes
Section 17.41	Equipment sales and services
Section 17.42	Wind energy systems

#### **SECTION 17.04 ADULT ENTERTAINMENT FACILITIES**

Adult entertainment facilities may be allowed provided the requirements below and such other conditions as may be required to protect adjacent uses and residential neighborhoods are met.

- A. No adult entertainment facility shall be permitted within six-hundred (600) feet of a church, park, or a public or private school property.
- B. No adult entertainment facility shall be permitted within two-hundred (200) feet of a residentially zoned district or a dwelling.
- C. No adult entertainment facility shall be located within six-hundred (600) feet of any other establishment that is an adult entertainment facility.
- D. In determining the distance limitations above, the measurement shall be made from the lot line of the church, park, school, adult entertainment facility or residential zoning district in a direct line to the nearest point on the lot line of the proposed adult entertainment facility.

#### **SECTION 17.05 AGRICULTURAL BUSINESS**

**A. Allowed Uses:**

- (1) Commercial riding stable.
- (2) Food, feed, fiber, alcohol processing facility, handling products for more than one farm operator.
- (3) Grain and feed elevators.
- (4) Greenhouses with on premise retail sales.
- (5) Livestock auction yards.
- (6) Livestock transport facilities.
- (7) Nurseries with on premise retail sales.



- (8) Sawmills.
- (9) Seasonal farm markets; provided, however, that seasonal farm markets selling only fresh produce raised on the premises and conducting retail sales shall not be regulated under this Article.
- (10) Slaughterhouse selling products butchered on the premises.
- (11) Veterinary Hospital or clinic and kennel.
- (12) Home Occupation.

**B. Special Performance Standards:**

- (1) Animal holding areas associated with livestock auctions, transportation facilities or slaughterhouses shall be setback one hundred (100) feet from all property lines and the road right-of-way.
- (2) There shall be no storage of manure or dust producing material within one hundred (100) feet of any property line or road right-of-way.
- (3) Agricultural businesses shall be established and conducted in compliance with all other applicable federal, state and local laws and ordinances.

**SECTION 17.06 MAJOR AUTOMOBILE SERVICE AND REPAIR STATIONS**

**A. The following site and developmental requirements shall apply:**

- (1) For facilities with new underground storage tanks, the site shall be not less than three hundred (300) feet from any residential well, eight hundred (800) feet from a noncommunity public water well and two thousand (2,000) feet from any public water well, or such greater distance as is required by state or federal law.
- (2) Ingress and egress to the facility shall be only from a paved major thoroughfare, or from a shared access drive to such roadway.
- (3) No more than two (2) driveways onto a public roadway shall be permitted per site. Curb openings for driveways shall not exceed fifty (50) feet in width and driveway widths shall not exceed thirty-five (35) feet. Driveways shall be separated by a minimum of twenty (20) feet.
- (4) Curb openings shall be no closer than ten (10) feet to any adjoining lot line and shall be no closer than twenty (20) feet to an intersection, as measured from the right of way.
- (5) No lot line of the site shall be less than two hundred (200) feet from any lot line of any place of public assembly, including, but not limited to hospitals, sanitariums, schools, churches or other institutions.

- (6) All buildings shall be set back not less than forty (40) feet from all street right of way lines.
- (7) All gasoline pumps shall be located not less than fifteen (15) feet from any lot line nor within thirty (30) feet from the street right-of-way and shall be arranged so that motor vehicles using them will not be parked on or overhanging any public sidewalk or street right-of-way.
- (8) The site shall be a minimum of fourteen thousand (14,000) square feet in area and have a minimum of one hundred forty (140) feet of public road frontage. On lots with frontage on two (2) streets, the street designated as the major access side of the site shall have not less than ninety (90) feet of street frontage.
- (9) The entire area used for vehicle service shall be hard-surfaced and adequately drained.

**B. Special Performance Standards:**

- (1) Hydraulic hoists, service pits, lubricating, greasing, washing, and repair equipment and operations shall be located within a completely enclosed building.
- (2) Storage of vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall be limited to a period of not more than thirty (30) days and then only for the purpose of temporary storage pending transfer to another facility. Such storage shall not occur in front of the building.
- (3) A car wash may be established as part of the principal structure or as a separate structure but shall conform to all setback requirements for a principal structure.
- (4) Retail sales of convenience store merchandise sold primarily to patrons purchasing fuel or services may be allowed.

**SECTION 17.07 MINOR AUTOMOBILE SERVICE STATION AND MINOR VEHICLE REPAIR**

The following site and development standards shall apply:

- A. The minimum lot area shall be ten thousand (10,000) square feet, and so arranged that ample space is available for motor vehicles that are required to wait for service.
- B. The curb cuts for ingress and egress shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than twenty (20) feet from a street intersection or from adjacent residential districts.
- C. There shall be provided, on those sides abutting or adjacent to a residential district or use, a four (4) foot solid wall such as brick, decorative block or decorative poured concrete. The height of the fence or wall shall be measured from the surface of the ground of the abutting residential district or use.

- D. All lighting shall be shielded from adjacent residential districts.
- E. The sale of propane gas is allowed provided all requirements of the International Fire Code or other national fire code, as amended, are complied with.

**SECTION 17.08 BED AND BREAKFAST**

**A. The following site and developmental requirements shall apply:**

- (1) Off-street parking shall be provided based upon one (1) space for each rental room and one (1) space for the operator of the facility. It is the intent to discourage yards from being destroyed, landscaping removed or the integrity of the neighborhood altered in order to provide parking. In those instances where parking requirements cannot be met, the applicant may request special consideration by submittal of an analysis of parking required and parking available within a three hundred (300) foot radius of the subject parcel. After analyzing this data, the Planning Commission may approve a lower number of required parking spaces if sufficient off-street parking exists in the neighborhood.
- (2) A bed and breakfast dwelling shall not be located on a lot that is within three hundred (300) feet of the nearest lot line of another such facility.

**B. Special Performance Standards:** The bed and breakfast facility must be a single family dwelling that is operated and occupied by the owner of the dwelling. The bed and breakfast facility may have up to six (6) bedrooms used for and guests.

- (1) Meals may be served to overnight guests only, and may not be served to the public at large.
- (2) The applicant shall provide a scaled floor plan of the premise as part of the special land use application.
- (3) The exterior appearance of the structure shall not be altered from its single family character.
- (4) The impact of the bed and breakfast establishment on the neighborhood shall be no greater than that of a private home with overnight guests.
- (5) Retail sales are not permitted beyond those activities serving overnight patrons.
- (6) No receptions, private parties or activities for which a fee is paid shall be permitted.
- (7) Exterior solid waste facilities beyond what might normally be expected for a single family dwelling shall be prohibited.
- (8) The establishment shall contain at least two (2) exits to the outdoors.

- (9) Rooms utilized for sleeping must be part of the primary residential structure and not have been specifically constructed or remodeled for rental purposes.
- (10) No guest room shall be located in a basement or cellar unless that guest room is provided direct access to the outside by way of a door.
- (11) No paying guests shall reside on the premises for more than ten (10) days in any thirty (30) day period. A guest registry indicating name, address, phone number, and vehicle license number shall be kept, indicating dates of arrival and departure, and shall be available for inspection by the Zoning Administrator upon request.
- (12) Lavatories and bathing facilities shall be available to all persons using the premises.
- (13) No separate or additional kitchen facilities shall be provided for paying guests.

**SECTION 17.09 CEMETERIES**

**A. The following site and developmental requirements shall apply:**

- (1) All burial plots and all structures shall be set back no less than thirty (30) feet from any lot line or street right-of-way
- (2) Parking shall be provided on the site, at least fifty (50) feet from any lot line.

**B. Special Performance Standards:** Cemeteries shall be established in compliance with applicable federal and state law.

**SECTION 17.10 CHURCHES AND RELIGIOUS INSTITUTIONS**

The following site and developmental requirements shall apply:

- A. All ingress and egress to and from the site shall be hard surfaced.
- B. No more than thirty-five (35) percent of the site area shall be covered by buildings.
- C. No more than sixty percent (60%) of the site shall be covered by impervious surface.
- D. No building shall be closer than fifty (50) feet to any lot line or right-of-way.
- E. No building shall be erected to a height greater than that permitted in the district in which it is located unless the building is set back an additional one (1) foot for each six (6) feet of additional height above the district height limitation. A spire is excluded from height requirements.

## **SECTION 17.11 TOWERS AND ANTENNAE FOR WIRELESS COMMUNICATION FACILITIES**

Towers and antennae for wireless communication facilities may be allowed in AG and I districts and on municipally owned or controlled property subject to the following:

- A. The height of the tower and antennae shall not exceed two hundred (200) feet, measured from the grade at the base of the tower to the top of the highest antennae.
- B. The base of the tower shall be located centrally on a continuous parcel so that there shall be a distance of not less than one and one-half (1 1/2) the height of the tower to all points on each property line.
- C. If located on the same lot with another permitted use, such tower and any other accessory structures shall not be located in a front yard or side yard.
- D. A tower shall not be located within one (1) mile of another freestanding tower. Towers shall be designed and constructed to accommodate multiple antennas on the same tower. Certified plans shall indicate the location of future antennas. Owners of towers shall not unreasonably deny other companies to locate antennas on the owner's tower.
- E. The site of the tower shall be properly fenced or secured to prevent access to the tower by unauthorized persons.
- F. Filing with the Village a certified, sealed statement by a licensed engineer or architect verifying that the tower, antennae or pole including all attachments will withstand wind speeds of up to one hundred (100) miles per hour with no ice and seventy-four (74) miles per hour with up to one-half-inch of radial ice shall be furnished with the application.
- G. A licensed engineer shall certify that the wireless communication systems signal(s) will not interfere with the ability of surrounding uses to receive signals from different radio, television, telephone or other electronic equipment. Compliance with Federal Aviation Agency and Federal Communications Commission Standards shall be required.
- H. The tower shall be of a color that blends into the surrounding area. Advertising or signage shall not be permitted on any tower, antennae or related structures.
- I. Antennae and supporting structures shall be permitted to be placed on the roofs of buildings subject to the following conditions:
  - (1) The principal use and any building or structure located on the property shall conform to all existing ordinance requirements.
  - (2) Existing structures seventy-five (75) feet or greater in height above ground may be used to support antennas not exceeding thirty-five (35) feet above the structure.
  - (3) Existing structures less than seventy-five (75) feet in height above ground may be used to support antennas provided the antenna is not higher than the structure and

the antenna(s) are screened from view by materials that will maintain the normal appearance of the structure.

- J. If the use of any tower and antennae is discontinued for a period of twelve (12) consecutive months the use shall be considered abandoned, and the owner of such tower shall remove same within ninety (90) days from receipt of notice from the Village. The Village may remove the tower or antennae at the owner's expense. If there are two (2) or more users of a single tower, then these provisions shall not become effective until all users cease using the tower.

#### **SECTION 17.12 DRIVE-IN ESTABLISHMENTS**

**A. The following site and developmental requirements shall apply:**

- (1) All egress and ingress to and from the site shall be hard surfaced and shall be at a distance of at least sixty (60) feet from the intersection of two streets, as measured from the right of way of the intersecting street.
- (2) All buildings shall be set back a minimum distance of sixty (60) feet from all street right of way lines.

**B. Special Performance Standards:**

- (1) The outdoor space used for parking and movement shall be hard surfaced.
- (2) No drive shall be closer than seventy-five (75) feet to any other drive and the maximum number of driveways permitted is two (2).

#### **SECTION 17.13 EXTRACTION OPERATIONS**

Extraction operations including the removal of gravel and any soil resources, when authorized by the Village Council subject to the following conditions:

- A. Adequate provision for the safety of persons traversing the area or working within it shall be maintained both during mining operations and at the cessation of mining activities.
- B. No business or industrial building or structure of a permanent nature shall be erected.
- C. No truck parking or truck storage shall be located within two hundred (200) feet of any adjoining lot line
- D. The operation shall be screened by a uniformly colored fence of not less than six (6) feet in height, or by well-maintained evergreen planting of a density sufficient to screen the mining activity or a combination of such fencing and planting
- E. No part of the operation or removal shall take place closer than two hundred (200) feet from the nearest adjacent property or closer than one hundred (100) feet from any street line.

- F. After the natural resources have been removed, the property shall be restored by the replacement of top soil where feasible and all excavation shall be sloped to a gradient of not more than forty-five (45) degrees.
- G. All truck operations shall be directed away from residential streets.
- H. The Village Council may require such bond or other security as deemed necessary to ensure that requirements are fulfilled and may revoke permission to operate at any time when specified conditions are not complied with
- I. A development plan for the use of the area after the excavation operation ceases is submitted to and processed as a PUD District as detailed in Article 12.

#### **SECTION 17.14 GROUP DAY CARE HOMES**

**A. The following site and developmental requirements shall apply:**

- (1) Group day care homes shall not be located closer than one thousand five hundred (1,500) feet to any of the following facilities as measured along a street, road, or other public thoroughfare, excluding an alley:
  - (a) Another licensed group day care home.
  - (b) Another licensed group day care home, a licensed adult foster care small or large group home.
  - (c) A facility offering substance abuse treatment and rehabilitation services to seven (7) or more people that is licensed by the state of Michigan.
  - (d) A community correction center, resident home, halfway house or other similar facility that houses an inmate population under the jurisdiction of the Department of Corrections.

**B. Special Performance Standards:**

- (1) All outdoor play areas shall be enclosed with fencing, a minimum of four (4) feet high.
- (2) The property, including landscape and structural elements, shall be maintained in a manner that is consistent with the character of the neighborhood. A group day care home should not require exterior modifications to the dwelling nor should the front yard be the location of play equipment, except on a corner lot.
- (3) One identification sign shall be permitted. Such sign face shall not be greater than two (2) square feet, shall be mounted flush to a wall, made of a material that is compatible with the dwelling unit, and shall not be illuminated. Sign text shall be limited to the name of the facility and an address.

- (4) At least one (1) off-street parking space shall be provided for each nonfamily employee of the group day care home in addition to the parking normally required for the residence. A driveway may be used for this purpose. An off-street drop-off area is to be provided with the capability to accommodate at least two (2) automobiles in addition to the parking required for nonfamily employees of the dwelling and the parking normally required for the residence.
- (5) Hours of operation shall not exceed sixteen (16) hours in a twenty-four (24) hour period.

## **SECTION 17.15 JUNK YARDS**

### **A. Junk yards when authorized by the Village Council subject to the following requirements and conditions:**

- (1) A solid fence, wall or earthen berm at least eight (8) feet in height shall be provided around all sides of the area used to store junk to screen said site from surrounding property. Such fence or wall shall be of permanent finish and sound construction.
- (2) No portion of the enclosed area shall be located within 200 feet of residentially zoned properties, or any dwelling, school, day care facility, church, hospital, or convalescent or nursing home.
- (3) Ingress and egress to the facility shall be only from a major thoroughfare. The Village Council may approve access to a minor thoroughfare if the Council finds that such access point will minimize impacts on other properties.
- (4) The minimum lot or parcel size for junkyards shall be ten (10) acres and the minimum frontage and lot width shall be three hundred (300) feet.
- (5) All enclosed areas shall be set back at least one hundred (100) feet from any lot line. Whenever the installation abuts a residential district, a buffer strip at least two hundred (200) feet in width shall be provided between the enclosed area and the adjoining district. Such strip shall contain plants, grass, and structural screens of a type approved by the Planning Commission.
- (6) Adequate parking and unloading facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
- (7) The front yard shall be planted with trees, grass, and shrubs. The spacing and type of plant materials shall be consistent with the provisions of Section 21.08 of this Ordinance.



**B. Special Performance Standards:**

- (1) All activities shall be confined within the enclosed area including any storage of materials; stockpiling of materials; disassembly of materials, parts, and vehicles; and the storage or parking of all operative and inoperative vehicles. There shall be no stocking of material above the height of the fence, wall, or berm, except that moveable equipment used on the site may exceed that height. No equipment, material, signs, or lighting shall be used or stored outside the enclosed area.
- (2) No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
- (3) All roads, driveways, parking lots, and loading and unloading areas within any junk yard shall be paved. Access drives in storage areas shall be watered, or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public roads.
- (4) The operation shall be licensed by the Michigan Secretary of State to sell used vehicle parts or tow nonoperational vehicles.
- (5) Materials listed on the Michigan Critical Materials Register (gasoline and solvents) that require secondary containment and a Pollution Incident Protection Plan shall be filed with the Michigan Department of Natural Resources.

**SECTION 17.16 KENNELS**

**A. The following site and developmental requirements shall apply:**

- (1) The lot area shall be at least two (2) acres in size and three hundred (300) feet in width.
- (2) Kennels may not be located in a platted subdivision or condominium subdivision.
- (3) Buildings where animals are kept, runs, and exercise areas shall not be located nearer than one hundred feet (100) to any adjacent lot line in a residential district or any adjacent building used by the general public. Runs and/or exercise areas, and buildings where the animals are maintained, shall be located in the rear yard only.

**B. Special Performance Standards:**

- (1) All kennels shall be operated in conformance with all applicable county, state and federal regulations.
- (2) All animals must be licensed and maintained in a safe, healthful, humane, and careful manner.

- (3) The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
- (4) Habitual barking or unusual noise from the kennel that results in a nuisance to neighboring land owners or residents is prohibited.
- (5) Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. and 7:00 a.m.
- (6) During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large in unfenced areas of the property, except as part of supervised training.
- (7) Dust and drainage from the kennel shall not create a nuisance or hazard to adjoining property or uses.
- (8) The outside perimeter of the run and/or exercise area shall be enclosed by chain link or cyclone fencing sufficient to prohibit the escape of animals.
- (9) The premises shall be kept in a clean and sanitary manner at all times to prevent the accumulation of flies, the spread of disease or offensive odor.
- (10) Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.

## **SECTION 17.17 MINI STORAGE FACILITIES**

### **A. The following site and developmental requirements shall apply:**

- (1) The facility shall have direct access to a paved public thoroughfare.
- (2) The minimum lot or parcel size for mini storage facilities shall be two (2) acres and the minimum frontage shall be two hundred (200) feet.
- (3) One (1) parking space shall be provided for each twenty (20) rental units within the buildings, and one (1) parking space shall be provided for each employee.
- (4) If the space between storage facilities is to be utilized for parking or driving, it shall be signed for parking and traffic direction regulation. There shall be a minimum of thirty five (35) feet of driveway if the driveway is one way and (forty-five (45) feet if the driveway is two-way) between warehouses. Where no parking is provided within the building separation areas, said building separation need only be twenty five (25) feet.
- (5) The lot area used for parking and access shall be provided with a permanent, durable, dustless surface and shall be graded and drained so as to dispose of all surface water.

**B. Special Performance Standards:**

- (1) No retail, wholesale, fabrication, industrial, manufacturing, or service activities or uses may be conducted in or from the storage units by the lessees.
- (2) Storage of goods shall be limited to personal property with no commercial distribution allowed and no operation that requires the regular delivery or pick-up of goods in vehicles with a gross vehicle weight rating in excess of 10,000 pounds.
- (3) All storage shall be within an enclosed building. There shall be no outside storage or stockpiling.
- (4) The exterior of mini-storage buildings shall be of finished quality and properly maintained.
- (5) No storage of hazardous, toxic, or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.

**SECTION 17.18 MOTELS and HOTELS**

The following site and developmental requirements shall apply:

- A. Ingress and egress shall be only from a paved public thoroughfare.
- B. The minimum lot or parcel area shall be one (1) acre and the minimum lot width and frontage shall be two hundred (200) feet.
- C. Units shall be rental units and shall not constitute permanent residential accommodations nor shall such units be converted to other than rental units unless such units meet the following requirements:
  - (1) Units shall meet the requirements of the RD Multiple Family District.
  - (2) All units shall meet the requirements of all Village ordinances and county and state requirements for dwelling construction and occupancy.

**SECTION 17.19 NURSING HOMES**

**A. The following site and developmental requirements shall apply:**

- (1) All ingress and egress for the site shall be from a paved public thoroughfare.
- (2) No building shall be closer than fifty (50) feet to any lot line.

**B. Special Performance standards:**

- (1) Parking areas shall not be located within fifty (50) feet of a residential district or use.

- (2) All facilities shall be licensed by the Michigan Department of Public Health and shall conform to applicable state and federal laws.

## **SECTION 17.20 OUTDOOR COMMERCIAL RECREATION**

### **A. The following site and developmental requirements shall apply:**

- (1) The site shall be located on a paved public thoroughfare.
- (2) Minimum site area shall be:
  - (a) Three (3) acres for flea markets, batting cages, skateboard parks and mini-golf.
  - (b) Ten (10) acres for amphitheater, amusement parks, driving ranges, and campgrounds. Minimum lot width shall be six hundred (600) feet.
  - (c) Eighty (80) acres for a nine-hole golf course; one hundred sixty (160) acres for an eighteen (18) hole golf course.
  - (d) Twenty (20) acres for drive-in theaters, air gun and survival games, fairgrounds, recreational vehicle parks, travel trailer parks, go-cart racing, automobile and motorcycle tracks, and campgrounds, including youth camps, religious retreats, and hunting camps. Minimum lot width shall be six hundred (600) feet.
- (3) No building or spectator seating facility shall be located within one hundred (100) feet of a lot line.
- (4) Front, side and rear yards shall be at least eighty (80) feet. The first fifty (50) feet of such yards shall be kept free of off-street parking and shall be landscaped.
- (5) A landscaped buffer zone shall be provided between parking and principal building areas and any adjacent residential development. Whenever parking areas are within sixty (60) feet adjacent to land zoned or used for residential purposes, a five (5) foot or greater wall or obscuring fence shall be provided along the sides of the parking area adjacent to such residential land.
- (6) The entire periphery of race tracks and drive-in theaters shall be enclosed with an obscuring screen fence at least eight (8) feet in height. Fences shall be of permanent finished construction, painted or otherwise finished neatly, attractively and inconspicuously.

### **B. Special Performance Standards for All Outdoor Commercial Recreation Facilities:**

- (1) The applicant shall obtain and provide evidence of compliance with all appropriate federal, state, county and local permits as appropriate.

- (2) Facilities shall provide off-street parking and passenger loading areas.
- (3) An adequate stacking area shall be provided for vehicles waiting to enter the lot.
- (4) No temporary sanitary facility or commercial dumpster type of trash receptacle shall be located within two hundred (200) feet of an existing dwelling.
- (5) All sanitary facilities shall be designed and constructed in strict conformance with Barry County Health Department regulations.
- (6) Except in the case of golf courses, operating hours for all uses shall be determined by the Planning Commission based on the nature of the use and the nuisance potential to adjoining property owners. The maximum range of hours is Monday through Sunday from 7:00 a.m. to 12:00 a.m. (midnight) and may be prohibited on legal holidays.

C. **Special Performance Standards for Drive-In Theaters:** Drive-in theater screens shall be so located as to be out of view from any major thoroughfare or residential area.

#### **SECTION 17.21 AIRPORTS AND LANDING STRIPS**

Site and developmental requirements, as well as Site Performance Standards, shall be consistent with the requirements of the Michigan Aeronautics Commission and the Federal Aviation Authority.

#### **SECTION 17.22 SCHOOLS, INSTITUTIONAL AND PUBLIC USES**

The following site and developmental requirements shall apply:

- A. Ingress and egress to the site shall be only from a paved public thoroughfare.
- B. The minimum lot or parcel size shall be two (2) acres.
- C. Service areas and facilities, and outdoor recreation facilities, shall not be located within one hundred (100) feet of a residential district or use.
- D. Parking areas shall not be located within fifty (50) feet of a residential district or use.
- E. Student drop-off and vehicular turn-around facilities shall be provided on the site so that vehicles will not interfere with traffic.
- F. No parking shall be allowed within the minimum front yard setback of fifty (50) feet.
- G. All principal buildings, shall be no closer than seventy-five (75) feet from any lot line or right-of-way.

**SECTION 17.23      RESERVED**

**SECTION 17.24      CAMPING FACILITIES**

The following site and developmental requirements shall apply:

- A. Each campsite shall be set back from any right-of-way or lot line at least seventy (70) feet.
- B. A common use area shall be provided in the parcel at a rate of five hundred (500) square feet per campsite.
- C. There shall be no permanent storage of tents, campers, travel trailers or mobile homes units in the development unless specifically approved.
- D. No more than one (1) permanent dwelling shall be allowed in a campground that shall only be occupied by the owner, manager or an employee.
- E. Each campsite shall have designated places for open fires.

**SECTION 17.25      GOLF COURSES AND COUNTRY CLUBS**

The following site and developmental requirements shall apply:

- A. Accessory uses may include clubhouse/pro shop/managerial facilities, swimming pool, maintenance shed, toilets, lockers, standard restaurant and drinking establishments, tennis, racket sports, and swimming facilities.
- B. Major accessory uses such as a standard restaurant and bar shall be housed in same building as the clubhouse. Minor accessory uses strictly related to the operation of the golf course itself, such as maintenance garage and pro shop or golf shop may be located in separate structures.
- C. There may be a maximum of two (2) identification signs. Each sign may have a maximum area of thirty (30) square feet. Both signs may be lighted.
- D. Additional parking shall be required for permitted accessory uses.
- E. The lot area used for parking and access shall be provided with a permanent, durable, dustless surface and shall be graded and drained so as to dispose of all surface water.
- F. All principal or accessory buildings shall be not less than two hundred (200) feet from any lot line; provided that where topographic conditions are such that buildings would be screened from view.
- G. A golf driving range accessory to the principal use of the golf course is permitted provided the area devoted to this use shall maintain a seventy-five (75) foot front yard and a one hundred (100) foot side and rear yard setback. The areas shall be buffered by

natural vegetation and fencing to minimize the impact upon adjoining properties. Additional buffering may be imposed by the Planning Commission.

- H. A fifty (50) foot minimum undisturbed buffer zone between turf areas and natural water bodies, watercourses or wetlands must be maintained as part of a golf course. The buffer zone must contain natural vegetation and shall not be chemically treated.
- I. Water quality protective measures are required as follows:
  - (1) Maintenance of erosion control barriers during construction and until all ground cover is established.
  - (2) To the extent practicable, runoff must be directed to on-site holding/sedimentation ponds with a water quality control structure installed at the outlet prior to water discharge from the premises.
  - (3) At any time widespread or nonspot application of herbicide, insecticide, fungicide or rodenticide is to occur, notification signs must be posted at lot lines. The signs are to state the type and name of the chemical, date and time of application.
  - (4) All chemical applications must be made by an applicator licensed by the Michigan Department of Agriculture. Chemicals shall meet the requirements of the federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Environmental Protection Agency (EPA), and all appropriate state statutes and administrative directives.

## **SECTION 17.26      SIDEWALK CAFÉS**

Cafés occupying public sidewalks or a public space may be allowed subject to the following:

- A. A site drawing showing a detailed plan of the outdoor café must be submitted to and approved by the Planning Commission.
- B. Plans for setting up the outdoor café must provide for the passage of pedestrians in a manner designed to assure traffic and pedestrian safety.
- C. The outdoor café must be part of a licensed restaurant and meet all the requirements of the Department of Health.
- D. Liability insurance and property damage coverage naming the Village as an insured party, in an amount approved by the Village, must be provided before an outdoor café may be set up on any public space.
- E. Approval of the Village Council is required for the use of any public area, sidewalk, or facility.

**SECTION 17.27      APARTMENTS ABOVE STORES**

Apartments above stores may be permitted subject to the following:

- A. No dwelling unit shall occupy any portion of a commercial or industrial building at or below ground level. Businesses may occupy any number of floors.
- B. Above store apartment dwellings shall meet applicable codes and ordinances of the Village, county, or state.
- C. Approved smoke detectors shall be provided in each dwelling unit, in common hallways and as required by the Building Code applicable to the Village.
- D. Emergency egress lighting shall be provided as required by the Building Code applicable to the Village.
- E. An approved fire extinguisher shall be provided in the common hallway and required by the Building Code applicable to the Village.
- F. In those instances where residential uses are proposed to occupy the same floor as a business use, the Village Council shall review such mixed use and may approve such mixed use based on findings that compatibility of the business with residential occupancy will occur. Such findings may include but are not limited to:
  - (1) Compatible hours of operation.
  - (2) Noise of operation or occupancy that would be detrimental to the business operation or vice-versa.
  - (3) Excessive foot traffic.
- G. Off-street parking shall be provided in accord with Article 20.

**SECTION 17.28      RESERVED**

**SECTION 17.29      OUTDOOR SALES SPACES FOR NEW OR USED  
AUTOMOBILES, RECREATIONAL VEHICLES, MOBILE HOMES AND BOATS.**

- A. All lighting shall be shielded from adjacent residential districts.
- B. Ingress and egress to the outdoor sales area shall be at least twenty (20) feet from the intersection of any two (2) streets.
- C. A four (4) foot wall or solid fence shall be provided when abutting or adjacent districts are zoned or used for residential use. The height of the fence or wall shall be measured from the surface of the ground of the abutting residential district.
- D. No major repair or major refinishing shall be done on the property.



- E. A suitable building for said use shall be located on the site.
- F. A minimum lot width of one hundred (100) feet fronting on a street and containing a minimum of at least ten thousand (10,000) square feet of area shall be provided.
- G. The provisions of state of Michigan Public Act 300 of 1949 as amended, MCL 257.1 *et seq.*, regulating new and used vehicles shall be complied with.

**SECTION 17.30 CHILD CARE OR DAY CARE CENTERS**

- A. Child care or day care centers may be permitted as the principal use of the property or may be permitted as an accessory use to an approved use, such as a church, school, office or other place of employment upon review and approval as a special land use.
- B. A valid registration or license as required by the state shall continually be on file with the Village.
- C. The facility shall comply with all applicable building codes.
- D. One (1) parking space per caregiver and/or employee plus off-street drop off for delivery and pick up of children shall be provided.
- E. The site shall comply with the sign provisions of Article 21.
- F. The building shall have an appearance that is nonintrusive and consistent in color materials, roof line, and architecture with the district in which it is located, as determined by the Planning Commission.

**SECTION 17.31 MOBILE HOME PARKS**

- A. **Site Development Requirements.** The following minimum and maximum standards shall apply to all uses and structures in the Mobile Home Park District.
  - (1) *Minimum Lot Area:* Ten (10) acres.
  - (2) *Minimum Lot Frontage and Lot Width:* Three hundred thirty (330) feet.
  - (3) *Maximum Height:* Two stories, but not to exceed twenty-five (25) feet.
  - (4) *Mobile Home Park Open Space Requirements:* All mobile home parks having fifty (50) or more mobile home sites shall include dedicated open space. The total amount of land dedicated for open space shall not be less than two (2) percent of the park's gross acreage, or twenty-five thousand (25,000) square feet of open space, whichever is greater.
  - (5) *Mobile Home Site Area:* All mobile home parks shall be developed with sites comprised of five thousand five hundred (5,500) square feet per mobile home unit, subject to the following:

- (a) The area requirement for any one site may be reduced by no more than twenty (20) percent in a one-for-one exchange for area dedicated as open space above and beyond the minimum required two (2) percent open space area required.
- (b) In no case shall the open space and distance requirements be less than that required under Rules 941, 944, and 946 of the Mobile Home Commission General Rules.
- (6) *Mobile Home Construction:* All mobile homes constructed after June of 1976 and placed on sites within mobile home parks shall conform to all U.S. Department of Housing and Urban Development (HUD) mobile home certification requirements. All mobile homes constructed prior to June of 1976 and placed on sites within mobile home parks shall conform to all American National Standards Institute mobile home certification requirements.
- (7) *Mobile Home Park; Nonresidential Uses:* No portion of any mobile home park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the mobile home park.
- (8) *Home Occupations:* Home occupations involving any accessory structure shall be prohibited in mobile home parks.
- (9) *Skirting:* Skirting shall be installed around the entire periphery of a mobile home.
- (10) Applicable provisions of Article 19: Nonconforming Uses; Article 20: Off-Street Parking and Loading; Article 21: Signs; Section 23.08 Landscaping, and other provisions of this Ordinance as may be applicable shall apply.

**B. Special Performance Standards; Other Site Development Requirements:** All mobile home parks shall be constructed and maintained in accordance with P.A. 96 of 1987 as amended, the Mobile Home Commission Act, MCL 125.2301, and the rules and regulations promulgated by the Mobile Home Commission pursuant to the authority vested in the Mobile Home Commission by such Act. The construction of a mobile home park shall not be initiated, nor shall a mobile home park be inhabited or operated until all necessary permits have been acquired from the Michigan Department of Public Health, Michigan Department of Commerce, and all other agencies pursuant to the Mobile Home Commission Act.

**SECTION 17.32 SECONDARY RESIDENCE (Accessory Dwelling Unit-ADU)**

**A. Purpose.** For the purpose of providing expanded housing opportunities and flexibility in household. Arrangements to accommodate family members or nonrelated people of a permitted owner occupied single family dwelling, while maintaining aesthetics and residential use compatible with homes in the neighborhood. Accessory Dwelling Units

(ADU) shall be allowed by Special Land Use granted by the Planning Commission in the AG, RA, RB, and RC Districts.

**B. Requirements/Limitations.**

- (1) ADUs shall be secondary and accessory to a single family dwelling unit.
- (2) In granting a secondary residence, the Planning Commission must find that the ADU is developed in a manner that does not alter the character or appearance of the principal dwelling unit as a single family residence.
- (3) Only one ADU shall be allowed per principal dwelling unit and/or lot.
- (4) An attached ADU shall only be allowed in a principal dwelling unit in which the owner of record of the dwelling personally resides: except for bona fide temporary absences.
- (5) In an attached ADU, any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.
- (6) A lot size of not less than 12,000 sq. ft. or larger shall be required for a secondary residence to occupy a lot with a principal dwelling structure.
- (7) Attached ADUs shall be designed to allow for possible reincorporating into the principal dwelling unit.
- (8) At least one (1) common, interior access between the principal dwelling structure and the ADU shall be maintained. A second means of egress from the ADU shall be provided.
- (9) The gross living area of an ADU shall not be less than 300 square feet or be greater than 25% of the total floor area of the principal dwelling.
- (10) A building permit for an ADU must be approved and issued prior to its construction. An ADU shall meet all life safety and building codes.
- (11) Adequate off-street parking shall be provided to serve the combined needs of the principal dwelling unit and the ADU, minimum of one (1) parking space per unit.
- (12) Adequate provision must exist or be made for motor vehicle ingress or egress.

**C. Accessory Dwelling Unit Certificate of Occupancy.** If a property containing an approved ADU is conveyed and the new owner wishes to maintain the accessory unit, the new owner shall apply for a Certificate of Occupancy for the ADU. The purpose of this section is to ensure that one of the two dwelling units is owner-occupied.

**D. Procedural Requirements.** An application for Special Land Use approval under this section shall require that all plans submitted with any application for an ADU building

permit denote, describe and/or identify the intended ADU area within the dwelling unit as such.

- E. **ADU Agreement:** At the option of the Village, the property owner and the Village shall enter into a written agreement regarding all the terms and conditions of any ADU approval. Such agreement shall have language deemed acceptable to the Village, shall be signed by the Village and all owners of the property involved, and shall be recorded with the County Register of Deeds.
- F. **Failure to Comply.** If the owner fails to comply with the requirements of this section, an ADU Agreement, or this Ordinance, the use of the ADU shall be terminated within six (6) months of the date of notice from the Village.

**SECTION 17.33      RESERVED**

**SECTION 17.34      HOME OCCUPATIONS**

Home occupations not specifically permitted, or prohibited, may be allowed in all residential districts as a special land use subject to the following procedures and conditions and subject further to all conditions specified in Section 5.02F:

- A. The exterior appearance of the structure shall not be altered or the occupations within the residence conducted in a manner that would cause the premises to differ from its residential character.
- B. No person other than members of the immediate family occupying the dwelling shall be employed.
- C. The home occupation shall occupy no more than twenty-five (25) percent of the floor area of the dwelling, or 250 square feet in a detached garage;
- D. There shall be no outside storage of any kind related to any home occupation.
- E. The use may not increase vehicular traffic flow and off-street parking as set forth in the off-street parking regulations in Article 20.
- F. Mechanical or electric equipment employed by the home occupation shall be comparable to the machinery or equipment customarily found in the home associated with a hobby or avocation.
- G. Only one nameplate shall be allowed, in accordance with the sign regulations at one hundred forty-four (144) square inches. The sign may display the name of the home occupations, for example, John Doe, Realtor, and must be attached to the principal building.
- H. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or nuisance to any greater or more frequent extent than that usually experienced in

an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.

**SECTION 17.35 SATELLITE DISH ANTENNA**

- A. Satellite dish antennae over thirty nine (39) inches in diameter in all residential districts.
  - (1) Roof-mounted antennae shall be located only on the rear one-half of the roof (that portion of the roof furthest from the street upon which the residential building abuts) so that it will be screened from the street side.
  - (2) Roof-mounted antennae shall not project upward beyond the height in feet allowed for the main building within the district in which said satellite antennae dish is being placed.
  - (3) Ground-mounted antennae shall only be located in the rear yard.
  - (4) Ground-mounted antennae shall not project upward more than twelve (12) feet
- B. Satellite dish antennae over thirty nine (39) inches in diameter in nonresidential districts.
  - (1) No ground-mounted antennae shall be permitted.
  - (2) Roof-mounted antennae shall not project upward beyond twelve (12) feet measured from the roof upon which it is mounted. The combined height of the building and antennae shall not exceed the maximum allowable height for a building designated for that particular district in which said antenna is to be mounted.

**SECTION 17.36 FUNCTIONAL EQUIVALENT FAMILY—ADDITIONAL PERSONS**

The limit upon the number of persons who may reside as the functional equivalent of the domestic family may be increased or enlarged upon demonstration by the applicant of all the following:

- A. There are adequate provisions on the subject property for off-street parking for each adult proposed to reside on the premises, and adequate storage for each person proposed to reside on premises.
- B. The extent of increase or enlargement of the limit upon the number of persons shall not, when considered cumulatively with existing and reasonably projected population concentration in the area, place an unreasonable burden upon public services, facilities and/or schools.
- C. There shall be a minimum of one hundred fifty (150) square feet of usable floor space per person on the premises.

- D. If the Planning Commission grants an approval under this provision, the determination shall include the specific maximum number of persons authorized to reside on the property, and minimum parking or storage requirements to be maintained.

**SECTION 17.37 REASONABLE ACCOMMODATION USE**

This section is intended to authorize the grant of relief from the strict terms of this Ordinance in order to provide equal housing opportunities particularly suited to the needs of persons entitled to reasonable accommodation under law and to encourage innovation in land use and variety in design and layout. In the event state and federal law, e.g., the federal Fair Housing Amendment Act of 1988, requires the Village to make “reasonable accommodation” for a particular proposed uses of property, the following shall apply:

- A. As a condition to approval of a reasonable accommodation use, the applicant shall comply with all the terms of this section, and shall demonstrate all of the following:
  - (1) The ultimate residential users of the property shall be persons for whom the state or federal law mandates the Village shall make reasonable accommodations in connection with proposed uses of land.
  - (2) In consideration of the needs, facts, financial and other conditions within the Village, and within the population to be served by the proposed use, the proposed reasonable accommodation shall be necessary to afford such persons equal opportunity and enjoyment within the Village.
  - (3) Approval of the proposed housing shall not require or likely result in a fundamental alteration in the nature of the land use district and neighborhood in which the property is situated, considering cumulative impact of one or more other uses and activities in, or likely to be in the area, and shall not impose undue financial and administrative burden. The interests of the Village shall be balanced against the need for accommodation on a case-by-case basis.
  - (4) No other specific provision exists and is available to provide the relief sought.
- B. The application for a reasonable accommodation use shall include the following:
  - (1) A plan drawn to scale showing the proposed use and development.
  - (2) A separate document providing a summary of the basis on which the applicant asserts entitlement to approval of a reasonable accommodation use, covering each of the requirements herein.
  - (3) The information required for site plan review, provided, upon showing by the applicant that the inclusion of specified information generally required for site plan review would be irrelevant, the Village may waive the requirement to include such material in the application.

- (4) All regulations and standards for buildings, structures, and site improvements within the district in which the property is situated shall apply.

**SECTION 17.38 HOSPITAL**

- A. The proposed site shall have at least one property line abutting a major thoroughfare.
- B. The minimum distance of any main or accessory building from boundary lot lines or streets shall be at least fifty (50) feet for front, rear and side yards for all two (2) story structures. For every story above two (2) the minimum yard distance shall be increased by at least ten (10) feet.
- C. Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence five (5) feet in height. Ingress and egress to the site shall be directly from a major thoroughfare.
- D. All ingress and egress to the off-street parking area, for guests, employees, staff, as well as any other uses of the facilities, shall be from a major thoroughfare.

**SECTION 17.39 NON ACCESSORY SIGNS (See Article 21)**

**SECTION 17.40 FUNERAL HOMES**

- A. Adequate assembly area shall be provided for vehicles participating in funeral processions
- B. Off-Street parking shall be provided in accord with Article 20.
- C. Lighting of outdoor parking areas shall be shielded from abutting residential areas.

**SECTION 17.41 EQUIPMENT SALES AND SERVICE**

- A. The site shall be a minimum of fourteen thousand (14,000) square feet in area.
- B. Ingress and egress to the facility shall be only from a paved public major thoroughfare, or from a shared access drive to such roadway.
- C. No more than two (2) driveways onto a public roadway shall be permitted per site. Curb openings for driveways shall not exceed fifty (50) feet and driveway widths shall not exceed thirty-five (35) feet. Driveways shall be separated by a minimum of twenty (20) feet.
- D. Curb openings shall be no closer than ten (10) feet to any adjoining lot line and shall be no closer than twenty (20) feet to an intersection, as measured from the right-of-way.
- E. No lot line of the site shall be less than two hundred (200) feet from any lot line of any place of public assembly, including but not limited to hospitals, sanitariums, schools, churches, or other institutions.

- F. All buildings shall be set back not less than forty (40) feet from all street right of way lines.
- G. For facilities with underground storage tanks, the site shall be not less than three hundred (300) feet from any residential well, eight hundred (800) feet from a noncommunity public water well and two thousand (2,000) feet from any public water well or as otherwise required by state or federal law.
- H. All gasoline pumps shall be located not less than fifteen (15) feet from any lot line or within thirty (30) feet from the street right-of-way and shall be arranged so that the motor vehicles using them will not be parked on or overhanging any public sidewalk or street right-of-way.
- I. The entire area used for vehicle service shall be hard-surfaced and adequately drained.

## **SECTION 17.42 WIND ENERGY SYSTEMS**

### **A. Height and type.**

- (1) Only monopole construction shall be permitted.
- (2) The total height of a wind energy system tower or similar device, including maximum extension of the top of the blade, shall not exceed the maximum height for structures permitted in the zoning district involved unless a taller tower is approved by the Planning Commission.

### **B. Setbacks.** A wind energy system tower or similar device shall be set back a distance equal to one and one half (1 ½) time its total height from:

- (1) Any public road right-of-way, unless written permission is granted by the governmental entity having jurisdiction over the road.
- (2) Any overhead utility lines, unless written permission is granted by the affected utility.
- (3) All property lines, unless written permission is granted from the affected landowner or neighbor.
- (4) Support cables, if provided, shall be anchored to the ground no closer than ten (10) feet to any property line.

### **C. Access.**

- (1) All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.



- (2) The tower or similar device shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground.
- D. **Speed controls.** Each wind turbine system shall be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. The application shall include a statement by a registered professional engineer certifying that the rotor and over speed controls have been designed and fabricated for the proposed uses in accordance with good engineering practices. The engineer shall certify the structural compatibility of tower with rotor and equipment.
- E. **Sound Pressure Level.** Wind energy systems shall not exceed 55 dB(A) at the property line closest to the wind energy system. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe storms. If the ambient sound pressure level exceeds 55 (dB(A), the standard shall be ambient dB(A) plus 5 dB(A).
- F. **Electrical wires.** All electrical wires associated with a wind energy system, other than those necessary to connect the wind generator to the tower or similar device wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground.
- G. **Code compliance.** Wind energy systems including tower or similar devices shall comply with all of the applicable construction codes, electrical codes, and the National Electric Code.
- H. **Discontinued use.** Any wind energy system that is discontinued for a period of twelve (12) consecutive months shall be considered abandoned, and the owner of such tower shall remove same within ninety (90) days from receipt of notice from the Village. The Village may remove the tower at the Owner's expense.

#### **SECTION 17.43 HOME BUSINESSES**

- A. The following site and developmental requirements shall apply:
- (1) The business shall hire no more than four (4) employees other than the resident occupants of the dwelling.
  - (2) The business shall be conducted in a fully enclosed building
  - (3) Outdoor storage of materials shall be completely fenced to obstruct view to a height equal to the elevation of the tallest material to be stored; provided however, that up to two (2) display units produced on site may be exhibited outside a fence.
  - (4) Adequate off-street parking shall be provided in accordance with Article 20 of this Ordinance.

- (5) No external alteration of the dwelling shall be made to accommodate the home business.
- (6) The home business shall at all times comply with all other applicable laws and ordinances.
- (7) Signs shall be permitted in accordance with Article 21 of this Ordinance.

#### **SECTION 17.44 REAPPLICATION**

No application for Special Land Use approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be allowed by the Zoning Administrator after learning of new and significant material facts or substantially changed conditions that might result in favorable action upon re-submittal.

#### **SECTION 17.45 EXPIRATION/TERMIATION**

A Special Land Use shall be valid for one (1) year from the date of approval. Each development or use shall be under substantial construction within one (1) year after the date of approval of the Special Land Use, except as noted below.

- A. The Planning Commission (or Village Council where applicable) may grant one (1) six (6) month extension of the approval, provided the applicant requests the extension prior to the date of the expiration of the Special Land Use approval.
- B. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development or use has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
- C. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the Special Land Use approval shall be null and void.

#### **SECTION 17.46 REVOCATION**

The Planning Commission (or Village Council where applicable) shall have the authority to revoke any Special Land Use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this Article, other applicable requirements of this Ordinance, or any condition of the Special Land Use approval. Prior to revocation, the Planning Commission (or Village Council where applicable) shall conduct a public hearing following the notification procedures for the original approval.

#### **SECTION 17.47 EXISTING SPECIAL LAND USES**

Uses of land and/or development projects granted Special Land Use status by the Village prior to the adoption of this Zoning Ordinance may continue such approved status provided the rules, regulations, requirements, and conditions under which the Special Land Use was approved are met.

**SECTION 17.48      PERFORMANCE GUARANTEE**

The Planning Commission (or Village Council where applicable) may require a performance guarantee or guarantees in accordance with Section 24.04 of this Ordinance to ensure compliance with any conditions associated with the granting of a site plan approval.

**SECTION 17.49      TERMINATION OF A SPECIAL LAND USE APPROVAL**

In the event that a special land use approval is granted, the individual or successor in interest as to the property involved shall not use the property such that it would exceed the rights granted by the special land use approval or any conditions attached thereto or fail to follow or comply with any conditions or requirements thereof. In the event that the use of the property exceeds those rights given by the special land use approval or conditions attached thereto, or the property owner fails to follow the conditions placed upon the special land use or any requirements of this Ordinance, the special land use shall terminate immediately. Alternately, in such cases, the Planning Commission (or Village Council where applicable) shall also have the authority to terminate a special land use approval after reasonable notice and hearing.

**ARTICLE 18  
GENERAL EXCEPTIONS**

**SECTION 18.01      AREA, HEIGHT AND USE EXCEPTIONS**

The regulations in this Ordinance apply to all the lots, parcels, uses, buildings, structures, and activities but subject to the following interpretations and exceptions.

**SECTION 18.02      ESSENTIAL SERVICES**

Essential services serving the Village and essential transportation services authorized by state and federal law shall be permitted as authorized and regulated by law and other ordinances of the Village.

**SECTION 18.03      VOTING PLACE**

The provisions of this Ordinance shall not be construed so as to interfere with the temporary use of any property as a voting place in connection with a public election.

**SECTION 18.04      HEIGHT LIMIT**

The general height limitations of this Ordinance shall not apply to bona fide farm buildings, chimneys, church spires, flag poles, public monuments, wireless transmission towers or approved wireless communication towers, unless otherwise expressly specified in this Ordinance for the particular structure involved.

**SECTION 18.05      LOT AREA**

Any lot lawfully existing and of record on the effective date of this Ordinance may be used for any principal use permitted in the district in which such lot is located provided the development of such lot meets all setback and other applicable requirements.

**SECTION 18.06      RESERVED**

**SECTION 18.07      AGRICULTURAL BUILDINGS AND STRUCTURES**

Agricultural buildings and structures in the AG district, other than dwellings, shall be exempt from requirements for building permits and certificates of occupancy.

**SECTION 18.08      PORCHES AND TERRACES**

An open, unenclosed, and uncovered porch or paved terrace may project into a required front yard for a distance not exceeding ten (10) feet and in no instance shall such projection be closer than six (6) feet to any lot line.

## **SECTION 18.09 ACCESS THROUGH YARDS**

For the purpose of this Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other surface servicing a like function, and not in excess of twelve inches above the natural grade, shall not be considered to be a structure, and shall be permitted in any required yard.

## **SECTION 18.10 PROJECTIONS INTO YARDS**

Architectural features, including gutters, soffits, eaves, cornices, and roof overlaps, may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three (3) feet.

Bay windows, chimneys, cantilevered floors, and other similar projections of up to ten (10) feet in length, and not occupying more than thirty (30) percent of the length of the wall on which they are located, may project into required side yards not more than two (2) inches for each one (1) foot of width of such side yard (up to a maximum of two (2) feet of projection), and may project into a required front or rear yard not more than three (3) feet.

## **SECTION 18.11 YARD EXCEPTIONS**

- A. **Front Yards.** Except for existing alignment of building setbacks, in any residential district, the front yard requirements of a lot may be modified by the Zoning Administrator so as to equal the average depth of existing developed front yards on lots within one hundred (100) feet of the lot involved and within the same block front. The front depth shall not be less than twenty (20) feet and in no such instance shall encroachment by a porch or paved terrace be located closer than (6) feet to a front lot line.
- B. **Side Yards.** On lots with a width of less than sixty (60) feet and recorded as less than sixty (60) feet prior to the date of adoption of this Ordinance, the minimum width of each of the side yards shall be seven (7) feet, except side street yards shall be a minimum width of twenty (20) feet.
- C. **Rear Yards.** In all residential districts, any lawfully platted and recorded lot less than one hundred twenty (120) feet deep may have four (4) inches deducted from the required rear yard depth for every foot the lot is less than one hundred twenty (120) feet deep. No rear yard shall be less than ten (10) feet.
- D. **All Yards.** When determining yard types for setback purposes, any wall of any building can be the front, rear, or side so long as the rear is opposite the front and the sides are opposite to each other.

## **SECTION 18.12      TEMPORARY DWELLINGS**

If approved in writing by the Zoning Administrator, a temporary dwelling or mobile home may be permitted on any residential lot or parcel when a home has been destroyed by fire or natural disaster for a period of one (1) year while constructing a new home or the repair of damaged home is undertaken. The Zoning Administrator may attach reasonable conditions to any such approval, including requiring the landowner to enter into a written agreement with the Village with terms as required by the Village. The time period of one (1) year may be extended by the ZBA where reasonable cause for extension can be shown.

**ARTICLE 19**  
**NONCONFORMING USES AND STRUCTURES**

**SECTION 19.01 INTENT AND PURPOSE**

It is recognized that there exists within the districts established by this ordinance or amendments that may later be adopted, lots, structures, and uses of land and structures which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance.

It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

It is further recognized that certain nonconforming uses and structures do not significantly depress the value of nearby properties and are not contrary to the public health, safety and welfare and that such use or structure was lawful at the time of its inception and that no useful purpose would be served by the strict application of requirements for nonconformities under this ordinance and, therefore, two (2) classes of nonconforming use and structure are designated, being Class A and Class B. All nonconforming uses and structures are classified as Class B nonconforming uses or structures unless designated Class A nonconforming uses or structures.

**SECTION 19.02 CLASS B NONCONFORMING USES AND STRUCTURES**

All nonconforming uses or structures not designated Class A shall be Class B nonconforming uses or structures. Class B nonconforming uses and structures shall comply with all the provisions of this Article relative to nonconforming uses and structures.

**SECTION 19.03 CLASS A NONCONFORMING USES OR STRUCTURES**

Nonconforming uses or structures shall be designated Class A providing that the planning Commission finds all of the following exist with respect to the use or structure:

- A. The use or structure was lawful at its inception.
- B. Continuance of the use or structure is not likely to significantly depress property values of nearby properties.
- C. Continuance of the use or structure would not be contrary to the public health, safety or welfare or the spirit of the ordinance.
- D. No useful purpose would be served by strict application of the provisions of this ordinance with which the use or structure does not conform.

## **SECTION 19.04 CLASS A CONDITIONS**

The decision to grant a Class A designation shall be made in writing setting forth its findings of fact and basis for the designation. For changes or improvements to a Class A use or structure, site plans shall be required and the Planning Commission may condition its approval on the following, and by the following procedure to assure the public health, safety or welfare or the spirit and purpose of this ordinance:

### **A. Conditions**

1. Screening and landscaping in keeping with community standards to provide compatibility with adjacent uses.
2. Restrictions on lighting, noise, or visual impact.
3. Prohibition of curbside parking to an extent greater than the immediate property frontage of the nonconforming use, where such use is in close proximity to homes.
4. Signage in compliance with zoning district requirements. Existing nonconforming signs may be required to be eliminated or reduced in size and number.
5. Exterior building materials utilized in any alteration or rebuilding of the building shall be harmonious with materials on abutting properties whenever practical.
6. Enlargement or replacement of a building that does not create a more nonconforming yard setback condition which would impact on conforming properties in the immediate vicinity.
7. Other reasonable safeguards and improvements imposed to protect conforming uses in the surrounding area.

### **B. Procedure**

1. A Class A designation shall be deemed temporary until the Planning Commission has received written verification from the Zoning Administrator that the party requesting the Class A designation has complied with all of the conditions set forth by the Planning Commission.
2. Once the Planning Commission has received written verification from the Zoning Administrator that the party requesting the Class A designation has complied with said conditions, the Class A designation shall become final, subject to other provisions of this ordinance as hereafter prescribed.
3. No Class A nonconforming use or structure shall be resumed if it has been discontinued for six (6) consecutive months, or eighteen (18) months total in any three-year period. No Class A nonconforming use or structure shall be used, altered or enlarged in violation of any conditions imposed in its designation.



4. A temporary Class A nonconforming use or structure designation shall be void after six (6) months if any conditions imposed by the designation remain unmet, unless the Planning Commission grants a written request for an extension of six (6) months. No more than two (2) extensions may be granted.

#### **SECTION 19.05 NONCONFORMING LOTS**

In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory buildings may be erected on any single lot of record recorded with the Register of Deeds at or before the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions, setbacks and other requirements not involving area or width, or both, of the lot, shall conform to the regulations for the district in which such lot is located, unless a yard requirement variance is obtained through approval of the Zoning Board of Appeals. However, if two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this Ordinance.

#### **SECTION 19.06 NONCONFORMING USES OF LAND**

Where, at the effective date of adoption or amendment of this Ordinance, a 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, so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- B. 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 Ordinance.

#### **SECTION 19.07 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 be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. 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, any 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 of adoption or amendment of this Article, but no such use shall be extended to occupy any land outside such building.
- B. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its appraised replacement cost, exclusive of foundations, it shall not be reconstructed except in conformity with the provisions of this Ordinance, including the respective site development standards for the District in which it is located.
- C. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- D. Any structure, or structure and land in combination, in or on 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.
- E. Where nonconforming status applies to a structure and use in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land, and all subsequent uses and structures on the land shall conform to the applicable district regulations.

#### **SECTION 19.08 CHANGE IN NONCONFORMING USES**

Irrespective of other requirements of this Article, if no structural alterations are made, any nonconforming use of a structure and premises may be changed to another nonconforming use of similar or less nonconformance, provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Article. Where a nonconforming use, structure, or use and structure in combination is hereafter changed to a less nonconforming character, it shall not thereafter be changed to a greater nonconforming character.

#### **SECTION 19.09 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 twenty-five (25) percent of the building's replacement cost prior to the initiation of repairs, exclusive of foundations, provided that the cubic content of the building as it existed at the time of adoption or amendment of this Ordinance 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.

#### **SECTION 19.10 CHANGE OF TENANCY OR OWNERSHIP**

A change of tenancy or ownership of a nonconforming use is allowed provided there is no increase in the degree of nonconformance of the nonconforming use.

#### **SECTION 19.11 DISTRICT CHANGES**

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this Article shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

#### **SECTION 19.12 HARDSHIP CASES**

Nonconforming buildings or structures may be structurally changed, altered or enlarged with the approval of the Zoning Board of Appeals when the Zoning Board of Appeals finds that the request is a case of exceptional hardship in which failure to grant the relief requested would unreasonably restrict continued use of the property or would restrict valuable benefits that the public currently derives from the property as used in its nonconforming status, except that any approval for structural changes, alteration or enlargement may be granted only with a finding by the Zoning Board of Appeals that approval will not have an adverse affect on surrounding property and that it will be the minimum necessary to relieve the hardship.

#### **SECTION 19.13 ILLEGAL NONCONFORMING USES**

Nonconforming uses of structures or land existing at the effective date of this Ordinance that were established without a zoning compliance 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 by this Article.

#### **SECTION 19.14 PERMITS**

Permits for construction on, expansion of, or substitution of nonconforming lots, uses or structures require a Zoning Permit pursuant to Article 24. Other permits and approvals may also be required.

#### **SECTION 19.15 RESIDENTIAL DWELLING EXCEPTION**

Residential dwelling units, which are existing and so used at the effective date of this Ordinance shall not be considered non-conforming structures for purpose of replacement as provided in Section 19.07. A dwelling destroyed by fire or natural disaster may be replaced at the same location as the former dwelling subject to Board of Appeals review and approval.

**SECTION 19.16 BURDEN OF PROOF**

The burden of proof for establishing or proving the existence or any aspect of a lawful nonconforming structure, lot or use (as well as the size, scope, intensity, and extent thereof) is on the owner of the property involved.

**ARTICLE 20**  
**OFF-STREET PARKING AND LOADING REQUIREMENTS**

**SECTION 20.01      GENERAL PARKING REQUIREMENTS**

- A. There shall be provided in all districts, except the Central Business District where parking is provided in public parking lots, at the time of erection or enlargement of any main building or structure, off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building use, shall be determined prior to the issuance of a certificate of zoning compliance as prescribed in this Ordinance.
- B. Application for parking lot construction. Any person desiring to establish or change a parking area shall submit plans to the Zoning Administrator showing the locations, elevations, design, size, shape, landscaping, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, and any other features of the parking lot. Proposed curb cuts, entrances, exits, and drainage involving county or state highways shall be submitted to the appropriate agency for approval.
- C. Minimum required off-street parking areas shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere.
- D. Off-street parking existing at the effective date of this Ordinance in connection with the operation of an existing building or use shall not be reduced to any amount less than that required in this Ordinance for a similar new building or new use.
- E. Two (2) or more buildings or uses may collectively provide for required off-street parking in which case the number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. In the instance of dual function off-street parking spaces where operating hours of buildings do not overlap, the ZBA may grant a variance.
- F. The placement of materials, merchandise, motor vehicles, trucks, trailers, recreational vehicles or equipment in the designated off-street parking area of a property for the purpose of sale, rental or repair including the storage of such items is prohibited, except as otherwise provided in this Ordinance.
- G. For uses not specifically mentioned, requirements for off-street parking facilities shall be in accord with similar uses.
- H. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
- I. For the purpose of computing the number of parking spaces required, the definition of “usable floor area” in Article 2 shall govern. In those instances where floor area cannot be computed from plans, seventy-five percent (75%) of gross floor area shall be considered usable floor area.

- J. For all buildings in a residential district, the required parking area shall be provided on the same lot with the buildings or on a lot immediately adjacent under the same ownership.
- K. Parking in residential districts shall not be permitted in any required front yard area or in the street side yard area of a corner lot except in a driveway or a defined parking area. The aggregate area of the driveway or defined parking area shall not exceed thirty-five percent (35%) of the front yard. The parking area shall be paved with concrete, asphalt, stone, or gravel. In those instances where stone or gravel is utilized, a compacted depth of stone or gravel not less than three (3) inches thick shall be provided and maintained.
- L. Required off-street parking for single-family dwellings may be provided in a stacking configuration in a driveway or garage or combination thereof.
- M. Within a residential district all parking areas, except for single-family dwellings, shall be screened on all sides that abut upon (1) a single-family residence, (2) a residential district, or (3) a street, with an ornamental fence or compact hedge that shall not be less than four (4) feet high and, of a type that will obscure vision at all seasons from adjoining premises, except where it may block clear vision for traffic movement it shall be thirty (30) inches in height.
- N. No commercial repair work or commercial servicing of any kind shall be conducted in parking areas in residential districts. A resident may repair his/her vehicles on the property of the resident's dwelling unit, but no others, and such repair shall be conducted in not to exceed seven (7) consecutive days in any thirty (30) day period.
- O. A resident of a dwelling unit may have not more than one (1) motorized vehicle for sale on the site of such dwelling unit at any time and in no instance shall vacant residential lots or parcels be utilized for the sale of vehicles. In no instance shall a vehicle for sale be displayed in a front yard other than on the driveway portion of the yard.
- P. Within a residential district parking shall be limited to passenger vehicles recreational vehicles, recreation equipment, and trucks with a load capacity of two and one-half (2-1/2) tons or less.

**SECTION 20.02      REQUIRED OFF-STREET PARKING**

**A.      Residential.**

<b>Use</b>	<b>Number of Minimum Parking Spaces Per unit of Measure</b>
1. Residential, one-family	Two (2) for each dwelling unit.
2. Residential, multiple-family	Two (2) for each dwelling unit having two or less bedrooms and two-and-one-half (2-1.2) for each dwelling unit having three (3) or more bedrooms.

<b>Use</b>	<b>Number of Minimum Parking Spaces Per unit of Measure</b>
3. Elderly housing-Dependent	0.75 for each dwelling unit.
4. Elderly housing-Independent	1.25 for each dwelling unit.
5. Mobile home park	Two (2) for each mobile home site, one for each employee of the mobile home park and one (1) for each three (3) mobile homes for visitor parking.

**B. Institutional.**

<b>Use</b>	<b>Number of Minimum Parking Spaces Per unit of Measure</b>
1. Churches & Temples	One (1) for each three (3) seats or six (6) feet of pews in the main unit of worship.
2. Mosques	One (1) for each thirty (30) sq. ft. of floor space in the main unit of worship.
3. Hospitals	One and one quarter (1.25) for each bed plus parking for related uses.
4. Convalescent and/or nursing homes	One (1) for each four (4) beds.
5. Elementary and junior high schools	One (1) for each teacher, employee, or administrator, in addition to the requirements of the auditorium or stadium.
6. Senior high schools	One (1) for each teacher, employee, or administrator, in addition to the requirements of the auditorium or stadium.
7. Private clubs or lodge halls	One (1) for each seventy-five (75) square feet of usable floor area.
8. Private golf clubs, swimming pool clubs, tennis clubs or other similar uses	One (1) for each three (3) member individuals.
9. Golf courses open to the general public, except Miniature or "par-3" courses	Four (4) for each golf hole and one (1) for each employee, plus spaces required for each accessory use, such as a restaurant or bar.
10. Stadium, sports arena or similar place of outdoor assembly	One (1) for each three (3) seats or five (5) feet of benches.
11. Theaters and auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees.

<b>Use</b>	<b>Number of Minimum Parking Spaces Per unit of Measure</b>
12. Nursery schools, day nurseries or child care centers	One (1) space for each caregiver or teacher and off-street drop off and child pick up space.
13. Library, museum, post office	One (1) for each one hundred fifty (150) square feet of usable floor area

**C. Business and Commercial.**

<b>Use</b>	<b>Number of Minimum Parking Spaces Per unit of Measure</b>
1. Auto wash (automatic)	One (1) for each employee. In addition, parking spaces equal in number to four (4) times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles undergoing some phase of washing at the same time, that shall be determined by dividing the length in feet of each wash line by twenty (20).
2. Auto wash (self-service or coin-operated)	Three (3) for each washing stall in addition to the stall itself.
3. Beauty parlor or barber shop	Two (2) spaces for each of the first two (2) beauty or barber chairs, and one (1) space for each additional chair.
4. Bowling alleys	Five (5) for each bowling lane plus parking for accessory uses.
5. Dance halls, pool or billiard parlors, roller skating rinks, exhibition halls, and assembly halls without fixed seats	One (1) for each sixty (60) square feet of usable floor area.
6. Drive-in restaurant	One (1) for each employee and one (1) for each twenty-five (25) square feet of usable floor area.
7. Drive-through	One (1) for each employee and four (4) stacking spaces for each drive-through window or station.
8. Carry-out (with no eating on premises)	One (1) for each employee and one (1) for each sixty (60) square feet of usable floor area with a minimum of four (4) spaces.
9. Establishment for sale and consumption on the premises of beverages, food or refreshments	One (1) for each seventy-five (75) square feet of usable floor area or one (1) for each two (2) persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, whichever is greater.



Use	Number of Minimum Parking Spaces Per unit of Measure
10. Furniture and appliance household equipment, repair shops, showroom of a plumber, decorator or electrician	One (1) for each eight hundred (800) square feet of usable floor area. For floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein.
11. Gasoline service stations	One (1) parking space for each fifty (50) square feet of floor area in the cashier and office areas in addition to space provided at each fuel pump dispenser. In no instance shall such facility provide fewer than three (3) spaces for cashiers and office use. Gasoline service stations providing car wash facilities, lubrication facilities, sale of food, beverages and other products shall provide additional off-street parking spaces based upon the requirements for such uses.
12. Laundromats and coin- operated dry cleaners	One (1) for each three (3) washing and dry cleaning machines.
13. Miniature or “par-3” golf courses	One (1) for each two (2) holes plus one (1) for each employee.
14. Mini storage rental	One (1) space for each employee and one (1) space for each fifty (50) storage rental units.
15. Mortuary establishments	One (1) for each fifty (50) square feet of each assembly room.
16. Motel, hotel or other commercial lodging establishments.	One (1) for each occupancy unit plus one (1) for each employee.
17. Motor vehicle sales and service establishments	One (1) for each one hundred (100) square feet of usable floor area of sales room or three (3) for each auto service stall in the service areas, whichever is the greater.
18. Oil change and lubrication station	One (1) for each employee plus parking spaces equal in number to three (3) times the maximum capacity of service stalls provided at the facility.
19. Retail stores, except as otherwise specified herein	One (1) for each one hundred sixty (160) square feet of usable floor area.
20. Public utility structures	One (1) for each employee on the maximum work shift.
21. Indoor tennis facility	Four (4) for each court plus spaces as required for each permitted accessory use.

<b>Use</b>	<b>Number of Minimum Parking Spaces Per unit of Measure</b>
22. Amusement arcade	One (1) for each game table and one (1) for each amusement device.
23. Athletic clubs, exercise establishments, health clubs, sauna baths, judo clubs and other similar uses	One (1) parking space for each three (3) persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, plus one (1) space per employee. In those instances where memberships are provided for, not less than one (1) space per each four (4) memberships shall be provided, plus one (1) space per employee.

**D. Office.**

<b>Use</b>	<b>Number of Minimum Parking Spaces Per unit of Measure</b>
1. Banks	One (1) for each one hundred (100) square feet of usable floor area.
2. Banks (drive-in)	One (1) for each employee. In addition, waiting spaces at each service window or station shall be provided at the rate of four (4) for each service window or station. Each waiting space shall measure not less than twenty (20) feet in length.
3. Business offices or professional offices, except as indicated in (4)	One (1) for each two hundred fifty (250) square feet of usable floor area.
4. Professional office of doctors, dentists and similar professions	One (1) for each fifty (50) square feet of usable floor area in waiting rooms, and one (1) for each examining room, dental chair, office, laboratory, X-ray therapy room or similar use area.

**E. Industrial.**

<b>Use</b>	<b>Number of Minimum Parking Spaces Per unit of Measure</b>
1. Industrial or research establishments and related accessory offices	Five (5) plus one (1) for every one-and-one-half (1 ½) employees in the largest working shift or one (1) for each four hundred fifty (450) square feet of usable floor area whichever is greater. Space on site shall also be provided for all construction workers during periods of plant construction.
2. Warehouses and wholesale Establishments and related accessory offices	Five (5) plus one (1) for every employee in the largest working shift, or five (5) plus one (1) for every one thousand seven hundred (1,700) square feet of usable floor space, whichever is the greater. Space on site shall also be provided for all construction workers during periods of construction.

**F. Parking for Handicapped—All Districts.**

Off-street parking facilities required for physically handicapped-accessible buildings shall be based on the provisions of Act 230 of the Public Acts of 1972, as amended.

### **SECTION 20.03      REQUIRED OFF STREET LOADING**

Off-street loading and unloading spaces shall be provided in all Office, Business, and Industrial Districts in connection with all office, commercial and industrial uses, except in cases where adequate space, as determined by the Zoning Administrator, is or can be provided on adjacent public property, as set forth below:

- A. For ten thousand (10,000) to fifty thousand (50,000) square feet of floor area, one (1) space.
- B. For fifty thousand (50,000) to one hundred thousand (100,000) square feet of floor area, two (2) spaces.
- C. One additional space for each additional one hundred thousand (100,000) square feet of floor area or part thereof. All loading and unloading space shall be subject to the following provisions:
  - (1) Each loading space shall be at least twelve (12) feet in width, eight-eight (88) feet in length, and have a height clearance of fourteen (14) feet above grade.
  - (2) The space may occupy all or any part of any required yard or court space, excluding front yard area.
  - (3) No space shall be located closer than fifty (50) feet to any lot in any residential district, unless wholly within a completely-enclosed building or unless enclosed on all sides facing residential zones by a wall or uniformly painted solid board or masonry fence of uniform appearance that is not less than eight (8) feet in height.

### **SECTION 20.04      DESIGN AND CONSTRUCTION**

- A. Off-street parking lots shall be so arranged and marked with adequate drives and aisles for safe and convenient maneuvering giving access to parking spaces, and in no case shall a parking space be permitted that would necessitate the backing of a motor vehicle into a street or over a public walk.
- B. Each nonresidential parking space shall be served by a drive or aisle. Design and construction of drives and aisles must be approved by the Zoning Administrator.
- C. There shall be a curb or wheel stop or bumper rail provided wherever an off-street parking and loading area adjoins a public sidewalk right-of-way, or adjoining property line. The curb, wheel stop or bumper rail shall be designed to prevent any portion of a vehicle from encroaching upon the sidewalk, right-of-way, or adjoining property.
- D. Any lighting used to illuminate any off-street parking and loading area shall be arranged to direct light away from adjoining premises.

- E. Design and construction of access drives shall be approved by the Zoning Administrator.
- F. Any construction or rearrangement of existing drives that involve the ingress or egress of vehicular traffic to or from a public street, shall be arranged to ensure the maximum safety and the least interference of traffic upon the streets.

**SECTION 20.05      PARKING SPACE LAYOUT, STANDARDS, CONSTRUCTION AND MAINTENANCE**

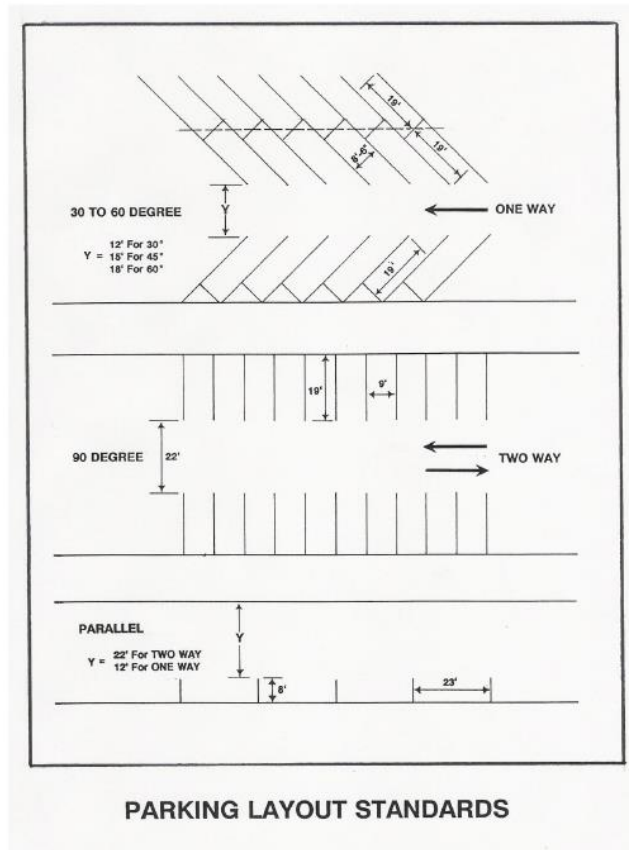
- A. Whenever the off-street parking requirements in this Article require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed, and maintained in accordance with the following standards and regulations:
  - (1) No parking lot shall be constructed unless and until a permit therefore is issued. Applications for permit shall be submitted with two sets of site plans for the development and construction of the parking lot showing that the provisions of this Article will be fully complied with.
  - (2) Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements (Table B) except as modified by Act 230 of 1972, MCL 125.1501 *et seq.* (parking space width requirement of not less than twelve (12) feet).
  - (3) All spaces shall be provided adequate access by means of maneuvering lanes, and may not require backing directly onto a street or sidewalk.
  - (4) All maneuvering lane widths shall permit one-way traffic movement, except that the ninety degree pattern shall permit two-way movement.
  - (5) All parking areas for commercial or industrial district uses shall be screened on all sides abutting or across a street or alley from a residential district. The screen shall be an ornamental fence or compact hedge not less than six (6) feet high of a type that will obscure vision at all seasons from adjoining premises.
  - (6) Each entrance to and exit from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25) feet distant from adjacent property located in any single-family residential district.
  - (7) The entire parking and loading area, including parking spaces and maneuvering lanes required under this section, shall be provided surfacing in accordance with specifications approved by the Township except as provided for in residential areas (Section 20.01L). The parking areas shall be surfaced with-in one (1) year of the date the occupancy permit is issued.
  - (8) Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.

B. Parking space layout standards shall be provided in accord with the specification in the following table:

Table B					
Parking Pattern	Maneuvering Land Width	Parking Space Width	Parking Space Length	Total Width of One Tier of Spaces plus Maneuvering Lane	Total Width of Two Tiers of Spaces plus Maneuvering Lane
(parallel parking)	12 ft.	8ft.	23 ft.	NA	NA
30° to 53°	12 ft.	8 ft. 6 in.	20 ft.	26 ft.	46 ft.
54° to 74°	15 ft.	8 ft. 6 in.	20 ft.	36 ft.	56 ft.
75° to 90°	20 ft.	9 ft.	20 ft.	48 ft.	68 ft.

**SECTION 20.06 VARIANCES AND EXCEPTIONS**

The ZBA shall have authority to interpret this section and may in specific cases and after public hearing and where justified, grant variances to the requirements of this Article 20.



## **ARTICLE 21 SIGNS**

### **SECTION 21.01      PURPOSE**

The purpose of these sign regulations is to provide a framework within which the identification and informational needs of all land uses can be harmonized with the desires and aesthetic standards of the general public. It is intended through the provisions contained herein to give recognition to the legitimate needs of business, industry and other activities, in attaining their identification and informational objectives. It is a basic tenet of this Article that unrestricted signage does not support the existing character of the Village and does not benefit either private enterprise or the community-at-large as it creates traffic safety hazards, visual clutter, confusion for vehicle drivers and visual blight. It is similarly the intent of this Article to protect the character of residential neighborhoods by discouraging the encroachment of signage that undermines the intended character of such areas.

Additional purposes and intent for these sign regulations include:

- A. Promoting the public peace, health, and safety of Village residents and visitors;
- B. Eliminating distractions that are hazardous to motorists and pedestrians;
- C. Protecting the public's ability to identify establishments and premises;
- D. Protecting the natural beauty and distinctive character of the Village;
- E. Protecting commercial districts from visual chaos and clutter;
- F. Providing an environment that fosters growth and development of business;
- G. Protecting property values; and
- H. Balancing the individual rights of property owners to communicate their message with the public's right to be free of unreasonable distractions and aesthetic intrusions.

### **SECTION 21.02      DEFINITIONS**

For the purposes of this Article, the following terms and definitions shall apply. See Figures 1 through 19 for examples of sign types.

**Alter:** To change or otherwise modify a sign, including structural modifications and modifications to nonstructural elements of the sign such as the frame and sign copy.

**Awning Sign:** A sign that is painted on or attached directly to an awning.

**Billboard:** A sign, other than off premises directional signs and political signs, that does not pertain to the principal use of the premises on which it is located. Also, a sign that advertises or designates an establishment, service, merchandise, use, entertainment, activity, produce, or

message that is not conducted, sold, produced, manufactured, or furnished upon the lot or parcel where the sign is located.

**Canopy Sign:** A sign that is painted on or attached directly to a canopy.

**Decorative Display:** A decorative, temporary display designed for the entertainment or cultural enrichment of the public and having no direct or indirect sales or advertising content.

**Erect:** To build, construct, attach, place, suspend, affix, or paint.

**Freestanding Sign:** A sign other than a ground, pole, or portable sign that is not attached to a building and is capable of being moved from one location to another on the site on which it is located.

**Ground Sign:** A sign supported by one or more columns, uprights or braces in the ground surface and having a height not in excess of five (5) feet.

**Marquee Sign:** A sign attached to or hung from a marquee, canopy, or other covered structure projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.

**Nonaccessory Sign:** A sign, other than an off premises directional sign or political sign, that does not pertain to the principal use of the premises on which it is located.

**Off Premises Directional Sign:** A sign that provides direction to another location.

**Pole Sign:** A display sign supported by one or more columns, uprights, or braces in the ground surface and having a height in excess of five (5) feet.

**Portable Sign:** A sign and sign structure that is designed to facilitate the movement of the sign from one zoning lot to another. The sign may or may not have wheels, changeable lettering, and/or hitches for towing. A sign shall be considered portable only if such sign is manifestly designed to be portable to facilitate its movement from one zoning lot to another, and shall not be considered a freestanding sign under this Ordinance.

**Projecting Sign:** Projecting sign means a sign that is affixed to any building or structure, other than a marquee, awning, or canopy, any part of which extends beyond the building wall more than eighteen (18) inches.

**Pylon Sign:** A ground sign in excess of eight (8) feet in height.

**Roof Sign:** A sign that is erected, constructed, and maintained on or above the roof of a building.

**Sign, Accessory:** A sign that pertains to the principal use of the premises.

**Sign, Nonaccessory:** A sign that does not pertain to the principal use of the premises.

**Sign Area:** The area of a sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all the display area of the sign and including all of the elements of the matter displayed and structural and nonstructural trim. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back-to-back, parallel to one another and less than twelve (12) inches apart from one another, the area of the sign shall be the area of one (1) face.

**Sign Copy:** Portion of a sign that describes the business or service establishment, including, but not limited to, the name, type of, and nature of said establishment.

**Temporary Sign:** A display sign, banner, or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material, with or without a structural frame, or any other sign intended for a limited period of display, but not including decorative displays for holidays or public demonstration.

**Wall Sign:** A display sign that is painted on or attached directly to the building wall and projecting not more than eighteen (18) inches from the wall.

**Window Sign:** A sign affixed to a window so as to be observable from the opposite side of the window to which such sign is located or affixed.

### **SECTION 21.03 SIGN PERMITS**

- A. **Permit Required.** Except as provided in Section 21.03B below, it shall be unlawful for any person to erect, use, install, move, alter or relocate within the Village any sign or other advertising structure without first obtaining a permit from the Zoning Administrator and paying the fee or fees as provided below. Sign permits are not transferable between owners and any changes in the name of a business on a sign shall require a permit. Painting, repainting, servicing, or cleaning of a sign, or the changing of the advertising copy or message thereon, shall not be considered an erection or alteration which requires a sign permit unless a structural change is made. The changing of a name on all nonconforming signs shall be considered an alteration and said sign shall be made to conform to the requirements of this Article. Except as otherwise provided in this Ordinance, normal repair to a conforming sign damaged by winds, vandalism, fire or an act of God shall not require a permit provided each repair restores sign to original design and meets all necessary structural and electrical codes.
- B. **Signs Not Requiring a Permit.** No person may erect, alter, or relocate any sign within the Village without first obtaining a permit from the Zoning Administrator, with the exception of the following:
- (1) Wall signs, that are used as nameplates, not exceeding two (2) square feet in area; occupational signs denoting only the name and profession of the occupants in a commercial, public or other institutional building and not exceeding two (2) square feet in area.



- (2) Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or aluminum.
- (3) Traffic or other municipal signs, legal notices, danger and such temporary emergency or nonadvertising signs.
- (4) Sign advertising the rental, sale or lease of the property upon which it is located.
- (5) Gasoline price signs.
- (6) Directional signs regulating on-site traffic and parking on site with not more than six (6) square feet of sign area.
- (7) Flags bearing the official design of a nation, state, municipality, educational institution, organization, or as approved by the Zoning Administrator.
- (8) Barber poles when a minimum of seven (7) feet above the pedestrian right-of-way.
- (9) Menu boards at drive through restaurants with a maximum size of sixty (60) square feet.

C. **Application for Sign Permit.** Applications for sign permits shall be made upon forms provided by the Zoning Administrator and shall contain or have attached thereto all of the following information:

- (1) Name, address, and telephone number of the applicant.
- (2) Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected.
- (3) Position of the sign or other advertising structure in relation to nearby buildings or structures.
- (4) One (1) blueprint or drawing of the plans and specifications and methods of construction and attachment to the building or in the ground.
- (5) Name of person, firm, corporation or association erecting the sign and structure.
- (6) Written consent of the owner of property where the sign is to be erected.
- (7) In all cases where wiring is to be used in connection with the structure, it shall comply with the local, county, or state electrical code(s).
- (8) Such other information as the Zoning Administrator shall require demonstrate compliance with this and all other ordinances of the Village.

- D. **Sign Permit Issued if Application in Order.** The Zoning Administrator, upon review of an application for a sign permit and determination that the proposed sign complies with all of the requirements of this Ordinance, shall issue a sign permit. The Zoning Administrator may attach reasonable conditions to any sign permit. In the case of illuminated signs, both an electrical permit and a building permit are required.
- E. **Sign Permit Fee.** Prior to the erection or alteration of any sign, except those signs specifically exempted herein, a permit shall first be obtained from the Zoning Administrator for such erection or alteration, and a permit fee paid to the Village according to the schedule of fees as shall be established from time to time by resolution of the Village.
- F. **Sign Permit Revocable at any Time.** A sign permit issued pursuant to this Article may be revoked by the Zoning Administrator upon the permittee's violation of this Ordinance or of any of the conditions contained herein. If the work authorized by a sign permit has not been completed within four (4) months after date of issuance, said permit shall become null and void.

#### **SECTION 21.04 GENERAL REQUIREMENTS FOR ALL SIGNS**

- A. **Permit Number.** Every sign hereafter erected or altered shall have placed on the face of the sign in a conspicuous place thereon, in letters not less than one-half (1/2) inch in height, the date of erection, the permit number and the voltage of any electrical apparatus used in connection therein. Any change to the sign shall require the original permit number to remain on the sign.
- B. **Illumination.** Signs may be internally and externally lighted, reflectorized, glowing, or otherwise illuminated, except as provided elsewhere in this Ordinance. All illumination shall be concentrated on the area of the sign or landscape feature so as to prevent glare upon the street or adjacent property. No sign shall be illuminated by other than electrical means or devices, and wiring shall be installed in accordance with all Codes and Ordinances. In no instance shall such illumination be located so as to be hazardous to traffic. Illuminations or displays shall not be of a flashing or intermittent flashing, moving, oscillating, or strobe type or character.
- C. **Signs Not to Constitute a Traffic Hazard.** No sign shall be erected or displayed in such a manner as to obstruct free and clear traffic vision.
- D. **Face of Sign Shall be Smooth.** No nails, tacks, or wires shall be permitted to protrude from the front of any sign. This shall not exclude, however, the use of block letters, electrical reflectors, or other devices that may extend over the top and in front of the advertising structure.
- E. **Obscene Matter Prohibited.** It shall be unlawful for any person to display upon any sign or other advertising structure any obscene material or any specified anatomical areas or specified sexual activities as defined herein.

- F. **Removal of Certain Signs.** Except for lawful billboards, any sign now or hereafter existing that no longer advertises a bona fide business conducted, or a product, or entertainment, service or commodity offered or sold on the lot shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which said sign shall be found within thirty (30) days after written notice from the Zoning Administrator. This provision may be waived by the ZBA for signs having historic value.
- G. **Public Right-of-Way.** No sign shall be erected or placed in the public right-of-way unless specifically authorized by this Ordinance.
- H. **Sign Setbacks.** Unless otherwise specified in this Ordinance, all signs shall comply with building setback requirements. All free standing, ground, pole, portable, and pylon signs shall be set back not less than five (5) feet from all street right-of-way lines except as otherwise provided herein.
- I. **Construction.**
- (1) All pole signs shall be securely built, constructed, and erected upon posts and standards sunk at least forty-two (42) inches below ground level and embedded in concrete. Wood or wood products shall be of wolmanized or equal treatment. A lightning grounding device shall be provided in accord with applicable electric codes.
  - (2) All letters, figures, characters, or representations in cutout or irregular form, maintained in conjunction with, attached to, or super imposed upon any sign shall be safely and securely built or attached to the sign structure.
  - (3) All wall signs shall be safely and securely attached to structural members of the building by means of metal anchors, bolts, or expansion screws. In no case shall any wall sign be secured with wire, strips of wood or nails.

#### **SECTION 21.05 PERMITTED SIGNS ACCESSORY TO CHURCHES, SCHOOLS, AND NONPROFIT INSTITUTIONS**

Churches, schools, colleges, buildings housing governmental functions and utilities of the Village, county or state or any subdivision thereof, are permitted to erect a sign irrespective of the zoning district within which such use is to exist. Such signs may be illuminated. Such signs, when of a permanent nature, shall be constructed of materials approved by the Zoning Administrator and shall meet all the requirements of this Ordinance, be limited to ground, portable and temporary signs as defined in this Ordinance and subject to the following conditions: In residential districts lighting shall be reduced in intensity after 10:00 p.m.

A. **Ground Signs.**

- (1) There shall be no more than one (1) sign, which shall be a ground sign.

- (2) Such signs shall be set back from the lot line at least one-third (1/3) of the distance from the lot line to the nearest building, but need not be set back more than one hundred (100) feet from the property line.
- (3) No sign shall exceed twenty (20) square feet in area, unless the sign is located more than fifty (50) feet behind the property line, then said sign may be increased by five (5) additional square feet for each additional ten (10) feet of setback, but in no event shall such sign exceed fifty (50) square feet in area.

**B. Temporary Signs.**

- (1) Not more than one (1) construction sign for building or remodeling of buildings shall be allowed not to exceed thirty-two (32) square feet in total surface area and shall be located on the premises being utilized for such construction. Such sign shall be removed upon completion of construction or upon cessation of work for a period of six (6) months.
- (2) One (1) sign advertising the rental, sale, or lease of property shall be allowed. Such sign shall not exceed six (6) square feet in area and not exceed six (6) feet in height.

**C. Portable Sign.**

- (1) Portable signs not exceeding thirty-two (32) square feet in area for each face of such sign shall be allowed and shall be permitted as temporary signs for periods not to exceed seven (7) consecutive days in a twenty-eight (28) day period and not to exceed twenty-eight (28) days in any one (1) year. In no instance shall such signs be located so as to obstruct parking spaces or automobile or pedestrian travel lanes. Such signs shall not flash or be located so as to obstruct traffic vision and lighting shall be of a type so as not to be confused with traffic controls and not to cause distraction to vehicle drivers
- (2) Connections to an energy source for lighting shall be in accord with all codes of the Village, county, and state and shall not be exposed in any way that may constitute a safety hazard to the public. This provision shall apply to existing portable signs and to new portable signs.

**D. Off Premises Directional Signs.**

- (1) Directional signs not exceeding four (4) square feet in area per sign face may be located in any district and shall not exceed a total of two (2) such signs per using entity.
- (2) Permission for the location of directional signs shall be secured by the owner of such sign from the property owner of the property on which such sign is to be located.

**SECTION 21.06 PERMITTED SIGNS IN ALL AGRICULTURAL AND RESIDENTIAL DISTRICTS**

Wall, ground, and temporary signs, as defined in this Ordinance, are allowed in all Agricultural and Residential Districts provided such signs shall not be illuminated unless otherwise provided for in this Ordinance and subject to the following conditions by type:

**A. Ground Signs.**

- (1) *Signs Advertising the Lots and/or Buildings in Any Subdivision or Multiple-Family Development.* It shall be permissible for a real estate broker or builder to erect one (1) sign not to exceed a total surface area of thirty two (32) square feet or an overall height of six (6) feet, to advertise the lots and/or buildings in any one (1) subdivision.
- (2) *Multiple-Family Residential Units and Mobile Home Park Districts.* Any Person owning or operating any multiple-family residential units or mobile home park may erect a sign bearing the name of the development. Such sign shall not exceed thirty two (32) square feet in area or exceed an overall height of six (6) feet above the ground level. The sign may be lighted during the hours of darkness, but shall not contain advertising or information other than the name of the development and status of occupancy. No more than one (1) sign may be erected for each development entrance
- (3) *Funeral Homes.* One (1) ground sign having a sign face of not more than forty (32) square feet for each sign face that may be not exceed an overall height of six (6) feet above the ground. Such sign may be lighted between the hours of 5 PM and 10 PM.

**B. Wall Signs.**

- (1) *Dwelling Nameplate.* For each dwelling unit, one (1) nameplate not exceeding two (2) square feet in area indicating name of occupant.
- (2) All wall signs shall be safely and securely attached to structural members of the building by means of metal anchors, bolts, or expansion screws.

**C. Certain Temporary Signs.**

- (1) *Garage Sale Signs.* Garage sale signs may be used to advertise a garage sale and shall be promptly removed upon completion of the garage sale.
- (2) *Banners and Pennants.* During periods of an actual “open house” for new homes, banners and pennants may be allowed for periods not to exceed thirty (30) consecutive days as designated in the sign permit.
- (3) *Construction Signs.* For building or remodeling of residential buildings, not more than one (1) sign shall be allowed not to exceed ten (10) square feet in total

surface area and shall be located on the premises being utilized for such construction. Such sign shall be removed upon completion of construction or upon cessation of work for a period of six (6) months.

- (4) One (1) sign advertising the rental, sale, or lease of property shall be allowed not to exceed ten (10) square feet and not to exceed a height of six (6) feet.

## **SECTION 21.07 PERMITTED SIGNS IN CBD AND GB DISTRICTS**

CBD and GB Districts Sign Types Allowed: Wall, awning, canopy, freestanding, ground, marquee, projecting, pole, window, vehicle, and temporary signs as defined in this Ordinance and subject to the following conditions and requirements:

### **A. Ground Sign.**

- (1) One (1) ground sign shall be permitted having a sign area of not more than forty (40) square feet for each sign face. On corner lots, two (2) such signs are permissible where business fronts both streets. Such sign shall not exceed five (5) feet in height.
- (2) Not more than one (1) ground sign may be erected accessory to any one (1) development regardless of the number of buildings, separate parties, tenants, or uses contained therein. On corner lots, two (2) such signs are permissible where a business fronts both streets.
- (3) No ground sign shall be located nearer than five (5) feet to any existing or proposed right-of-way line.
- (4) Ground signs may not be illuminated with flashing lights.

### **B. Pole.**

- (1) To be allowed only when a ground sign cannot be erected due to building location or other site constraints and upon approval of the Planning Commission.
- (2) One (1) pole sign maybe erected accessory to any one development regardless of the number of buildings, separate parties, tenants, or uses contained therein.
- (3) A pole sign shall not be erected to a height greater than thirty (30) feet above the level of the street upon which the sign faces. The distance from the ground to the bottom of the sign shall be not less than eight (8) feet and shall be so erected as to not obstruct traffic vision. The area of such sign shall not exceed one hundred twenty (120) square feet for each sign face.
- (4) Signs may not be illuminated with flashing lights.
- (5) Time and temperature signs shall be permitted.

- (6) All pole signs shall be securely erected upon posts and standards at least forty-two (42) inches below ground level and shall be embedded in concrete. Wood or wood products shall be of wolmanized or equal treatment.

**C. Projecting.**

- (1) One (1) projecting sign may be erected at each entrance to a business or office establishment.
- (2) Projecting signs must project at right angles to the building, have no more than two (2) faces, and project no more than five (5) feet from the face of the building.
- (3) The bottom of the sign projecting must be at least ten (10) feet above ground level and its top may not extend higher than whichever of the following is lowest:
  - (a) Twenty-five (25) feet above grade.
  - (b) The sills of the first level of windows above first story.
  - (c) The lowest part of the roof.
- (4) The area of each projecting sign may not exceed twenty-four (24) square feet for each sign face, unless the sign includes a public message device (such as a time and temperature sign). In the case of a public message device, an additional ten (10) square feet on each face is allowed.

**D. Wall.**

- (1) Wall signs may be provided on all street sides, parking lots sides or alley sides of a building. Where a single principal building is devoted to two (2) or more business, offices or commercial uses, the operator of each such use may install a wall sign. The total sign area of all wall signs on any one wall shall not exceed ten percent (10%) of the wall surface of such wall.
- (2) Signs may not be illuminated with flashing lights.
- (3) Time and temperature signs shall be permitted.
- (4) *Materials Required:* All wall signs of a greater area than fifty (50) square feet shall have surfaces of noncombustible material.
- (5) *Limitation on Placement.* No wall sign shall cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached.
- (6) *Projection and Height.* No wall sign shall have a greater thickness than twelve (12) inches measured from the wall to which it is attached to the outermost surface. Wall signs may project over the public right-of-way not to exceed twelve (12) inches provided a clearance of not less than seven feet six inches (7'- 6") is

maintained below the sign if it projects more than four (4) inches. A wall sign shall not project above the roofline.

**E. Awning, Canopy and Marquee.**

- (1) Letters may be painted or otherwise affixed to any permissible awning, canopy, or marquee subject to the following regulations:
- (2) Lettering or letters shall not project above, below or beyond the vertical drip of the awning or canopy.
- (3) Lettering on a marquee shall not extend beyond the geometric figure that encloses the sign message.
- (4) No awning, canopy or marquee sign shall extend below a minimum height of seven feet six inches (7' - 6").
- (5) The area of such sign shall be limited as part of the total sign area for all signs as provided above.

**F. Window.** Window signs shall not exceed 30% of the glass area of the window area on the section of building front occupied by the business.

**G. Temporary or Real Estate Signs.**

- (1) For sale or rental of individual units, there shall be no more than one (1) sign, except that on a corner lot two (2) signs, one (1) facing each street shall be permitted. No such sign shall exceed six (6) square feet in area for each sign face of, and all such signs shall be removed upon occupancy.
- (2) Signs advertising buildings under construction may be erected for the period of construction and shall not exceed a face area of sixty-four (64) square feet for each sign face. Such signs shall be erected on the building or lot where such construction is being carried on and shall advertise only the architect, engineer contractor, subcontractor, building or materials and equipment used, and the proposed use.
- (3) Temporary window signs are allowed only on the inside of the window and only if they advertise special sales or events lasting no more than fifteen (15) days. They shall occupy no more than thirty (30) percent of the area of the window in which they appear.
- (4) No temporary sign shall be strung on a building exterior or on a sign structure or across any public right-of-way nor shall any temporary sign project beyond the property line except as authorized by the Village Council.
- (5) Temporary signs found by the Zoning Administrator to be in torn or damaged condition must be removed by the owner within three (3) days after receipt of



notice to do so from the Zoning Administrator. Temporary signs found to be unsafe shall be removed immediately upon receipt of notice from the Zoning Administrator.

- H. **Attention Getting Devices.** Attention getting devices including searchlights, pennants, banners, propellers, spinners, streamers, balloons and similar devices or ornamentation designed for purposes of attracting attention, promotions or advertising are allowable only subject to approval of the Planning Commission for a period not to exceed fifteen (15) days except as otherwise prohibited herein.

## **SECTION 21.08 PERMITTED SIGNS IN THE INDUSTRIAL DISTRICT**

The provisions of Section 21.07 shall also apply to the Industrial district.

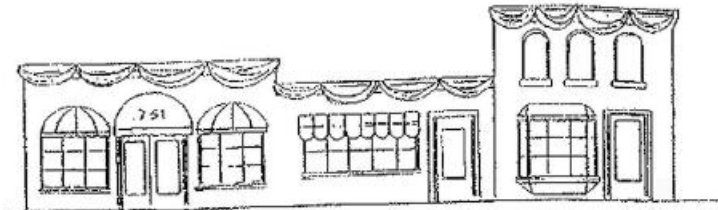
## **SECTION 21.09 NONCONFORMING SIGNS**

- A. **Nonconforming Signs.** All signs existing prior to the adoption of this Ordinance that do not conform to the provisions of the Ordinance shall be permitted to continue as nonconforming signs, provided that the nonconforming sign meets all of the following criteria:
- (1) The sign was lawful at its inception and has not been altered, moved, replaced, or expanded.
  - (2) Continuance of the sign would not be contrary to the public health, safety or welfare of the residents of the Village.
  - (3) No useful purpose would be served by strict application of the provisions of this Article with which the sign does not conform.
  - (4) The sign is not insecure, in danger of falling, or otherwise unsafe.
- B. **Signs for Nonconforming Uses.** A nonconforming use shall not be permitted to add additional signs to the building or premises. This shall not preclude the changing of copy on a nonconforming sign that was manifestly designed to provide changeable lettering.
- C. **Loss of Nonconforming Status.** If a lawfully nonconforming sign is moved, removed, destroyed, expanded, or altered, it loses its lawful nonconforming status and must be removed. If a lawfully nonconforming sign suffers damage of 50% or more due to fire, deterioration, accident, wind damage, or other calamity, it cannot be rebuilt or repaired and must be removed. In order to determine whether or not a sign has been damaged or deteriorated by 50% or more, the cost of physically repairing the sign is compared to the cost of physically replacing the sign. If less than 50% damage or deterioration has occurred pursuant to such a comparison, the sign may be repaired to its exact original state. If damaged or deteriorated by 50% or more using that comparison, the sign loses its lawful nonconforming status and must be removed.

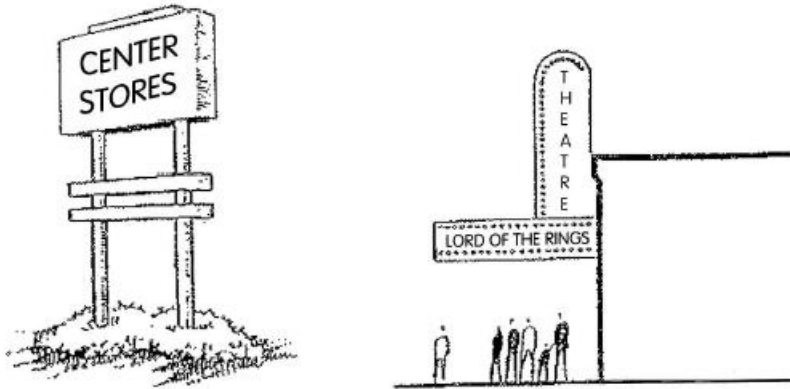
## SECTION 21.10 UNSAFE AND DAMAGED SIGNS AND SIGN MAINTENANCE

- A. **Unsafe Signs.** When any sign becomes insecure, in danger of falling, or otherwise unsafe, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this Ordinance, the owner or lessee shall, upon receipt of a written notice from the Zoning Administrator, forthwith in the case of immediate danger, and in any case in not more than twenty-four (24) hours, make such sign conform to the provisions of this Ordinance or shall cause it to be removed. If the order is not complied with within twenty-four (24) hours, the Zoning Administrator may remove such sign at the expense of the owner or lessee. The limitations of Section 21.09 shall also apply.
- B. **Damaged Signs.** If any sign or advertising structure or supporting structure is torn, damaged, defaced or destroyed, and not repaired or replaced within ten (10) days of said casualty, the Zoning Administrator shall issue a written notice to the owner or lessee of the sign requiring the repair, replacement or removal within twenty (20) days. In the event said owner or lessee does not repair, replace, or remove the sign pursuant to the notice, or cannot establish a good faith effort to comply, the Zoning Administrator is authorized to cause removal of the sign. The expense of removing the sign shall be paid by the owner or lessee of the sign or by the owner of the building or structure or property from which the sign or structure was removed. The limitations of Section 21.09 shall also apply.
- C. **Sign Maintenance.** All signs, together with all their supports, braces, guys and anchors, shall be maintained in good repair and working order at all times; and when not galvanized or constructed of approved corrosion-resistant, noncombustible materials, shall be painted when necessary to prevent corrosion. The exteriors of all signs, supporting members, painted surfaces, advertising materials, and lettering shall be kept in good repair so as to present a neat and orderly appearance. All bulbs or component parts of the sign, including the electrical switches, boxes and wiring used in the illumination of the sign must be well maintained and in good repair. It shall be the duty and responsibility of the owner or lessee of every sign to maintain the immediate premises occupied by the sign in a clean, sanitary, and healthful condition. The limitations of Section 21.09 shall also apply.

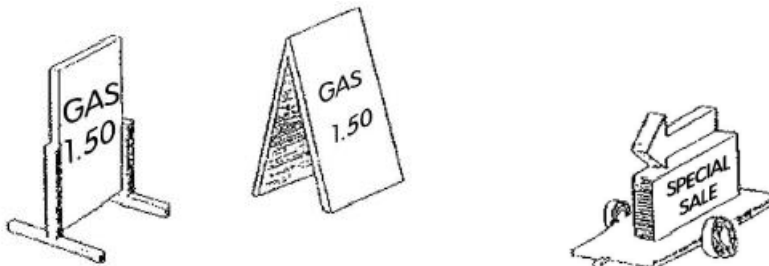
### Decorative Sign

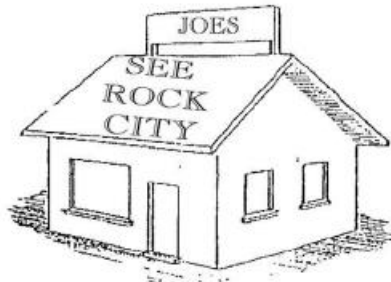


## Pole Sign

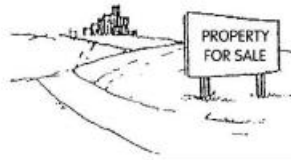


## Portable Sign

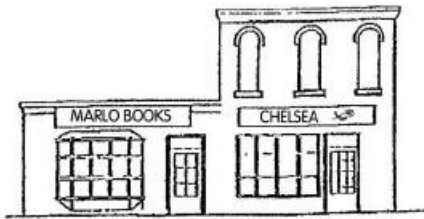




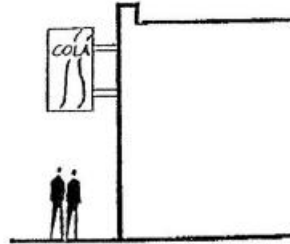
ROOF SIGNS - FIG.



REAL ESTATE SIGN -



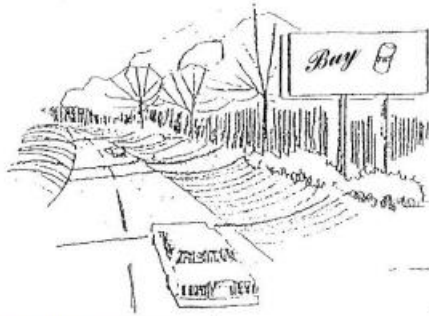
WALL SIGNS - FIG.



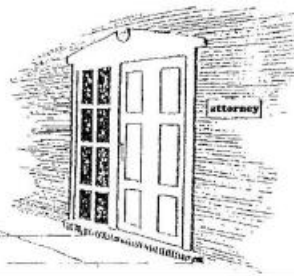
PROJECTING SIGN -



TEMPORARY SIGNS -



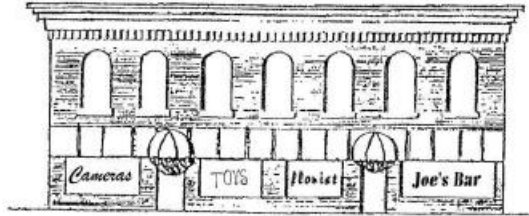
BILLBOARD SIGN -



IDENTIFICATION NAME PLATE -  
FIG. 12



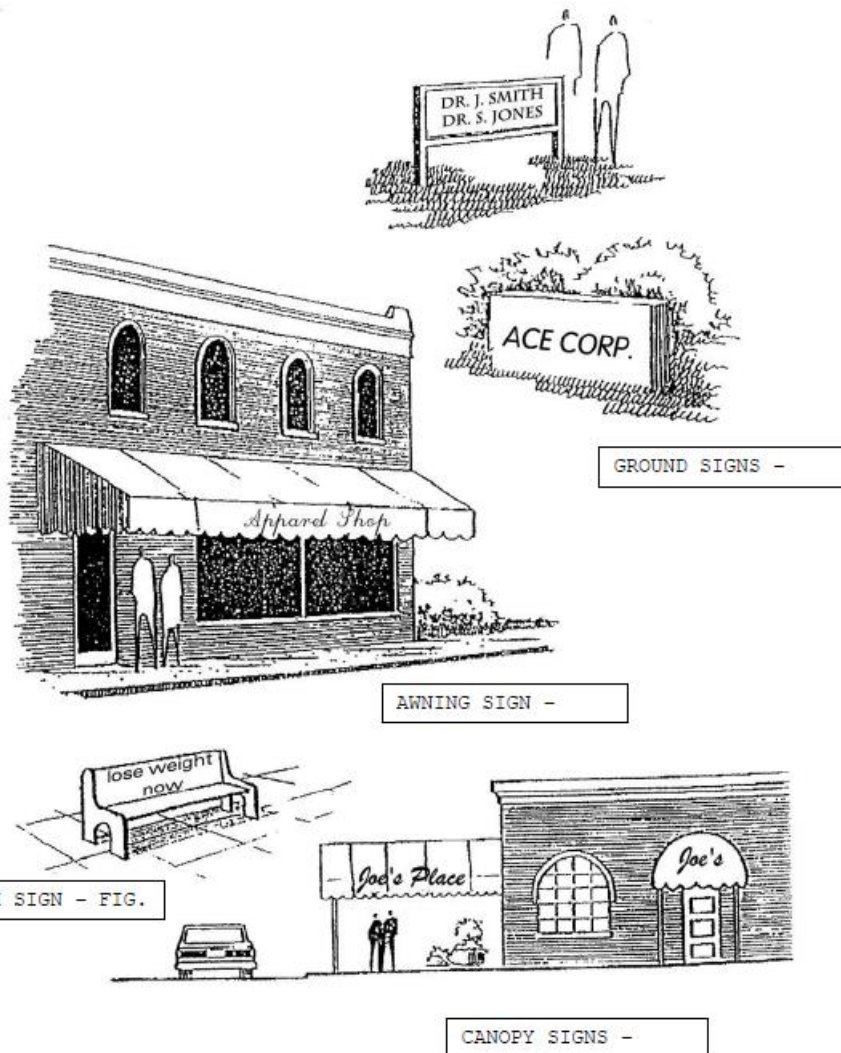
BANNER SIGN -



WINDOW SIGN - FIG.



VEHICLE BUSINESS SIGN -  
FIG. 15



## SECTION 21.11 BILLBOARDS

- A. Billboards are allowed only within the I-Industrial zoning district.
- B. No digital, L.E.D., tri-vision, moving display, or similar billboard or face for a billboard is allowed.
- C. The advertising display area of any side of a billboard shall not exceed 350 square feet.
- D. The height of a billboard shall not exceed 25 feet above natural grade.
- E. No billboard shall be located within 2,000 feet of another billboard.
- F. No billboard shall be located within 300 feet of an existing dwelling.
- G. All billboards must be constructed with a monopole-type support structure.

- H. A billboard may be erected or maintained only on a vacant lot or parcel (*i.e.*, a lot or parcel without any building or principal use thereon).
- I. No billboard shall be approved, installed, or erected at any time when there are three (3) or more existing billboards located within the Village.

**SECTION 21.12 SIGNS PROHIBITED**

- A. The following types of signs are expressly prohibited:
  - (1) Any sign that has flashing, intermittent, or blinking lights or strobes, excluding time and temperature signs and barber pole signs (which are permitted).
  - (2) Signs imitating or resembling official traffic or governmental signs or signals.
  - (3) Any sign not expressly permitted by this Ordinance.
  - (4) Balloons, strings of light bulbs, pennants, streamers, or flags (other than those of a governmental nature not used for the purpose of business advertisement or attraction) hung to draw attention to a business or its merchandise on display.
  - (5) Banners and portable signs.
  - (6) Digital, LED, tri-vision, moving displays, or similar displays.
  - (7) Abandoned signs, which shall be removed within thirty (30) days of the cessation of the business, use or activity.
  - (8) A sign that contains an intermittent or sequential flashing light source used to attract attention to a business or other commercial activity.
  - (9) A rotating or moving sign in which the sign itself or any portion of the sign moves in a revolving or similar manner.
  - (10) Vehicle signs not used during the normal course of a lawful business that are parked or located for the primary purpose of displaying the advertising copy.
  - (11) Festoons, pennants, nongovernmental flags, banners, inflatable figures, and streamers and except as expressly permitted in this Chapter.
  - (12) Snipe signs.
  - (13) Any sign that obstructs free access to or egress from a required door, window, fire escape, or other required exit from a building or structure.
  - (14) Any sign which makes use of the words “Stop,” “Look,” or “Danger,” or any other words, phrase, symbols, or characters, in such a manner as to interfere with, mislead, or confuse drivers.

- (15) Roof signs.
  - (16) Signs on street furniture, such as benches and trash receptacles, not including commemorative plaques or engravings which are not larger than one-half (1/2) square foot.
  - (17) Business logos or other advertisements on directional signs.
  - (18) Off-premise signs, unless expressly permitted in this Ordinance.
  - (19) Animated signs.
  - (20) Signs installed without the permission of the owner of the property where the sign is located.
- B. No business vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting a road.

**SECTION 21.13 SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS**

- A. It shall be unlawful for any person to erect, place, maintain, or continue a sign upon any lands in the Village except in accordance with the provisions of this Ordinance.
- B. All nonportable signs shall be stationary, securely anchored or fastened to the ground or structure and shall be designed and constructed to withstand a ninety (90) mile per hour ground wind load.
- C. Signs shall pertain only to the business or activity conducted on the premises, except for lawful political signs, community special event signs, and billboards.
- D. No sign shall be placed in, or extend into, or obstruct clear vision in any public right-of-way.



**ARTICLE 22**  
**SITE PLAN & PLOT PLAN REVIEW**

**SECTION 22.01      PURPOSE**

It is the purpose of this Article to specify standards, data requirements, and the review process that shall be followed in the preparation of site plans and plot plans as required by this Ordinance. A site plan contains comprehensive and detailed information about improvements proposed on the site and is required for land uses such as business, industrial, and multiple family developments. Plot plans are less detailed plans pertaining to improvements proposed on the site and are required for less complex developments, such as single family and two family dwellings and farm buildings in agricultural districts.

**SECTION 22.02      SITE PLAN REVIEW**

- A. A site plan shall be submitted to the Planning Commission for the approval of:
- (1) Any use or development for which the submission of a site plan is required by any provision of this Ordinance.
  - (2) Any development, except single-family and two-family residential, for which off-street parking areas are provided as required in Article 20, Off-street Parking Requirements.
  - (3) Any use in an RD,CBD, GB, I-1, and PUD districts.
  - (4) Any use except single-or two-family residential that lies contiguous to a major thoroughfare or collector street.
  - (5) All residentially related uses permitted in a single-family district such as, but not limited to, churches, schools, and public facilities.
  - (6) Building additions or accessory buildings shall not require Planning Commission review unless off-street parking in addition to that already provided on the site is required.
  - (7) A Manufactured Housing Community or Mobile Home Park.
  - (8) All Special Land Uses in any district.
  - (9) Multi-family residential developments.
  - (10) Any plat and residential development.
  - (11) Condominiums, site condominiums, and subdivisions (plats) in any district.
  - (12) Planned unit developments in any district.

- (13) Private streets.
- (14) Essential Services.
- (15) Any commercial, industrial, business, or office use.
- (16) Any expansion, enlargement, or change to any of the preceding.

No use or structure requiring site plan approval shall be commenced or constructed prior to obtaining site plan approval.

- B. Every site plan submitted to the Planning Commission shall be in accordance with the requirements of this Ordinance. No site plan shall be approved by the Planning Commission until it has been reviewed by the Zoning Administrator, in coordination as may be necessary with the fire department and police department, for compliance with the standards of the respective departments.
- C. The following information shall be included on every site plan:
  - (1) A survey showing property dimensions and legal description, including angles, lot area and dimensions, and an arrow pointing north.
  - (2) Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, carports or garages, employees by shift, amount of recreational and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by this Ordinance.
  - (3) A plan showing the location of all buildings and structures existing and proposed on the site including building elevation drawings.
  - (4) Natural features such as woodlands, streams, flood plains, county drains, lakes or ponds, topography (at two-foot intervals on-site and within one hundred fifty (150) feet of the site) and man-made features such as existing roads and structures, indicating which are to be retained, removed, or altered.
  - (5) Existing public rights-of-way, private easements of record, and deed restrictions.
  - (6) Proposed streets and alleys, (including cross-sections), acceleration, deceleration or right turn lanes, driveways, parking spaces, sidewalks, with indication of direction of travel, the inside radii of all curves including driveway curb returns. The width of streets, driveways, and sidewalks. The total number of parking spaces, and dimensions of a typical individual parking space and associated aisles. Proposed traffic control measures (including signs) and proposed street or road names shall also be indicated.
  - (7) A vicinity sketch showing the location of the site in relation to the surrounding street system and other land uses within two hundred (200) feet in every direction

of the proposed use including land uses on the opposite side of any public thoroughfare(s).

- (8) Location of utilities, water supply and the location and design of waste water systems as well as any easements that exist or are proposed to be established for installation, repair, and maintenance of utilities.
- (9) Proposed location of trash receptacles, accessory buildings and uses, and signs.
- (10) A landscaping plan indicating the locations of plant materials to be preserved and locations of proposed planting and screening, fencing, and lighting in compliance with the requirements of Section 23.08: Landscaping and Screening. Also, proposed locations of common open spaces, if applicable.
- (11) A storm drainage and storm water management plan for all streets.
- (12) Location and specifications for any existing or 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.
- (13) Location of exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport storm water or waste water. The point of discharge for all drains and pipes shall also be specified on the site plan.
- (14) A statement from the applicant identifying all federal, state, and local permits required, if any.
- (15) Project completion schedule.
- (16) Such other information as may be necessary to enable the Planning Commission to determine the proposed site plan's compliance with the provisions of this Ordinance.

D. In the process of reviewing the site plan, the Planning Commission shall consider:

- (1) The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site and to pedestrian traffic.
- (2) The location of automobile parking areas and traffic circulation features within the site, and may make such requirements with respect to any matters as will assure:
  - (a) Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets, and

- (b) Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.
- E. The Planning Commission may further require landscaping, fences and walls in pursuance of these objectives, which shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant.
- F. The plan for the proposed building or structure shall indicate the manner in which the structure is in harmony with the general character of the surrounding development and in general contributes to the image of the community.
- G. The plan for the proposed building or structure indicates the manner in which the structure is reasonably protected against external and internal noises, vibrations and other factors that may tend to make the environment less desirable.
- H. The proposed building or structure will not, due to exterior design, appearance, or inferior quality, cause the nature of the local environment to materially depreciate in appearance and value.

### **SECTION 22.03 SITE PLAN REVIEW PROCEDURES**

- A. **Submittal and Distribution of Site Plans.** At least ten (10) copies of the application and site plan shall be submitted to the Zoning Administrator at least ten (10) days prior to transmittal to the Planning Commission. The Zoning Administrator shall review the application and site plans for completeness and if such application or plans are not complete accordance with this Article 22, the plans shall be returned to the applicant with a written notice identifying the inadequacies of the plans. Upon receipt of an adequately completed application and plans, the Zoning Administrator shall record the date of their receipt and transmit even (7) copies to the Planning Commission, one copy to the Building Official, and one (1) copy to the Fire Department when necessary.
- B. **Review.** The Planning Commission shall review the application and plans and determine their conformity with the applicable provisions of this Ordinance.
- C. **Approved Site Plans.** Two (2) copies of the approved Site Plan, with any conditions contained within shall be maintained as part of the Village records for future review and enforcement. One (1) copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the Chairperson of the Planning Commission. If any variances from the Zoning Ordinance have been obtained from the ZBA, the minutes concerning the variances, duly signed, shall also be filed as a part of the site plan, and delivered to the applicant for information and direction.

### **SECTION 22.04 REVIEW STANDARDS**

The following standards shall be utilized by the Planning Commission in reviewing and approving or denying all site plans. A site plan may not be approved unless all of the following

standards are met. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making decisions concerning them.

- A. The uses and configuration proposed will not adversely affect the public health, safety, or general welfare.
- B. The site plan shall provide reasonable visual and sound privacy for all dwelling units located within and adjacent to a development. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.
- C. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site:
  - (1) Landmark trees and significant vegetation slated for protection shall be marked on site to prevent their damage during construction.
  - (2) A plan for natural feature protection during construction shall be provided.
  - (3) Utilities may be required to be placed underground.
  - (4) Provisions shall be made to accommodate storm water on-site wherever practical.
  - (5) Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
  - (6) Direct discharge of storm water into surface waters is prohibited.
  - (7) Infiltration devices such as rain gardens are preferred over large retention basins.
- D. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided within the site.
- E. The minimum number of driveway and access points shall be provided at appropriate locations to maximize convenience and safety.
- F. Paths, drives and streets shall be designed to promote safe and efficient traffic operations within and between developments.
- G. The site shall be developed to create a pleasant, pedestrian paced atmosphere which de-emphasizes the automobile and considers rural character.
- H. The Planning Commission may require traffic calming measures, paved road shoulders, and deceleration or turn lanes when necessary.

- I. The Planning Commission may require shared driveways, cross access easements and pathway cross-connections between developments.
- J. Site amenities like street trees, bike racks, benches and outdoor tables may be required by the Planning Commission.
- K. All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Fire Department.
- L. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of buildings or structures shall be minimized to reduce light pollution.
- M. All loading and unloading areas and outside storage areas, including areas for the storage of trash, shall be provided in accordance with this Ordinance.
- N. The uses and configuration shall not have significant negative impacts on adjoining properties and uses or the environment.
- O. The general purposes and spirit of this Ordinance and the Master Plan of the Village shall be maintained.

#### **SECTION 22.05      CONDITIONS OF APPROVAL**

- A. As part of an approval of any site plan, the Planning Commission (or the Zoning Administrator, where applicable) may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest or to meet the review standards.
- B. Such conditions shall be related to and ensure that the review standards of this Article are met and shall meet the requirements of the Zoning Enabling Act.
- C. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners.
- D. A record of all conditions shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is expressly approved by the Village in accordance with this Ordinance.
- E. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.
- F. The Zoning Administrator may make periodic inspections of developments or properties for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall be considered violations of this Ordinance.

- G. All uses, buildings, and structures must fully comply with an approved site plan (and any conditions thereof) for the lot or property involved at all times.

## **SECTION 22.06 CONFORMITY TO APPROVED SITE PLANS**

Property that is subject to site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto. If construction and development does not conform to such approved plans, the approval and any permit shall be revoked by the Planning Commission pursuant to Section 22.10. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation or making the property safe.

## **SECTION 22.07 CHANGES AND APPEALS**

Amendment to the Site Plan. No changes shall be made to an approved Site Plan prior to or during construction or the commencement of the use except as follows.

- A. **Minor Changes.** Minor changes to an approved Site Plan involving changes of less than five (5) feet in the location of walkways, vehicular circulation ways and parking areas, or exterior building and structure walls; adjustment of utilities; and similar minor changes may be approved by the Zoning Administrator unless the Zoning Administrator defers judgment to the Planning Commission.
- B. **Major Changes.** Major changes or amendments to an approved Site Plan involving changes in excess of five (5) feet in the location of walkways, vehicular circulation ways and parking areas, or exterior building and structure walls; the number and location of accesses to public streets and alleys; a reduction in the number of parking spaces; an increase in the gross floor area or heights of buildings; a reduction in the open space; and similar major changes, shall require the approval of the Planning Commission in the same manner as the original application was submitted, reviewed, and approved and subject to the finding of all of the following.
  - (1) Such changes will not adversely affect the initial basis for granting approval of a Special Land Use (where applicable);
  - (2) Such changes will not adversely affect the overall project in light of the intent and purpose of such development as set forth in this Article; and
  - (3) Such changes shall not result in the reduction of open space area as required herein.

## **SECTION 22.08 PLOT PLAN REVIEW**

- A. **Plans Required.** Plot plans shall be required for single-family and two-family dwellings and farm dwelling buildings.
- B. **Data Required.** The following data shall be submitted with applications for Zoning Permits for uses requiring a plot plan:

- (1) An accurate, readable, drawing showing the following shall be required except in the case of minor alterations, repair, and demolitions as determined by the Zoning Administrator. The Zoning Administrator may establish and make available written guidelines as to the scale and level of detail needed for applications for various types of uses requiring a Zoning Permit, or for information to be submitted to the ZBA concurrent with an appeal or a request for an interpretation or variance.
- (2) Name, address, and telephone number of the applicant (and owner if different).
- (3) The location, shape, area, and dimension of the lot.
- (4) The location of natural features such as woodlands, streams, floodplains, county drains, lakes or ponds with indication as to which are to be retained or removed.
- (5) The location, dimensions, height, and bulk of the existing and/or proposed structures to be erected, altered, or moved on the lot.
- (6) A description of proposed use of the building(s), land, or structures.
- (7) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users as may be applicable.
- (8) The yard, open space, and parking lot and space dimensions, and number of spaces.
- (9) A vicinity sketch showing the location of the site in relation to the surrounding street system, and adjacent land uses within three hundred (300) feet in every direction including on the opposite side of any public thoroughfare.
- (10) Location of any septic system or drain field and well.
- (11) Configuration of the driveway and parking, county drains and site drainage patterns.
- (12) Existing public right-of-ways or easements.
- (13) Any other information deemed necessary by the Zoning Administrator to determine that the proposed improvement complies with the requirements of this Ordinance.

C. **Zoning Administrator Approval for Plot Plans.** Plot Plan approval is required by the Zoning Administrator, prior to the issuance of a Zoning Compliance Permit, for all other uses not listed in Section 22.08A above. The Zoning Administrator shall review such plans in accordance with the same procedures, requirements, and standards used by the Planning Commission as specified in Section 22.03.



- D. **Amendments to a Plot Plan.** The Zoning Administrator shall review proposed changes to an approved Plot Plan in accordance with the same procedures, requirements, and standards used by the Planning Commission as specified in Section 22.07.

**SECTION 22.09 PERFORMANCE GUARANTEE**

The Planning Commission may require a performance guarantee or guarantees in accordance with Section 24.04 to insure compliance with any conditions associated with the granting of a site plan approval.

**SECTION 22.10 REVOCATION**

Every structure, building, land use, or activity covered by or subject to an approved site plan must fully comply at all times with that site plan. If a violation of the site plan (or any conditions of approval attached thereto) occurs, then the Planning Commission shall have the authority to revoke the approved site plan after reasonable notice has been given to the property owner or applicant and a hearing has been held.

**ARTICLE 23  
GENERAL PROVISIONS**

**SECTION 23.01      CONFLICTING REGULATIONS**

Wherever any provision of this Ordinance conflicts with the requirements, regulations or limitations imposed by any other law or ordinance, the law or ordinance with more stringent provisions shall govern.

**SECTION 23.02      PERFORMANCE STANDARDS**

Uses permitted within any district shall conform to the following standards of use, occupancy, and operation:

**A.      Smoke.**

- (1)    *Emission; exceptions.* It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke from any source whatever to a density greater than that density described as no. 2 on the Ringlemann Chart; provided that the following exceptions shall be permitted.
  - (a)    Smoke, the shade or appearance of which is equal to but not darker than no. 3 on the Ringlemann Chart for a period, or periods, aggregating four minutes in any 30 minutes.
  - (b)    Smoke, the shade or appearance of which is equal to but not darker than no. 3 of the Ringlemann Chart for a period or periods, aggregating three minutes in any 15 minutes, when building a new fire or when breakdown of equipment occurs such as to make it evident that the emission was not reasonably preventable.
- (2)    *Method of measurement.* For the purposes of grading the density of smoke, the Ringlemann Chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this Article, shall be the standard. However, the Umbrascope readings of smoke densities may be used when correlated with Ringlemann's chart.

**B.      Dust, dirt, and fly ash.**

- (1)    No person, firm or corporation shall operate or cause to be maintained any process for any purpose, or a furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating while using said process or furnace or combustion device, recognized and approved equipment means, method, device or contrivance to reduce the quantity of gas borne or airborne solids of fumes emitted into the open air, which is operated in conjunction with said process, furnace, or combustion device so that the quantity of gas borne or airborne solids shall not exceed 9.29 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.

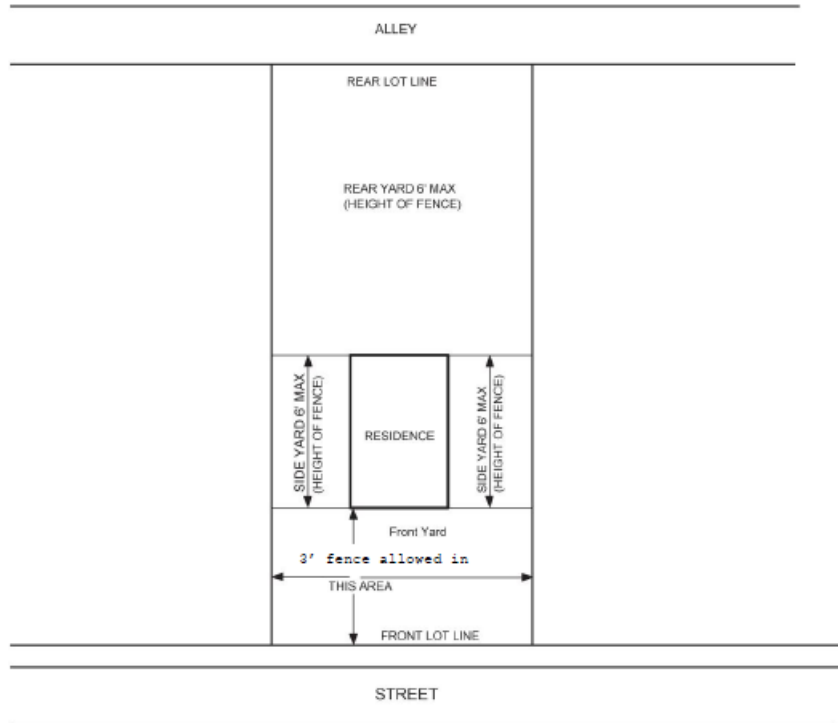
- (2) *Method of measurement.* For the purpose of determining the adequacy of such devices these conditions are to be conformed to when the percentage of excess air in the stack does not exceed 50 percent at full load. The foregoing requirement shall be measured by the A.S.M.E. Test Code of dust-separating apparatus. All other forms of dust, dirt, and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The Zoning Administrator may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt, and fly ash have been made.
- C. **Open Storage.** The open storage (where otherwise allowed) of any equipment, vehicles, and all materials, including wastes, shall be screened from public view from public streets and adjoining properties by an enclosure consisting of a wall or an obscuring fence not less than eight (8) feet in height, except as otherwise provided herein. Scrap, junk cars, and other junk materials shall not be piled or stacked as open storage to a height in excess of twenty-five (25) feet. Sand, gravel, aggregate, slag or other materials of this nature, piled or stored outside buildings shall not exceed the height of forty (40) feet.
- D. **Glare and Radioactive Materials.** Glare from any process that emits harmful rays shall be completely shielded from public view. Radioactive materials and wastes, including electromagnetic radiation such as X-ray machine operation, shall not emit radiation at levels that exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property's lot lines.
- E. **Fire and Explosive Hazards.**
- (1) The storage, utilization, or manufacture of materials, goods or products ranging from incombustible to moderate burning, as determined by the fire department, is permitted, subject to compliance with all other performance standards of this Ordinance.
- (2) The storage, utilization, or manufacture of combustible materials, goods, or products ranging from free or active to intense burning, as determined by the fire department, is permitted subject to compliance with all other yard requirements and performance standards of this Ordinance, providing that the following conditions are met.
- (a) Said materials or products shall be stored, utilized, or produced within completely enclosed buildings or structures having incombustible exterior walls, which meet the requirements of the Building Code.
- (b) All such buildings or structures shall be set back at least forty (40) feet from lot lines and all such buildings or structures shall be protected throughout by an automatic sprinkler system installed pursuant to the applicable state or local fire code.

- (c) The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with the state rules and regulations as established by Public Act No. 207 of 1941 as amended (MCL 29.2 *et seq.*, MSA 4.559 *et seq.*)

**SECTION 23.03 FENCES (See figures following) (as amended 3-9-2017)**

Fences, not exceeding eight (8) feet in height may occupy side and rear yards.

- A. No residential or nonresidential fence or wall shall be erected in a required front yard except on lots with a side lot line adjacent to an alley or a street, where a decorative or ornamental fence shall be allowed. Fences enclosing the front yard shall not exceed four (4) feet in height. Fences enclosing the side and rear yards are not to exceed eight (8) feet in height. No fence along any street shall exceed four (4) feet in height.
- B. Prior to construction of any fence allowed by this Ordinance, a site plan showing the location and type of fence to be constructed shall be submitted to the Zoning Administrator for approval.
- C. Where a rear or side yard of “nonresidential property” abuts a residentially zoned area then any fence shall be of solid type material such as brick, block, poured concrete or other approved material as determined by the Zoning Administrator.
- D. Privacy fences shall have posts and framing members on the side of the fence facing the property of the party requesting the fence approval.
- E. Fences on parcels comprised of twenty (20) acres or more in AG Districts are excluded from these regulations.



**PERMITTED FENCE HEIGHT & LOCATION**

**SECTION 23.04 ACCESSORY USES, BUILDINGS, AND STRUCTURES**

Accessory buildings, structures and uses, except as otherwise permitted in this Ordinance, shall be subject to the following regulations.

- A. **Attached.** An accessory building, including carports that are attached to the principal building, shall comply in all respects with the requirements of this Ordinance applicable to the principal building.
- B. **Separation Distance.** An accessory building or structure unless attached and made structurally a part of the principal building, shall not be closer than ten (10) feet to any other structure on the lot.
- C. **Placement.** Except for fences, accessory buildings and structures are subject to all setback requirements from the street applying to the principal building. Except for docks, boathouses, and pump houses on waterfront lots, accessory buildings shall not be erected in the front yard. Except for fences, no accessory building or structure shall be closer than five (5) feet to any interior side or rear lot line.
- D. **Lot Coverage.** An accessory building or structure shall not occupy more than thirty (30) percent of the area of a required rear yard and in no instance shall the accessory building or structure exceed the ground floor area of the principal building, except that an accessory building or structure may occupy up to fifty (50) percent of the area of a rear yard of a nonconforming lot of record, and side and rear yard setbacks are met.

E. **Accessory Farm Buildings and Structures.** Accessory buildings on farms in AG Districts are excluded from these regulations, provided, however, residential lots separate from a farm operation shall comply with requirements of this Section 23.04.

F. **Freestanding Wood Burning Furnaces.**

(1) The Village of Nashville finds that freestanding outdoor wood burning furnaces are a potential source of unhealthy amounts of particulate matter and may emit unhealthy amounts of air pollution, including carbon monoxide and other toxic air pollutant. The Village further finds that the unregulated use and placement of freestanding wood burning furnaces may result in public and private nuisances and be a threat to the public health, safety, and welfare by the emission of smoke and sparks and the creation of potential fire hazards. Therefore, the Village adopts this Ordinance for the protection of the public health, safety, and general welfare of persons and property within the Village.

(2) *Definition of Freestanding Wood Burning Furnace.* The term or word(s) “freestanding wood burning furnace” or “furnace” as used in this Ordinance means any device or structure that (1) is designed, intended, or used to provide heat and/or hot water to any residence, building, or other structure; (2) operates by the burning of wood, coal, corn, shells, or other solid fuel; and (3) is not located entirely within a residential dwelling or other building for which it provides heat and/or hot water.

(3) *Regulations.* All persons owning, controlling, leasing, operating, or using a property or parcel with a freestanding wood burning furnace thereon must comply with all of the following regulations.

(a) No freestanding wood burning furnace may be located or utilized within any condominium development or within a commercial zoning districts as designated by the Nashville Zoning Ordinance, as amended.

(b) No freestanding wood burning furnace may be installed or located:

(i) In the front yard of a parcel; or

(ii) Within fifteen (15) feet of the nearest building or structure that is not located on the same parcel as the furnace; or

(iii) Within twenty-five (25) feet of a public road right-of-way or a private road or access easement; or

(iv) Within fifteen (15) feet of any lot line of the parcel on which it is located; or

(v) Within fifteen (15) feet of any house or residential dwelling on any parcel that adjoins the property on which the freestanding wood burning furnace is located; or

- (vi) Within ten (10) feet of the principal residence or structure for which it is intended to supply heat and/or hot water; and
  - (vii) Must be concealed from public view.
- (c) All trees, brush, and shrubbery shall be cleared within a twenty-five (25) foot radius of the location of any freestanding wood burning furnace, and the cleared area must be maintained free of trees, brush, and bushes at all times. Any fire wood or other fuel stored within the twenty-five (25) foot radius must either be covered or otherwise reasonable protected against accidental ignition or combustion
  - (d) Every freestanding wood burning furnace must have a working smokestack or chimney that is at least fifteen (15) feet tall (as measured from ground level) and that includes a spark arrester. If there are any residences within 100 feet of the chimney, the chimney must also extend at least as high above the ground surface as the height of the roofs of all those residences. The Nashville Fire Chief may approve a lesser height on a case-by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height will not create a nuisance for neighbors.
  - (e) Every freestanding wood burning furnace can only be used to burn fuel designed or intended to be burned in the furnace. Wood/corn used as fuel must be dry. No garbage, household trash, petroleum products, rubber, plastic material, treated or painted wood, construction waste, or other solid waste shall be burned in a furnace regardless of design or manufacturer's fuel source. All fuel must be located within a sheltered area, not just covered with a tarp.
  - (f) Every freestanding wood burning furnace must be kept in good condition and reasonable repair at all times and must comply with all applicable state, federal, and local laws, ordinances, and regulations.
  - (g) Every freestanding wood burning furnace must receive a permit from the local fire chief on an annual basis.

**G. Swimming Pools.**

- (1) *Exempted Pools.* All inflatable pools, kiddie pools, or those otherwise temporary in nature and that are seasonally erected and dismantled and not exceeding eighteen (18) inches in depth and/or a diameter of twelve (12) feet or less are exempt from the provisions of this section. All hot tubs, whirlpools, and similar pools shall meet all setback and other requirements of accessory uses.
- (2) *Swimming Pool Erection; Zoning Permit Required.* All pools more than twenty (20) inches in depth shall be permitted as an accessory use. An application for a

Zoning permit shall be required to erect a swimming pool in the Village. Such application shall include the name of the owner and plans and specifications for the swimming pool, fence, and other accessories.

- (3) *Location of Swimming Pools.* Swimming pools shall be permitted in the rear yard only and shall maintain a minimum setback of ten (10) feet from any lot line. However, a whirlpool, hot tub, or other such pool not intended and/or used for swimming purposes may be located any distance from a building as allowed by applicable construction codes.
- (4) *Fencing.* All swimming pools in Single-Family Residential Districts shall be completely enclosed by a fence or located in a yard that is completely enclosed by a fence of not less than four (4) feet for in-ground pools, nor more than six (6) feet, in height for above ground pools. Fencing shall be installed a minimum of four (4) feet from the outside wall of the swimming pool. Gates included in such fencing shall be self-latching with a lock.
- (5) *Code Compliance.* All swimming pools shall comply with all building, electrical, plumbing, and heating codes, and regulations in effect in the Village, county, and state and require permits as applicable.
- (6) *Electrical Conductors; Wires.* If electrical service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make arrangements with the utility involved for the relocation of such conductors or wires before a permit shall be issued for the construction or installation of a swimming pool. Such relocation shall occur prior to using the pool.

H. **Solar Panels.** Solar panels may be attached to the roof or walls of any principal or accessory building. Free standing structure mounted solar panels shall only be erected in a rear yard only and shall meet all setback and height requirements for accessory buildings and structures.

I. **Repair of Vehicles in Residential Districts.** A resident may repair vehicles of the resident of the property of the resident's dwelling unit; however, in no instance shall a resident repair the vehicles of other than a resident of the dwelling unit on said property and such repair shall be conducted in not to exceed seven (7) consecutive days in any thirty (30) day period.



**SECTION 23.05      RESERVED**

**SECTION 23.06      RESERVED**

**SECTION 23.07      RESERVED**

**SECTION 23.08      LANDSCAPE PLANTING**

- A. All plant materials required by this Ordinance or an approved Site Plan shall be planted to completion within six (6) months from date of approval and shall thereafter be properly maintained.
  
- B. All plantings shall consist of permanent, living plant materials and shall be maintained in a healthy growing condition that shall include watering, cultivation and weed control, and further maintained in a neat and orderly appearance free of refuse and debris. All unhealthy and dead plant materials shall be replaced within three (3) months or during the next appropriate planting season.
  
- C. A site plan including a detailed planting plan for the required landscape screen or plantings must be submitted to the Zoning Administrator and receive approval by the Planning Commission prior to issuance of a building permit. Plans shall be submitted in accordance with the following:
  - (1) A minimum scale of one (1) inch equals one hundred (100) feet.
  - (2) Plans shall indicate, to scale, the location, spacing, starting size and description for each unit of plant material proposed for use within the required screening or planting area, together with the finished grade elevations therein.
  - (3) Plans shall indicate the proposed location of all structures (including height), off street parking areas, points of ingress and egress to the site, walks, roadways, proposed outside storage, dumpster areas, loading or service areas and transformers.
  - (4) Plans shall indicate existing plant or tree cover including types and heights of trees.
  
- D. The planting plan shall be reviewed relative to the following:
  - (1) The proper spacing, height, placement, location, and type of plant materials:
    - (a) To ensure landscape screens are sufficient to achieve the requisite horizontal and vertical obscuring of the proposed land use.
    - (b) To ensure landscape planting areas meet the minimum requirements set forth in this Ordinance.

- (c) Where landscape screens are required a proper relationship must exist between deciduous and evergreen plant materials to assure that the desired obscuring effect will be maintained throughout the various seasonal periods.
  - (2) The choice and selection of plant materials so as to ensure that root systems will not interfere with public utilities and that fruit and other debris (excluding leaves) will not constitute a nuisance within public rights-of-way or to abutting property owners.
  - (3) The choice and selection of plant materials are of types that will survive and thrive in the area in which they are to be located. It is suggested that a mixture of plant materials (evergreen and deciduous trees and shrubs) be provided in all landscape plans as a protective measure against disease and insect infestation.
  - (4) The size of plant materials (both starting and ultimate).
    - (a) Where landscape screens are required to ensure adequate maturity and optimum screening effect.
    - (b) Where landscape planting areas are required, to ensure such areas are safely distant from any building, point of ingress or egress and do not create a traffic hazard.
- E. Landscape planting screens and landscape planting areas shall consist of suitable plant materials laid out in conformance with the following:
- (1) Landscape planting screen:
    - (a) Plant materials (except creeping vine type) shall not be located within two (2) feet of a property line.
    - (b) Where plant materials are planted in two (2) or more rows, planting shall be staggered in rows.
    - (c) Evergreen trees shall be a minimum of six (6) feet in height. When planted in informal groupings, they shall be spaced not less than ten (10) feet on centers. If placed further apart, additional screen plantings shall be used to achieve the desired obscuring effect. When planted in rows, they shall be spaced not more than eight (8) feet on centers.
    - (d) Narrow evergreen trees shall be a minimum of five (5) feet in height. When planted in informal groupings, they shall be spaced not more than ten (10) feet on centers. When planted in rows, they shall be spaced not more than five (5) feet on centers.
    - (e) Tree-like shrubs shall be a minimum of six (6) feet in height and spaced not more than ten (10) feet on centers.

- (f) Large deciduous shrubs shall be a minimum of four (4) feet in height and spaced not more than six (6) feet on centers.
- (g) Deciduous trees shall be a minimum of eight (8) feet in height with a minimum caliper of two and one-half (2 1/2) inches, they shall be spaced not more than thirty (30) feet on centers.

F. **Street trees.** In addition to landscape requirements as specified herein, trees shall be located on private property spaced thirty–five (35) feet on centers along all street frontages. On streets under the jurisdiction of the county or the state, plans for street trees shall be subject to the requirements of such agency.

G. **Landscaping planting areas.**

- (1) Spacing between and minimum size of plant materials (in feet) shall be as follows:

<b>Plant Material Types</b>	<b>Narrow Evergreen Trees</b>	<b>Evergreen Trees</b>	<b>Tree-Like Shrubs</b>	<b>Large Deciduous Trees</b>	<b>Large Shrubs</b>
Narrow evergreen tree	Min. 5’ Max. 10’	Min. 12’	Min. 10’	Min. 15’	Min. 5’
Evergreen trees	Min. 12’	Min. 10’ Max. 20’	Min. 12’	Min. 20’	Min. 6’
Tree like shrubs	Min. 10’	Min. 12’	Min. 8’ Max. 15’	Min. 15’	Min. 6’
Large deciduous trees	Min. 15’	Min. 20’	Min. 15’	Min. 20’ Max. 30’	Min. 6’
Large shrubs	Min. 5’	Min. 6’	Min. 6’	Min. 6’	Min. 4’ Max. 6’
Narrow evergreen trees, five (5) feet in height.					
Evergreen trees, six (6) feet in height.					
Tree-like shrubs, six (6) feet in height.					
Large deciduous trees, two and one-half (2 1/2) inch caliper					
Large deciduous shrubs, four (4) feet in height.					

- (2) Trees not permitted (all locations):
  - (a) Box elder.
  - (b) Soft maples.
  - (c) Elms.

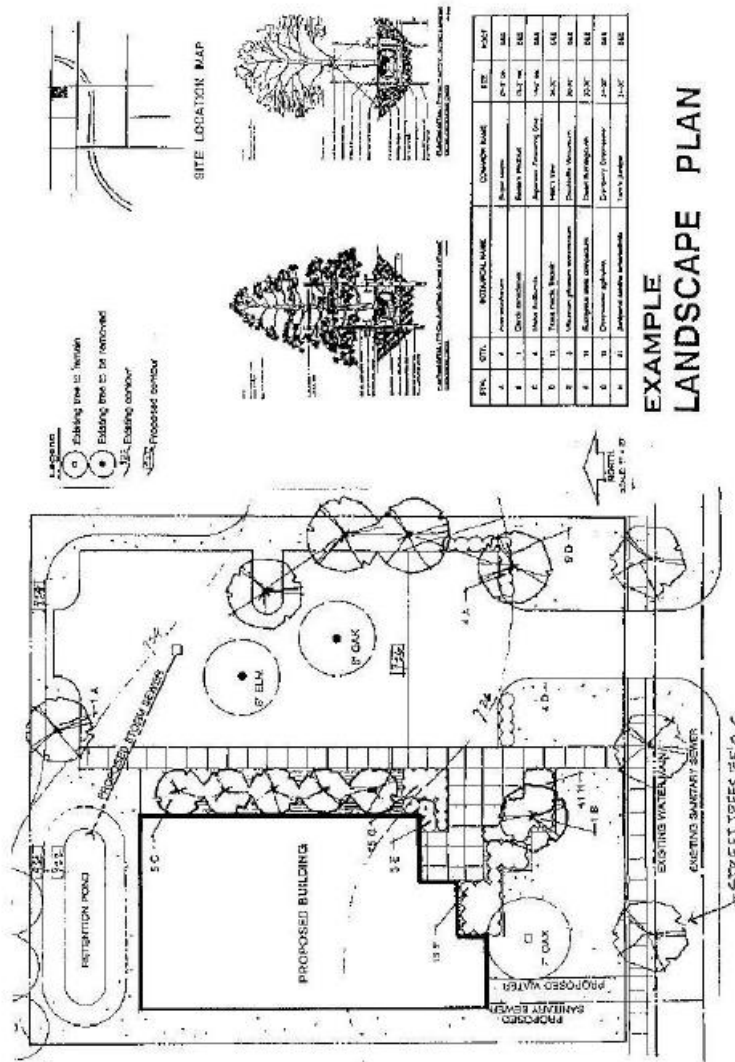
- (d) Horse chestnut (nut-bearing).
  - (e) Tree of Heaven.
  - (f) Catalpa.
  - (g) Ash.
- (3) Trees not permitted within street right-of-way:
- (a) Basswood.
  - (b) Cottonwood.
  - (c) Willow.
  - (d) Ash.
- (4) The following table is a list of suggested plant materials. Size, special characteristics, and tolerances are given to aid in determining what plant materials are right for individual situations. This list is not intended to be a comprehensive list of plant materials, especially in the area of deciduous shrubs.

<b>T – Tolerant I – Intolerant S – Slow M – Moderate F – Fast V – Varies</b>	<b>Deicing Salt</b>	<b>Heat</b>	<b>Drought</b>	<b>Shade</b>	<b>Course</b>	<b>Medium</b>	<b>Fine</b>	<b>Oval</b>	<b>Round</b>	<b>Pyramidal</b>	<b>Light Foliage</b>	<b>Dense Foliage</b>	<b>Ped Level</b>	<b>Attractive</b>	<b>Attractive Fruit</b>	<b>Good Fall Color</b>	<b>Winter Interest</b>	<b>Growth Rate</b>
Shade (Canopy) trees 50' – 60'																		
Hackberry	T	T	T	T		X		X										F
Honeylocust, Thornless	T	T	T				X		X		X		X					F
Linden, American	I			T	X			X				X	X	X				M
Maple, Norway	T		I		X				X			X	X					M
Maple, Red	I			T		X		X						X		X		F
Maple, Sugar	I	I		T		X		X				X				X		S
Oak, Pin	I		I	T		X				X			X			X	X	M
Intermediate Trees 30' – 40'																		
Birch, River				T			X	X			X		X			X	X	F

<b>T – Tolerant I – Intolerant S – Slow M – Moderate F – Fast V – Varies</b>	<b>Deicing Salt</b>	<b>Heat</b>	<b>Drought</b>	<b>Shade</b>	<b>Course</b>	<b>Medium</b>	<b>Fine</b>	<b>Oval</b>	<b>Round</b>	<b>Pyramidal</b>	<b>Light Foliage</b>	<b>Dense Foliage</b>	<b>Ped Level</b>	<b>Attractive</b>	<b>Attractive Fruit</b>	<b>Good Fall Color</b>	<b>Winter Interest</b>	<b>Growth Rate</b>
Linden, Greenspire				T		X				X		X	X	X				F
Linden, Littleleaf			I	T		X		X			X	X	X					M
Linden, Redmond				T	X					X		X	X	X				M
Low trees 15' – 25'																		
Beech, Blue				T			X		X				X			X		S
Crabapple	I			I		X		X	X				X	X	X		X	F
Dogwood, Pagoda				T		X		X					X	X		X		M
Hawthorn, Thornless	I					X			X				X	X	X			F
Maple, Amur	T			T		X			X				X			X		F
Mountain Ash, European	I		T	I			X	X	X				X					M
Olive, Russian	T	T	T				X		X				X					F
Shadblow Serviceberry				T		X		X			X		X					F
Evergreen trees 50' – 60'																		
Pine, Austrian	T			T		X				X			X				X	F
Pine, Scotch	T					X				X			X				X	F
Spruce, Black Hills	T	T	T			X				X			X				X	M
Spruce, Colorado	T					X				X			X				X	S
Deciduous Shrubs 4 ½' and taller																		
Buckthorn, Columnar	T	T		T		X		X					X		X			F
Chokeberry, Black				T		X			X				X	X	X	X		S
Dogwood, Redtwig	I					X			X				X	X			X	F

<b>T – Tolerant I – Intolerant S – Slow M – Moderate F – Fast V – Varies</b>	<b>Deicing Salt</b>	<b>Heat</b>	<b>Drought</b>	<b>Shade</b>	<b>Course</b>	<b>Medium</b>	<b>Fine</b>	<b>Oval</b>	<b>Round</b>	<b>Pyramidal</b>	<b>Light Foliage</b>	<b>Dense Foliage</b>	<b>Ped Level</b>	<b>Attractive</b>	<b>Attractive Fruit</b>	<b>Good Fall Color</b>	<b>Winter Interest</b>	<b>Growth Rate</b>
Euonymous, Winged	I				X			X			X		X			X	X	S
Lilac, French				T		X			X				X	X				M
Ninebark, Golden				T		X			X				X					F
Deciduous shrubs under 4-1/2'																		
Currant, Alpine	T	T					X		X			X	X					M
Barberry, Japanese	I		T	T	X				X				X		X	X	X	M
Cranberry Bush, Compact	I					X			X				X					
Honeysuckle, Emerald Mound				T		X			X				X	X	X			M
Potentilla	T	T	T		X				X				X	X				M
Spiraea, Anthony Waterer				T		X			X				X	X				M
Evergreen shrubs (height varies)																		
Arborvitae	Varies		X		Varies			X				X	S					
Junipers	Varies		X		Varies			X				X	V					
Pine, Mugho	Varies		X		Varies			X				X	S					

<b>T – Tolerant I – Intolerant S – Slow M – Moderate F – Fast V – Varies</b>	<b>Deicing Salt</b>	<b>Heat</b>	<b>Drought</b>	<b>Shade</b>	<b>Course</b>	<b>Medium</b>	<b>Fine</b>	<b>Oval</b>	<b>Round</b>	<b>Pyramidal</b>	<b>Light Foliage</b>	<b>Dense Foliage</b>	<b>Ped Level</b>	<b>Attractive</b>	<b>Attractive Fruit</b>	<b>Good Fall Color</b>	<b>Winter Interest</b>	<b>Growth Rate</b>
Yews	Varies		X		Varies			X				X	S					
Groundcovers 1' – 2'																		
Cinquefoil Wineleaf			T				X						X			X		F
Crownvetch			T	T			X						X	X				S
Creeper, Virginia	T		T	T	X								X			X		F
Fleeceflower		T	T			X							X	X	X		X	F



**SECTION 23.09 PRIVATE STREET REGULATIONS**

- A. The purpose of the Private Street Regulations is to ensure that private streets and driveways meet minimum drive and emergency access standards for developments within the Village. Private streets may also help preserve safe and efficient traffic movement by providing reasonable access to public roadways. The easements in which private streets are located allow for the efficient location of utilities. The requirements of this section shall be in addition to and not in lieu of any requirements for parking and loading spaces as set forth in Article 20, and for sidewalks as set forth by ordinance.
- B. Private streets are considered to be permitted accessory uses within all zoning classifications. Where a private street is to be built, a private street permit is required to ensure that all lots have access to a private or public street. All buildings or uses must be located on a lot, which has legal access to or abuts a public or private street. Private streets shall:



- (1) Be approved by the Planning Commission prior to the issuance of a building permit for a proposed structure to be served by the private street. The private streets shall be located within private street easements. The require easement width varies based on the uses that the private street serves. Standards for easement widths are outlined within Section 23.09C.
- (2) Be designed to provide sufficient frontage to all lots to ensure that minimum drive and emergency access standards are met.
- (3) Be paved with an asphalt or cement binder and shall be constructed to permit effective storm water drainage so as to dispose of surface water that might accumulate upon the private street. Surface water from a private street shall not be permitted to drain onto an adjoining property.
- (4) Be designed to support current county Class A standards.
- (5) Be named so it is not the same or similar to another street within the Village. Where private streets intersect a public street, posted street signs are required. The signs shall meet the Barry County Road Commission standards as to design, location, and maintenance.
- (6) Maintain a height clearance of at least 14 feet.
- (7) Not exceed a street grade of nine percent, except that a private street shall have a maximum grade of four percent for a minimum distance as approved by the Village Engineer from its intersection with a public right-of-way or another private street. Street curvature regulations shall be in accordance with the design specifications of the Barry County Road Commission or the Village of Nashville as amended from time to time.
- (8) Be upgraded to appropriate standards consistent with these regulations where additional lots are allowed access to the private street, or where a private street is to become a public street. The private street shall be built to public construction standards to be accepted as public. The Village reserves the right to reject a street as public if it so chooses. The upgrade of the street will be required from the drive access of the additional lot out to the public street. Exemptions from the upgrade requirement are as follows:
  - (a) Lots of record in existence as of November 2004;
  - (b) Lots altered subsequent to November 2004 due solely to governmental action; and
  - (c) Lots altered subsequent to November 2004 where the additional site(s) otherwise has alternate approved and recorded access to a public street.
- (9) Plans for a private road must be accompanied by a maintenance agreement, including maintenance provisions to accommodate emergency vehicles and allow

safe access of emergency vehicles to the site. The maintenance provisions shall include, but not be limited to, removal of snow upon an accumulation of four or more inches, sealing and filling cracks or holes in the street as reasonably necessary, and the removal of vegetative overhang that might obstruct emergency vehicle access or constitute a safety hazard as well as an adequate means of ensuring that maintenance will occur.

C. **Specific Private Street Dimensions.** Private streets serving more than one lot must be paved and meet the following minimum requirements:

<b>Residential</b>					
<b>Classification</b>	<b>Base Width</b>	<b>Pavement Width</b>	<b>Easement Width</b>	<b>Sidewalks Required</b>	<b>On-Street Parking</b>
Driveway (2-5 lots)	20'	16'	36'	None	None
Major Private (6-29 lots)	29'	24'	60'	1 side	1 side
Sub collector Private (30 plus lots)	34'	30'	60'	2 sides	2 sides
<b>Nonresidential</b>					
<b>Classification</b>	<b>Base Width</b>	<b>Pavement Width</b>	<b>Easement Width</b>	<b>Sidewalks Required</b>	<b>On Street Parking</b>
	31'	30'	60'	None	None

- (1) The pavement width for private streets shall include two feet of concrete curb (valley gutter type) on each side of the street.
- (2) The sidewalk within the public street right-of-way, where required, may be replaced by alternate sidewalks or walkways located throughout the development.
- (3) A major private street or a sub collector private street shall intersect a public street, at right angles as conditions permit, and a 60-foot easement width shall be required for the private street for a distance of 100 feet from the public right-of-way. Within that expanded easement width, a major private street shall be required to have a pavement width of at least 30 feet and sub collector private street shall be required to have a pavement width of at least 40 feet. Landscape islands to assist in traffic separation are encouraged.

D. **Cul-De-Sacs.** A private street that involves a dead end or cul-de-sac street shall have a maximum length of thirteen-hundred twenty (1320) feet if a public hydrant is available within 500 feet of any proposed building site. The maximum length shall be five hundred (500) feet in the absence of a public hydrant. Residential cul-de-sacs of major private streets and subcollector private streets shall have a paved circular terminal area of at least a 70-foot diameter. All nonresidential cul de sacs shall have a paved circular terminal area of at least a 100-foot diameter.

**E. Procedures.**

- (1) The plans for private street construction must be reviewed and approved by a staff review team consisting of representatives of the Village's Fire Chief, Engineer, Zoning Administrator, Director of Public Works, or their designees. The members of the Planning Commission shall submit, in writing, any and all conditions that would warrant approval of or, alternatively, reasons for denial of the private street. The conditions shall be those necessary to ensure that a private street will not adversely affect the provision of public services and facilities, the natural environment, adjacent uses of land or the community as a whole and which are otherwise consistent with the ordinances, standards and policies of the Village. After consideration, the Planning Commission, by majority vote, shall either approve, with or without conditions, or deny the private street. Prior to obtaining a building permit for any proposed structure or use that does not have direct access to a public street or existing private street, a permit for the private driveway or street must be obtained from the Planning Commission. A permit is not required for a private driveway, which serves only one lot.
- (2) No private street shall be constructed or utilized until a permit for the private street has been obtained from the Village. No private street permit shall be issued by the Village until the private street (as well as all lots fronting on the private street) has been approved pursuant to this section. No building permit shall be issued for any proposed structure that does not have direct access to a public street or existing installed private street until the new private street has obtained all required approvals and permits and has been fully installed.
- (3) The application for a private driveway or private street permit includes the submission of three copies of the following:
  - (a) A site plan sketch, showing all existing and future proposed parcel splits and proposed structures.
  - (b) Drawings showing proposed utilities, sidewalks, curb openings, pavement width, fire hydrants, water and storm drainage facilities, topography, and vegetation.
  - (c) A fee shall be required as set by the Village Council for the review of private driveways and private streets. Fees will be revised from time to time as necessary to cover the costs associated with the review procedure.
  - (d) A recorded easement agreement, including location, access, and maintenance provisions for the private street approved by the Village. The maintenance provision shall require that the road be kept in a condition that will accommodate emergency vehicles and allow the safe access of emergency vehicles to the site.

- (4) Prior to the issuance of the permit for the private street, the applicant must provide to the village proof of other permits and/or approvals that are required by the state of Michigan and Barry County.

F. **Review Standards.** In addition to the standards and requirements specified in this section, no private street shall be approved pursuant to Section 23.09E, unless the Planning Commission also finds that the private streets and lots fronting the private street meet all of the following conditions and requirements:

- (1) The private street will be safe for traffic and pedestrians.
- (2) The proposed development will not adversely affect adjacent uses of properties and shall be designed, constructed and maintained in a manner harmonious with the character of adjacent properties and the surrounding area.
- (3) The private street will not place demands upon public services and facilities in excess of their current capacities.
- (4) The private street will be designed to preserve environmental features, such as trees, natural areas, streams, and flood plains.
- (5) The private street will be harmonious and consistent with the intent of the Village's Zoning Ordinance.
- (6) The private street shall comply with all applicable storm water ordinance and regulations.

## **SECTION 23.10 PROPERTY DIVISIONS**

Any real property that is divided after the effective date of this Ordinance shall comply with all of the following:

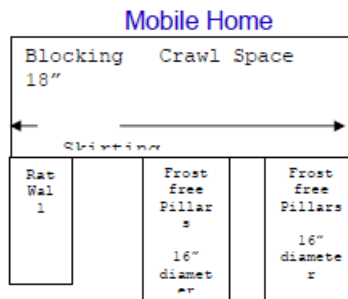
- A. All lots created or adjusted after the effective date of this Ordinance shall have the required minimum lot width (frontage) on a public or approved private road, or access provided to a public or approved private road.
- B. A sketch plan may be submitted for preliminary review.
- C. Land divisions shall be reviewed and approved by the Village before a land division can occur and prior to obtaining a building permit. Before such an approval can be granted, the Village shall be provided with all of the following information:
  - (1) A completed application for proposed land divisions. Applications shall include the following:
    - (a) The name of all owners of any legal or equitable interest, and their signatures and a copy of a recorded document demonstrating the applicant's ownership interest in the property.

- (b) A copy of the most recent paid tax bill for the undivided parcel.
  - (c) A drawing of the parcel as it exists prior to the proposed division or combination drawn to a scale of one inch equals 100, 200, 300, 400, or 500 feet. Two (2) true copies of the scaled drawing shall accompany the application.
  - (d) A drawing of the parcel as it will appear following the proposed division or combination, including the number of square feet or acres in each parcel so divided or combined, and a legal description for each resultant parcel. This drawing may be combined with the drawing in subsection (c).
  - (e) The date of any previous applications for land divisions or combinations of all or part of the property, whether granted or denied.
  - (f) A recorded boundary line survey & legal description of the proposed land division.
- (2) The Village shall have a maximum of forty-five (45) days (once an application is complete) to review the proposed land division in compliance with the Michigan Land Division Act, P.A. 288 of 1967, MCL 560.101 *et seq.*, as amended.
  - (3) Any land division that has not been approved by the Village shall not occur and will not be issued a building permit.
  - (4) Prior to the issuance of a building permit, the following shall be provided to the Zoning Administrator:
    - (a) Documentation of Village approval of a land division or combination, if applicable.
    - (b) The tax identification number assigned by the property division of the county's Equalization & Property Description Department.
    - (c) Documentation that the lot boundary lines have been established in the field with stakes by a Licensed Land Surveyor.

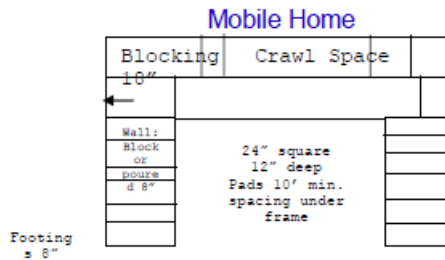
**SECTION 23.11 MINIMUM FOUNDATION REQUIREMENT FOR MOBILE HOMES, DOUBLE WIDE, AND MODULAR HOMES**

- A. All of the above uses must have frost feed foundations and rat wall provisions.
- B. Minimum specifications:
  - (1) Rat Wall and Pillar Type
    - (a) Rat wall must be around entire perimeter of mobile home

- (b) Pillars must be spaced a minimum of ten (10) feet apart, under frame.
- (c) Slab not necessary, but all grass and organic material must be removed from under mobile home.
- (d) Crawl space of eighteen (18) inches must be met, between slab and ground.
- (e) Skirting may be block, metal, or treated wood, with access door to crawl space of eighteen (18) inches by twenty-four (24) inches.



- C. Frost wall and slab type skirting. Frost wall shall be thirty-six (36) inches deep in sand/gravel or forty-two inches deep in clay.



**SECTION 23.12 FINAL PLAT APPLICATION AND REVIEW PROCEDURES.**

- A. A final plat must be approved by the Planning Commission prior to the issuance of any building permit for any structures within the plat, unless there are structures already occupied prior to the approval of the preliminary plat. Prior to issuance of a building permit for any building in the plat, the following items must be fulfilled, unless waived by the appropriate Village department.
  - (1) Improvement plan approval
  - (2) Block grading, flood way, soil erosion plan approval
  - (3) Basement elevation and building opening restriction approval

- (4) Construction of hydrant water, adequate fire access, storm water detention, flood ways and soil erosion controls.
  - (5) Security for noncompleted construction
  - (6) Approval of the Final Plan
- B. The Village Planning Commission may recommend issuance of zoning permit to allow for gaining the required building permits prior to the approval of the final plat in exceptional or unusual circumstances. If so, financial, engineering, and liability assurances including an indemnification agreement shall be provided by the proprietor in a form satisfactory to the Village. Recommendations to the Planning Commission on the permit issuance shall be made by the Village of Nashville Department of Public Works, Engineering, Fire and Police Dept. The Planning Commission shall adopt a policy and fees and charges to implement this section.

**SECTION 23.13 RAZING OF BUILDINGS.**

No buildings, excluding farm structures, shall be razed until a permit has been obtained from the Zoning Administrator who shall be authorized to require a performance bond. Said 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 Zoning Administrator or the Village Council may, from time to time, prescribe, including filling excavations and proper termination of utility connections.

**SECTION 23.14 ESSENTIAL SERVICE.**

The erection, construction, alteration or maintenance by public utilities or municipal departments, Boards or Commissions of overhead or underground gas, electrical, steam or water, distribution or transmission systems, collections, communication, supply, or disposal systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, telephone exchange buildings, public utility buildings, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health or safety or general welfare shall be permitted, as authorized or regulated by law and other ordinances of the Village of Nashville in any district, it being the intention hereof to except such erection, construction, alteration and maintenance from the application of this Ordinance.

Notwithstanding the preceding exceptions:

- A. Electrical substations and/or gas regulator stations shall be provided with an enclosing fence or wall at least six (6) feet high and adequate to obstruct passage of persons or materials.
- B. Public utility buildings when located in any residential district shall not include maintenance shops, repair garages or storage yards as a principal or accessory use.

- C. Public utility facilities in any district are required to be constructed and maintained in a neat and orderly manner, and any buildings required shall conform to the general architecture of the neighborhood.

**SECTION 23.15 OUTDOOR STORAGE AND WASTE DISPOSAL**

- A. All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities from adjacent property.
- B. All materials or wastes that might cause fumes, odors or dust or that constitute a fire hazard or that may be edible by rodents or insects shall be stored outdoors only in closed containers and screened from the street or adjacent property.
- C. No materials or wastes shall be deposited on the premises in such form or manner that they may be moved off the premises by natural causes or forces.
- D. Waste materials shall not be allowed to accumulate on the premises in such manner as to be unsightly, constitute a fire hazard or contribute to unsanitary conditions.
- E. All outdoor storage facilities for fuel, raw materials and products for every use, as enumerated and limited herein located less than one hundred (100) feet from any other district shall be enclosed by a solid fence or wall not less than six (6) nor more than ten (10) feet in height.

**SECTION 23.16 TEMPORARY USES OR STRUCTURES**

- A. Temporary building or yard for construction materials and/or equipment, both incidental and necessary to construction in the zoning district shall be issued a permit by the Zoning Administrator before construction commences. Each permit shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than four (4) successive periods at the same location.
- B. Temporary office, both incidental and necessary for the sale or rental of real property in the zoning district shall be issued a permit by the Zoning Administrator. Each permit shall specify the location of the office and area and shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than four (4) successive periods at the same location.
- C. The stripping of soil requires a permit issued by the Zoning Administrator. Each permit shall specify the location of the area and be accompanied by a plan for the ultimate development of the land and shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than two (2) successive periods at the same location.

**SECTION 23.17 ARTICLE APPLICABILITY**

Unless otherwise specified, the provisions of this Article apply within all zoning districts within the Village.



## **SECTION 23.18 APPLICATION OF ZONING**

All buildings, structures or land may be used, constructed, altered or occupied, only when in full conformity with all of the regulations specified in this Ordinance for the district in which it is located and in accordance with the procedures of this Ordinance.

Except as otherwise allowed by this Ordinance, after the effective date of this Ordinance, no building, lot, or structure shall be altered:

- A. To accommodate or house a greater number of persons or families than permitted by the zoning district.
- B. To have narrower or smaller rear yards, front yards, or other side yards, other than permitted by the zoning district.

Any land use, structure, building, or activity not specifically permitted by this Ordinance is prohibited. When a use or activity is not stated in this Ordinance, the Zoning Administrator shall request an interpretation by the ZBA to make a determination on the classification of the use. The ZBA shall forward the classification to the Planning Commission to amend the ordinance, as appropriate, to address the use if deemed appropriate. An applicant may also petition the Village for an amendment to the Zoning Ordinance to address the use or activity being considered.

No lot shall be created that does not meet all of the minimum lot size, access, width, frontage, and other dimensional requirements of this Ordinance.

## **SECTION 23.19 YARD, AREA AND LOT REGULATIONS**

- A. No lot, parcel, yard, setback area, court, parking area, or other space shall be reduced to less than the minimum required under this Ordinance. No lot, parcel, or other area shall be further reduced if already less than the minimum.
- B. Property and bottomlands located under a lake or river shall be excluded from lot area or dimension calculations for purposes of determining minimum lot area and dimension requirements pursuant to this Ordinance.
- C. Where property is located on opposite sides of a public road or public street right-of-way and is in common ownership, the property shall not be considered to be one (1) lot or parcel but shall be deemed separate lots or parcels. Furthermore, the land on each side of the public road or street shall meet all applicable requirements specified by this Ordinance or an individual lot or lots.
- D. In determining lot, land, yard, parking area or other open space requirements, no area shall be ascribed to more than one (1) main building or use, and no area necessary for compliance with the space requirements for one (1) main building or use shall be included in the calculation of the space requirements for any other building, structure or use.

- E. No lot (platted or unplatted) shall be divided, created, split, or subdivided unless said action meets all of the requirements for a lot under this Ordinance and all other applicable Village ordinances.
- F. No accessory use or accessory building may occur or be constructed, maintained, or built on a lot absent a lawful principal use first existing on that lot. Notwithstanding such prohibition, bona fide agricultural buildings are allowed if agricultural or farming uses are permitted in the zoning district where the lot is located.

**SECTION 23.20 LOT WIDTH; FRONTAGE**

- A. The minimum lot width required in each zoning district shall be maintained across the entire length/depth of the lot or parcel, except as provided in subsection B, below.
- B. All lots shall have frontage on a public road or on a private street approved pursuant to this Ordinance for a distance equal to or greater than the minimum lot width specified for the district in which the lot is located. Lots abutting a cul-de-sac shall be permitted to have less street or road frontage (but in no case less than 33 feet of such frontage), provided, however, that a special land use is obtained, and further provided that the lot width at the front setback line (or the rear setback line in the case of waterfront lots) and beyond shall satisfy the minimum lot width requirement of the district in which the lot is located.
- C. For all lots abutting or having frontage on a lake or river, each lot shall have frontage on the lake or river, as measured at the ordinary high water mark, equal to or greater than the minimum lot width requirement of the zoning district within which the property is located.
- D. The measurement of lot width and frontage shall exclude all street or road rights-of-way or easements.
- E. Where property is located on opposite sides of a public road or public street right-of-way and is in common ownership, the property shall not be considered to be one (1) lot or parcel, but shall be deemed separate lots or parcels. Furthermore, the land on each side of the public road or private street shall meet all applicable requirements specified by this Ordinance for an individual lot or lots.

**SECTION 23.21 GRADING, EXCAVATION, FILING, CREATION OF PONDS AND CLEARING OF TREES**

Clearing vegetation and trees from a vacant site of over one-quarter (1/4) acre or grading, excavation, filling, soil removal and the creation of ponds not associated with a building permit for one single family residence may be permitted only after review and approval by the Village. The approval may be in the form of a zoning permit issued by the Zoning Administrator (in the case of a single-family use) or through the site plan approval process with the Planning Commission.

## **SECTION 23.22 FRONTAGE REQUIRED ON A STREET**

Every lot shall have continuous minimum frontage equal to or greater than the required lot width of the zoning district on either an improved public road or an approved private street. All structures shall be so located on lots to provide safe and convenient access for servicing, fire protection, and required off-street parking.

For a lot abutting the end turnaround area of a cul-de-sac, the minimum street frontage will be 33 feet, provided the lot width must meet the minimum requirements of the zoning district at the front setback line.

## **SECTION 23.23 MAIN BUILDING OR PRINCIPAL USE**

Each lot shall contain only one (1) main building or principal use, except for groups of related commercial, industrial, office buildings, and multiple family dwellings contained within a single, integrated complex as demonstrated by shared parking, signs, access, and other similar features which, in the opinion of the Planning Commission, form a unified function and appearance.

## **SECTION 23.24 LOTS AND SETBACK MEASUREMENT**

- A. All lots shall have sufficient buildable area to meet required setbacks and minimum lot size requirements of this Ordinance.
  - (1) Front setbacks shall be measured from the street right-of-way line to the foundation of the building or structure, except that for waterfront lots, the front setback shall be measured from the ordinary high water mark of the water body involved.
  - (2) Rear setbacks shall be measured from the lot line to the foundation of the building, except that for a waterfront lot, the rear setback shall be measured from the street right-of-way line to the foundation of the building or structure.
  - (3) Side yard setbacks shall be measured from the drip line of the building or structure.
- B. No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.
- C. Waterfront lots - The yard immediately adjacent to the water shall be the front yard.
- D. Corner Lots - Each line abutting a public or private street shall be a front lot line, and the required setback along both lot frontages shall be a required front yard. The two (2) remaining yards shall each be side yards. For a corner lot with three (3) front lot lines, the remaining shall be a rear lot line. See graphic.

## **SECTION 23.25 PROHIBITION OF MEDICAL MARIHUANA DISPENSARIES**

No medical marihuana dispensary shall be commenced, conducted, operated, or utilized in any zoning district or on or from any property within the Village. Furthermore, no person shall frequent, patronize, or obtain or purchase any marihuana from any medical marihuana dispensary within the Village.

A medical marihuana dispensary shall not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five (5) qualified patients (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended) so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and it is done in full compliance with not only this Ordinance and any other applicable Village ordinances, but also all applicable Michigan and federal laws and regulations.

## **SECTION 23.26 UNWHOLESOME SUBSTANCES**

No unwholesome substance, as defined in this section, shall be deposited, buried, stored, kept, dumped, or accumulated by any person in any body of water or on or under any land, private or public in the Village. An unwholesome substance includes any trash, garbage, tin cans, automobile body, inoperable vehicle, trailer body, hazardous compound, harmful substance, debris, waste, junk, rubbish, garbage, refuse, offal, trash; abandoned, discarded or unused objects, machinery or equipment such as furniture, stoves, refrigerators, freezers, cans, utensils, or containers; or other deleterious substance on the premises of private residences or properties, commercial institutions, and in the roadway creates blight and greatly increases danger of fire, and spread of infectious diseases.

## **SECTION 23.27 HOME OCCUPATIONS**

Home occupations are allowed in single-family dwellings in all zoning districts subject to all of the following conditions and requirements:

- A. Only members of the family residing in the home shall be engaged in the home occupation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for single-family residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area or five hundred (500) square feet of the dwelling unit, whichever is less, shall be used in the conduct of the home occupation. No part of the home occupation shall be conducted outdoors or within any accessory building.
- C. There shall be no change in the outside appearance of the building that would indicate the presence of a home occupation or departure from the single-family residential character of the dwelling.
- D. There shall be no sale of products or services except as are produced on the premises or those products which may be directly related to and incidental to the home occupation.

- E. There shall be no outdoor, on-site storage of materials, equipment, or accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation.
- F. The home occupation will not create traffic congestion, parking shortages, or otherwise adversely affect the pedestrian or vehicular circulation of the area.
- G. Any parking for vehicles associated with the home occupation shall be provided off the street. No commercial vehicles exceeding a rated capacity of one (1) ton may be parked on the premises.
- H. No equipment or process shall be used in the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.

**SECTION 23.28 REGULATIONS APPLICABLE TO SINGLE FAMILY DWELLINGS OUTSIDE MANUFACTURED HOME PARKS**

Any one-family dwelling, whether constructed and erected on a lot, or a manufactured home outside a manufactured home park, may be allowed only if it complies with all of the following requirements:

- A. The dwelling shall meet the minimum square footage requirements for the District in which it is located. If no minimum is listed, the dwelling shall have at least 800 square feet of interior finished floor space.
- B. Design Features:
  - (1) The minimum width across any front, side, or rear architectural elevation shall be at least twenty-four (24) continuous feet of exterior wall. The dwelling shall be twenty-four (24) feet wide for at least seventy percent (70%) of its length. No addition to a dwelling shall be of an exterior construction different than the primary dwelling, composed of exterior materials other than the exterior of the primary dwelling, or appear to be of different construction than the primary dwelling.
  - (2) Dwellings shall have a minimum roof pitch of five (5) inches to one (1) foot of rise.
  - (3) All dwellings shall have either a roof overhang of not less than six (6) inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.
  - (4) The dwelling shall contain permanently attached steps connected to exterior door areas or to porches connected to the door areas.

- (5) The dwelling shall not contain additions or rooms or other areas that are not constructed with similar aesthetics and quality work as the original structure, including permanent attachment to the main building and construction of a foundation as required by the adopted Construction Code of the Village.
  - (6) The dwelling unit shall have at least two (2) exterior doors, with one (1) being in either the rear or the side of the dwelling unit.
- C. The dwelling shall conform to the state Building Code and all other pertinent construction and fire codes. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where the standards allow standards of construction which are less stringent than those imposed by the Building Code, then the less stringent federal or state standard or regulation shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
  - D. In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to the manufactured home shall be of a type and quality conforming to the “Mobile Home Construction and Safety Standards” as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time the standards may be amended.
  - E. The dwelling shall be placed upon and secured to a permanent four (4) foot crawl space with a continuous footing that meets the requirements of the state Building Code. The area between the elevation of the lot and the structure shall have a wall of the same dimensions of the dwelling and constructed of materials and type as required in the applicable code for one-family dwellings. In the event that the dwelling is installed pursuant to the manufacturer’s set-up instructions, the dwelling shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Home Commission.
  - F. If the dwelling has wheels, towing mechanisms or undercarriages, they shall be removed.
  - G. The requirements of this section shall not be construed to prohibit innovative design concepts involving matters such as solar energy, view, unique land contour, or relief from the common or standard designed home.

**SECTION 23.29      TEMPORARY USES AND BUILDINGS**

- A. Temporary uses, buildings and structures, not used for dwelling purposes, may be placed on a lot or parcel and occupied only under the following conditions as authorized by a permit issued by the Zoning Administrator.
- B. Construction buildings and structures, including trailers, incidental to construction work on a lot, provided:
  - (1) Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction

management and supervision offices, and for temporary on-site sanitation facilities, related to construction activity on the same lot. An enclosed structure for temporary sanitation facilities shall be required on all construction sites.

- (2) Construction buildings and structures shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the Zoning Administrator for the permanent structure on such lot, or within fifteen (15) days after the expiration of a building permit issued for construction on the lot.

C. Sales offices or model homes may be placed on a lot provided:

- (1) The location of the office shall be specified in the permit.
- (2) The permit shall be valid for a period of up to one (1) year. A temporary permit may be renewed by the Zoning Administrator for up to two (2) successive one (1) year periods or less, at the same location if the office is still incidental and necessary.
- (3) Only transactions related to the development in which the structure is located shall be conducted within the structure. General offices for real estate, construction, development or other related businesses associated with the project shall not be allowed.

D. The temporary sale of merchandise in commercial districts related to a seasonal or periodic civic event, such as a festival. Seasonal uses shall include the sale of Christmas trees, fireworks, and similar activities.

E. Flea Markets and Farmers Markets for up to three (3) days in duration provided they are located in Commercially zoned district.

F. All temporary uses shall meet the all of following standards:

- (1) The nature of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary use or structure will be compatible with existing development.
- (2) The lot shall be of sufficient size to adequately accommodate the temporary use or structure.
- (3) The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or structure.
- (4) Off-street parking areas are of adequate size for the particular temporary use or structure and properly located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
- (5) Signs shall conform to the provisions of this Ordinance.

- (6) Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.

**SECTION 23.30 STORAGE OF RECREATIONAL VEHICLES**

- A. Recreational vehicles shall not be parked or stored in the front yard of any lot in a residential district except on an improved driveway. Recreational vehicles may be stored in the rear yard. Such equipment may also be occupied for up to fourteen (14) days per calendar year.
- B. Storage in a residential district shall be allowed only when it is accessory to the principal use of the lot or adjacent lot when owned by the same person.
- C. No storage shall be permitted closer than five (5) feet to any dwelling unit, nor closer than three (3) feet to any side lot line.

**SECTION 23.31 STORAGE AND REPAIR OF VEHICLES**

- A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of a building, shall be subject to the following limitations:
  - (1) The vehicles worked upon shall be owned by and titled in the name of the resident.
  - (2) Procedures or projects exceeding forty-eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty-eight (48) hours shall be carried out within a completely enclosed building.
  - (3) Inoperable or unlicensed vehicles and vehicle parts must be stored only in a completely enclosed building.
- B. It shall be unlawful for the owner, tenant or lessee of any lot in any residential zoning district to permit the open storage or parking outside of a building of semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use for construction actively being conducted on the lot.
- C. In no case shall vehicles be parked in any required off-street parking lot for the sole purpose of displaying a vehicle for sale, except in approved and licensed car sales lots.

**SECTION 23.32 GARAGE AND YARD SALES**

No garage or yard sale shall be held on a lot or property for more than fourteen (14) consecutive days in a thirty (30) day period provided, the Zoning Administrator may allow an extension of such consecutive days and time period.



**SECTION 23.33 REPRESENTATIONS AND PROMISES OF DEVELOPERS AND PROPERTY OWNERS**

If, pursuant to any zoning approval (including, but not limited to, the granting of a zoning permit or variance or the approval of a special land use, PUD, site plan, or other zoning approval), the property owner or applicant makes any representation, promise, or offer of a condition or voluntary restriction should the zoning approval be approved or granted, such promise, condition, or representation shall be deemed to be an enforceable condition of any such zoning approval (whether or not such promise, condition, or restriction was made orally or in writing, and whether or not it is reflected in the zoning approval motion, resolution, permit, or other Village approval document) if the Village deems such promise, representation, or condition to have been a consideration by the official or Village body which granted the zoning approval and the Village also deems such promise, representation, or condition to be consistent with the zoning approval. In such case, the promise, condition, or representation shall be deemed an express and enforceable condition of the zoning approval.

**SECTION 23.34 GRADE LIMITS**

Sand, dirt and similar materials shall not be used to build up or add to the natural grade of the land in connection with the installation, building, or expansion of a building or structure if such alteration would, in the opinion of the Zoning Administrator, do any of the following:

- A. Unreasonably increase water runoff or drainage onto one or more adjoining properties due to the amount, concentration, or flowage rate of runoff waters; or
- B. Increase the height of a building or structure so as to unreasonably decrease the view on one or more adjoining properties of a lake, stream or natural vista or create a situation which is incompatible with the surrounding uses.

Any party aggrieved by the decision of the Zoning Administrator under this section may appeal that determination to the ZBA within the time limits and procedures specified in this Ordinance.

**ARTICLE 24  
ADMINISTRATION**

**SECTION 24.01 ADMINISTRATIVE OFFICIALS**

Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the Zoning Administrator of the Village. The Zoning Administrator shall have the authority to:

- A. Issue certificates of zoning compliance and zoning compliance permits.
- B. Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this Ordinance.
- C. Perform such other further functions necessary and proper to enforce and administer the provisions of this Ordinance.
- D. Enforcement actions may be initiated by a complaint or by the Zoning Administrator independently anytime he or she identifies a violation.
- E. Issuance of building permits and certificates of occupancy if the Zoning Administrator is also the Village's Building Official. Otherwise, building and trade permits, and zoning permits shall be issued by the appropriate building official.

**SECTION 24.02 ADMINISTRATION AND ENFORCEMENT**

An administrative official who shall be known as the Zoning Administrator shall be designated by the Village Council to administer and enforce this Ordinance. The administrator may be provided with the assistance of other persons as the Village Council may direct.

If the Zoning Administrator shall find that any provision of this Ordinance is being violated, he/she shall notify the person responsible for the violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of any illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

**SECTION 24.03 SCHEDULE OF FEES, ESCROW CHARGES AND EXPENSES**

- A. Except as may be provided for otherwise in this Ordinance, the Village Council shall determine and set fees to be collected for all applications for zoning matters, permits, and approvals. These fees shall be collected prior to the issuance of any permit or certificate being issued, and other official actions required by this Ordinance. No application shall be considered complete until all applicable fees have been paid to the Village. Furthermore, Village employees and officials shall not commence work on a given zoning application or matter until any and all fees have been paid to the Village in full. The fee schedule shall be that adopted by resolution of the Village Council as amended from time to time.

- B. In addition to regularly established fees, the Village Council at its discretion may also require an applicant to submit to the Village, at any time during the zoning review process, an amount of money determined by the Village to be a reasonable estimate of the fees and costs which may be incurred by the Village in reviewing and acting upon any such application or related matters.

Such costs and expenses to be charged or assessed to the applicant for reimbursement of the Village's reasonable costs and expenses, may include but shall not be limited to Village attorney fees, Village engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the Village, costs and fees for studies and reports pertaining to the matters in questions, significant Village employee time, special meeting costs, and other reasonable costs and expenses. Such monies shall be retained by the Village for reimbursement of such costs and expenses. Any monies, paid or deposited by an applicant, which are not used or spent by the Village pursuant to an escrow fee shall be refunded.

If, for some reason, the applicant does not pay, or the Village does not collect, zoning escrow fees during the zoning review process, the Village can still bill such costs and expenses to the applicant after the zoning review process has been completed and the applicant or landowner shall promptly pay/reimburse the Village for the same.

#### **SECTION 24.04      PERFORMANCE GUARANTEES**

- A. As a condition of approval of a site plan review, Special Land Use, PUD, zoning compliance permit, variance, or other approvals authorized by this Ordinance, the Village Council, Planning Commission, ZBA, or Zoning Administrator may require a performance guarantee or guarantees of sufficient sum to assure compliance with this Ordinance, to assure compliance with a condition of approval or a permit, and to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development.
- B. The features or components, hereafter referred to as "improvements," may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, paving, driveways, utilities, and similar items.
- C. Performance guarantees shall be processed in the following manner:
  - (1) Required Improvement:
    - (a) Prior to the issuance of a building permit, zoning compliance permit, or other approval or permit, the applicant or their agent shall submit an itemized cost estimate of the required improvements that are subject to the performance guarantee, which shall then be reviewed and approved by the Zoning Administrator.

- (b) The amount of the performance guarantee shall be not more than one hundred percent (100%) of the cost of purchasing of materials and installation of the required improvements, including the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.
  - (c) The required performance guarantee shall be payable to the Village and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee acceptable to the Village.
  - (d) The Zoning Administrator shall not sign off on the issuance of a zoning compliance permit until all final plans, development agreements, escrow fees and any required performance guarantees are provided.
  - (e) The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. A portion of the performance guarantee shall be rebated in the same proportion as stated in the itemized cost estimate for the applicable improvements.
  - (f) When all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of the improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.
  - (g) If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
  - (h) The Zoning Administrator shall maintain a record of required performance guarantees.
- (2) Compliance with Conditions:
- (a) As a condition of approval of a site plan, special land use, PUD, zoning compliance permit, variance, or other approvals authorized by this Ordinance, the Village Council, Planning Commission, ZBA, or Zoning Administrator may require a performance guarantee or guarantees to ensure compliance with the approval and any conditions attached thereto.
  - (b) A required performance guarantee or guarantees shall be payable to the Village and shall be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee with the amount,

form, financial institution, and language acceptable to (and approved by) the Village.

- (c) The Zoning Administrator shall not sign off on the issuance of a zoning compliance permit or other permit or approval until all required fees and performance guarantees are provided to the Village.
- (d) The Zoning Administrator shall maintain a record of required performance guarantees pursuant to this subsection.

#### **SECTION 24.05 ZONING COMPLIANCE PERMIT**

- A. The Zoning Administrator shall have the authority to issue zoning compliance permits (also sometimes called a “zoning permit”) in accordance with the requirements of this Ordinance.
- B. The zoning compliance permit is the permit issued by the Zoning Administrator before any entity or person is allowed to commence or expand a use or begin a new residential or commercial building/ addition/operation in the Village. The zoning compliance permit may be applied for through the Zoning Administrator and, if granted, is valid for one year. One extension of a zoning compliance permit for one additional year may be allowed by the Zoning Administrator. A second and final extension of a zoning compliance permit may be granted by the Zoning Administrator if 75% of the overall project is proven to be completed.
- C. In addition to a zoning compliance permit, other permits may be required by various county, state and federal entities, copies of which may be required for the property files by the Zoning Administrator or Building Inspector.

Such permits include, but may not be limited to:

- (1) An approved driveway permit from the Village, State Highway Department, or County Road Commission.
  - (2) Septic System Permit from the Department of Public Health.
  - (3) Well Permit from the Department of Public Health.
  - (4) Soil Erosion and Sedimentation Control permit.
  - (5) Electrical, mechanical and plumbing permits.
  - (6) Michigan Department of Environmental Quality Permit for wetland floodplain or inland stream modifications.
- D. Depending on the project, type of development and/or other factors, proof of various inspections and/or certifications of approval and/or completion may also required for the record by the Village.

- E. It shall be unlawful to change the type of use of land, or to change or expand the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, until the Zoning Administrator has determined the change to be in compliance with applicable provisions of this Ordinance and has issued a zoning compliance permit.
- F. It shall be unlawful to commence excavation for, or construction of, any building or other structure, including an accessory building, or to commence the moving, alteration or repair of any structure, including accessory buildings, exceeding one hundred (100) square feet in floor area, until the Zoning Administrator has given documented approval of his/her opinion that plans, specifications and intended use of such structure does in all respects conform to the provisions of this Ordinance.
- G. It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning compliance permit for any excavation or construction or use until the Zoning Administrator has inspected the plans in detail and found them in compliance with this Ordinance.
- H. Issuance of a zoning compliance permit shall in no case be construed as waiving any provision of this Ordinance or any other Village ordinance.
- I. The Zoning Administrator shall not refuse to issue a zoning compliance permit when the applicant complies with all requirements and conditions imposed by this Ordinance and all other applicable Village, county, and state regulations. Violations of contracts, such as covenants or private agreements, which may result upon the granting of the permit, are not cause for refusal to issue a permit.
- J. When the Zoning Administrator receives an application for a zoning compliance permit, which requires Planning Commission, Village Council, or ZBA approvals, the Zoning Administrator shall so inform the applicant.
- K. A zoning compliance permit shall not be issued until all applicable fees, charges and expenses have been paid in full.

#### **SECTION 24.06 STOP WORK ORDER**

- A. Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to owner's agent, or to the person doing the work and shall state the conditions, if any conditions, under which work or the use will be permitted to resume.
- B. Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except work that the person is directed by the Zoning Administrator to perform to remove a violation, shall be in violation of this Ordinance.

## **SECTION 24.07 NOTICE AND HEARINGS**

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application or matter is required by this Ordinance or by the Zoning Enabling Act (for example, where a rezoning, ordinance amendment, Special Land Use, PUD, or ZBA matter is involved), notice of the public hearing shall be published and delivered in accordance with the requirements of this section and the Zoning Act.

- A. The notice of public hearing shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Village.
- B. For applications involving the rezoning of ten (10) or fewer adjacent properties; for applications to the ZBA; and for all planned unit development and Special Land Use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or be personally delivered to the following persons, at least 15 days prior to the date of the public hearing:
  - (1) The applicant;
  - (2) All persons to whom real property is assessed for property tax purposes within 300 feet of the property that is the subject to the application;
  - (3) The occupants of all dwellings within 300 feet of the property that is the subject of the application; and
  - (4) All neighborhood organizations, public utility companies, railroads, and other persons that have requested to receive notice.

If the above-described 300-foot radius extends outside of the Village's boundaries, then notice must also be provided outside of the Village boundaries, within the 300-foot radius, to all persons in the above-stated categories.

- C. The notice of public hearing shall include the following information:
  - (1) A description of the nature of the application or request.
  - (2) An identification of the property that is the subject of the application or request. The notice shall also include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven (11) or more adjacent properties are being proposed for rezoning.
  - (3) A statement of where and when the application or request will be considered.
  - (4) Indicate where and when written comments will be received concerning the application or request.

## **SECTION 24.08      TIME LIMITS**

If a zoning approval or permit under this Ordinance has been granted with a specific time limit and the use has not commenced or substantial construction has not begun pursuant to that approval within the time limit specified, the zoning approval or permit shall automatically expire (and be void) at the end of that time limit. No extension to that time limit shall be granted except by the Village body, commission, or official which granted the initial zoning approval or permit. If a zoning approval or permit is silent with regard to a time limitation, the time limitation shall be deemed to be one (1) year, and the zoning approval or permit shall expire (and be void) after one (1) year if the use has not been commenced or substantial construction has not begun within said one (1) year time limitation. A time extension may be granted only by the body, commission, or official that granted the initial zoning approval or permit.

## **SECTION 24.09      PROOF OF OWNERSHIP**

The Zoning Administrator or Building Inspector may require proof of ownership from an applicant (including copies of a recorded deed or land contract) before the issuance of a zoning compliance permit or a building permit if it appears that the applicant may not be the owner (or sole owner) of the property involved. The Village may also require that all owners of a particular property join in and sign the application or applications for any zoning or building request or application, including a building permit, variances, special land use requests, site plan review, zoning compliance permits, and any other zoning or building code action.

## **SECTION 24.10      SURVEYS**

The Zoning Administrator or Building Inspector shall have the authority to require that an applicant or property owner provide the Village with a current survey by a registered surveyor or engineer for one (1) or more boundary or property lines of the lot or parcel involved (including providing a sealed survey drawing by such professional surveyor or engineer and with property boundaries staked by such professional) if the Zoning Administrator or Building Inspector determines that it is reasonably necessary in order for the Village to determine whether the zoning setback, area, and other applicable requirements are met. The Zoning Administrator or Building Inspector may also require that the professional surveyor or engineer place stakes at specified relevant areas along the property line(s) and any setback lines or building envelopes. All such surveying costs shall be paid for by the applicant or property owner.

## **SECTION 24.11      REVOCATION OR TERMINATION OF ZONING APPROVALS**

If a property owner or applicant violates any of the conditions or requirements attached to a zoning approval or zoning compliance permit, then the Village body, board, or official that granted the zoning approval or permit may terminate the zoning approval or zoning compliance permit. Where a special land use, PUD, variance, or site plan approval was involved, no such revocation shall occur until and unless the property owner or applicant has been given reasonable notice and a public hearing has been held regarding the revocation.



**ARTICLE 25  
PLANNING COMMISSION**

**SECTION 25.01      POWERS AND DUTIES**

The Planning Commission is hereby designated the commission pursuant to Act 110, Public Acts of Michigan 2006, MCL 125.3101, as amended, and shall perform the duties of said commission as provided in said act, in accordance with Planning Commission Membership Policy Requirements and/or Bylaws together with such other powers and duties as are given to the commission by the provisions of this Ordinance. One (1) member of the Planning Commission may serve as a member of the Board of Appeals.

**SECTION 25.02      AUTHORITY TO APPROVE USES**

Whenever in this Ordinance the lawful exercise or existence of a use requires the approval of the Village Council, the Commission is hereby authorized and directed to investigate the matter requiring such approval, to conduct a hearing thereon, and to make a determination and recommendation to the Village Council, which shall then approve, approve with modifications, or deny the requested use.

**SECTION 25.03      HEARING; NOTICE**

Upon receipt of an application for a special land use approval, a conditional use approval, a planned development approval, a single-family cluster approval or any other land use approval which requires a decision on discretionary grounds, notice shall be provided pursuant to the requirements of Public Act 110 of 2006, MCL 125.3101, *et seq.*

**SECTION 25.04      SURVEYS AND PLANS**

Where the Planning Commission is empowered to approve certain uses of premises under the provisions of this Ordinance or in cases where the Commission is required to make an investigation and recommendation to the Village Council, the applicant shall furnish such surveys, plans or other information as may be reasonably required by the Commission for the proper evaluation and consideration of the matter.

**SECTION 25.05      SPECIAL LAND USE PERMIT APPLICATIONS**

- A. The Planning Commission shall have sole authority to approve, conditionally approve, or reject applications for special land use permits.
- B. Application for a special land use permit shall be made by filing the application form, required information, and required fee with the Zoning Administrator. The fee shall be set by resolution by the Governing Body, except that no fee shall be required for a special land use permit application for the construction of a single-family residence or of any governmental body or agency. The Zoning Administrator shall transmit a copy of the application and submitted information to the Planning Commission for investigation, and review.

- C. An application for a special land use permit shall contain the following information:
1. The applicant's name, address, and telephone number.
  2. The names and addresses of all record owners and proof of ownership.
  3. Legal description, address, and tax parcel number of the property.
  4. A scaled and accurate survey drawing correlated with a legal description and showing all existing buildings, drives, and other improvements.
  5. A detailed description of the proposed use.
  6. A site plan, if requested by the Planning Commission, which plan shall meet all the requirements of Article 22.
  7. Any other information required by Articles of this Ordinance.
- D. The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and with respect to any additional standards set forth in this Ordinance. The Planning Commission shall find and report adequate data, information, and evidence demonstrating whether the proposed use meets all required standards and;
1. Will be consistent with the intent and purpose of this Ordinance.
  2. Will be compatible with the natural environment and existing and future land uses in the vicinity.
  3. Will be compatible with the Community Master Plan of current adoption.
  4. Will be compatible with essential public facilities and services, such as highways, streets, police and fire protection, drainage ways and structures, refuse disposal, or schools affected by the use.
  5. Will not be hazardous, or disturbing to existing or future neighboring uses;
  6. Will not create additional requirements at public costs for public facilities and services that will be detrimental to the economic welfare of the Village.
  7. Will not involve uses, activities, processes, materials and equipment and conditions of operation that will be detrimental to any person, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
  8. The use will be consistent with the public health, safety and welfare of the Village.
- E. The Planning Commission shall approve, conditionally approve, or reject a special land use permit application. The Planning Commission's recommendation, the basis for its decision, and all conditions imposed, shall be described in a written statement which shall be made a part of the record in a public meeting.
- F. In granting a special land use permit, the Planning Commission may impose conditions it deems necessary to achieve the objective and standards of this Ordinance, the standards of the Zoning Act, and the public health, safety, and welfare of the Village. Failure to comply with such conditions shall be considered a violation of this Ordinance. An approved special land use permit, including all conditions, shall run with the land to

which the approval applies, and shall remain unchanged except upon the mutual consent of the Planning Commission and the permittee. Any such changes shall be recorded in the minutes of the Planning Commission meeting at which the action occurred. The procedures required for an original application shall be followed with respect to any proposed changes.

- G. An application for a special land use permit which has been denied wholly or in part by the Village shall not be resubmitted for a period of three hundred sixty-five (365) days from the date of denial, except on grounds of new evidence or proof of changed conditions found by the Planning Commission to be valid.
- H. A Special Land Use approval runs with the land until such time as the use designated in the "approval" is changed by the occupant. The land then reverts back to only the uses and conditions permitted by right in that specific zoning district.
- I. The decision of the Planning Commission with respect to a special land use permit may not be appealed to the Zoning Board of Appeals.

**SECTION 25.06 SPECIAL LAND USE IN PUD AND ONE-FAMILY CLUSTER**

- A. The procedures for consideration, recommendation, and approval, conditional approval or rejection of Special Land Use permit applications provided in this Article apply equally to planned unit developments and one-family cluster open space option.

**SECTION 25.07 SPECIAL LAND USE PERMIT CONDITIONS OF APPROVAL**

Reasonable conditions may be required in conjunction with the approval of a special land use, planned development district, single family cluster development or other land uses or activities permitted by discretionary decision. The conditions may include conditions 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 insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do the following:

- A. Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the Village as a whole.
- B. Be reasonably compatible with the Master Plan for future land use.
- C. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

- D. Be necessary to meet the intent and purpose of the zoning requirements; be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- E. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of changes granted in conditions.

**ARTICLE 26**  
**ZONING BOARD OF APPEALS**

**SECTION 26.01 MEMBERSHIP AND PROCEDURES**

- A. The Zoning Board of Appeals for the Village of Nashville (ZBA) shall consist of three (3), five (5), or seven (7) members (with the specific number of members set by the Village Council) appointed by the Village President with the approval of the Village Council, who shall serve terms of three (3) years, except for the liaison members who are also on the Planning Commission or Village Council, who shall serve only as long as they are members of those bodies. Membership shall be representative of the population distribution and of the various interests present in the Village.
- B. One (1) member of the Planning Commission shall be a member of the ZBA, while a member of the Village Council may be a member of the ZBA, and the remaining members selected and appointed by the Village President (with Village Council approval) from the electors of the Village. A Village Council member may not be chairperson of the ZBA.
- C. Meetings shall be held at the call of the Chairperson, and at other times as the ZBA in its rules of procedure may specify. The Chairperson, or in his/her absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.
- D. All meetings of the ZBA shall be open to the public. The ZBA shall maintain a record of its proceedings, which shall be filed in the office of the Village Clerk, and shall be a public record.
- E. **Alternates**
- (1) The Village President (with the approval of the Village Council) may appoint up to two (2) alternate members for the same term as regular members of the ZBA.
  - (2) An alternate member may be called to sit as a regular member of the ZBA to serve in place of a regular member for the purpose of reaching a decision in a case where the regular member has abstained for reasons of conflict of interest or is absent.
  - (3) The alternate members of the ZBA may be called to sit as regular members of the ZBA, if a regular member is absent from one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the place of a regular member for reasons of conflict of interest.
  - (4) The alternate member having been called to serve on a case shall serve on that case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the ZBA.
  - (5) The records maintained by the ZBA shall reflect the attendance and participation of an alternate member.

## **SECTION 26.02 VACANCIES AND REMOVAL**

- A. **Vacancies.** If a vacancy occurs in the membership of the ZBA, the Village President (with the approval of the Village Council) shall appoint another person to the ZBA for the balance of the unexpired term. Upon expiration of the term of a member of the ZBA, a successor shall be appointed not more than one (1) month after the term of the preceding member has expired.
- B. **Removal.** A member of the ZBA may be removed by the Village Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a known conflict of interest constitutes malfeasance in office. Whenever a member of the ZBA has a conflict of interest with respect to a matter presented to the ZBA, the member shall state on the record the nature of the conflict of interest, and the member shall not participate in the ZBA's discussion, consideration, deliberation, or decision of the matter.

## **SECTION 26.03 RULES OF PROCEDURE**

The ZBA may adopt rules and regulations for the conduct of its meetings. The ZBA shall elect from its membership a Chairperson, Vice-Chairperson, Secretary and other officers as deemed necessary. The ZBA shall not conduct business unless a majority of all of its members are present. The presence of a majority of its members shall constitute a quorum.

The regular place and time of meetings of the ZBA may be established by the ZBA in its rules and regulations. Except as otherwise specified in the rules and regulations of the ZBA, the procedure in meetings of the ZBA shall be governed by Robert's Rules of Order.

Minutes of proceedings shall be kept for all ZBA meetings. These minutes shall list the members absent and present and shall show the action taken by the ZBA, as well as the vote of each member upon each matter presented to the ZBA.

## **SECTION 26.04 CONFLICT OF INTEREST**

A member of the ZBA shall not participate or vote with respect to a matter in which the member has a conflict of interest. Failure of a member to refrain from participating or voting in a matter in which the member has a known conflict of interest shall constitute misconduct in office. A conflict of interest exists whenever a member of the ZBA owns land within the Village which is significantly affected by a matter presented to the ZBA, or a member has a direct financial interest in the matter presented to the ZBA. A conflict of interest may exist in other circumstances as well.

The members of the ZBA should strive to avoid even the appearance of impropriety. Whenever a member of the ZBA has a conflict of interest or appears to have a conflict of interest with respect to a matter presented to the ZBA, the member shall state on the record the nature of the conflict of interest, or the circumstances which exist which could be perceived to be a conflict of

interest. If the member has a conflict of interest, the member shall not participate in the ZBA's consideration of the matter. If circumstances exist which could be perceived to be a conflict of interest, the member, after disclosure of these circumstances, may continue to participate in the ZBA's consideration of the matter if the member can be fair, objective and impartial, subject to the vote of the other members of the ZBA.

Nondisclosure of a known conflict of interest shall constitute misconduct in office, and nondisclosure of circumstances which exist which could be perceived to be a conflict of interest may also constitute misconduct in office.

If a member of the ZBA fails to disclose any circumstances which could be perceived to be a conflict of interest and the ZBA later becomes aware of such circumstances, or if a member of the ZBA participates in the consideration of a matter in which the member has a known conflict of interest, the ZBA may, upon the vote of a majority of the regular members of the ZBA (other than the member who has failed to make the disclosure or who participated in the consideration of a matter in which the member had a conflict of interest), the ZBA may make a recommendation to the Village Council that the member be removed from the ZBA for misconduct in office. If the ZBA makes such a recommendation to the Village Council, the Village Council shall hold a public hearing to consider the recommendation.

## **SECTION 26.05      INTERPRETATIONS**

The ZBA shall have the power to hear and decide, in accordance with the provisions of this Ordinance, appeals involving interpretations of this Ordinance made by the Zoning Administrator, and may make decisions on any other questions on which the ZBA is authorized to pass. In exercising all of its powers, the ZBA shall apply the standards of this section.

- A.    **Text Interpretations.** The ZBA may hear and decide upon appeals for the interpretation of the provisions of this Ordinance after the Zoning Administrator has rendered an interpretation. In deciding text interpretations, the ZBA shall be governed by the following such rules.
- (1)    Text interpretations shall be narrow and address only the situation to be interpreted, be based on a thorough reading of this Ordinance and not have the effect of amending this Ordinance.
  - (2)    Interpretations shall give weight to practical interpretations by the Zoning Administrator if applied consistently over a long period of time.
  - (3)    Records shall be kept of all interpretations.
  - (4)    Where the intent of this Ordinance is unclear and the facts cannot be read to support only one interpretation, the benefit of the doubt shall go to the property owner.
  - (5)    Nothing contained in this section shall be construed to give or grant to the ZBA the power or authority to alter or change the language of this Ordinance.

- B. **Map Interpretations.** When there is any question as to the location of any boundary line between Districts, upon an appeal involving an interpretation of the zoning map from a decision of the Zoning Administrator, the ZBA shall establish the boundary based upon the map and all available information relating thereto and shall establish the boundaries to carry out the intent and purposes of this Ordinance and the Master Plan.
- C. Any appeal shall be filed in writing with the Village within fourteen (14) days of the date when the Zoning Administrator makes his/her interpretation or determination.

## **SECTION 26.06 APPEALS**

- A. Upon application, the ZBA shall hear and decide appeals from and review any order, requirements, decision or determination made by the Zoning Administrator or other official or body charged with the administration of this Ordinance. Any person aggrieved may make an appeal to the ZBA. The grounds of every appeal shall be stated in writing as part of the application.
- B. An application for appeal shall be filed in writing with the Village within fourteen (14) days after the date of the decision that is the basis of the appeal. The appealing party shall file the notice of appeal with the Village on the form required by the Village and pay the required fee or fees with the Zoning Administrator. The notice shall specify the nature and grounds of the appeal and the application fee or fees shall be submitted to the Village in an amount or amounts as established by the Village Council from time to time.
- C. The Zoning Administrator shall transmit to the ZBA all the papers constituting the record upon which the action being appealed was taken.
- D. An appeal stays all proceedings from furthering the action being appealed unless the Zoning Administrator certifies to the ZBA that a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the ZBA or by the Circuit Court.
- E. The ZBA shall fix a reasonable time for the hearing of the appeal, and give due notice to the applicant and all property owners and occupants within three hundred (300) feet of the subject property via a letter sent first class mail not less than fifteen (15) days before the public hearing the time and place of the hearing. Any party may appear in person or by agent. A public hearing notice shall also be published in a newspaper of general circulation not less than fifteen (15) days before the public hearing. See also, Section 24.07.
- F. Following the public hearing, the ZBA shall decide the matter within a reasonable time. The ZBA may reverse or affirm, wholly or partly, or may modify the order requirement, decision or determination, and to that end, shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a permit.



## SECTION 26.07 VARIANCES

A. **Non-Use (Dimensional) Variances.** The ZBA may authorize upon written application in specific cases variances from the terms of this Ordinance where, owing to special conditions related to the applicant's property, a literal enforcement of the provisions of this Ordinance would result in a practical difficulty to the applicant. A variance from the terms of this Ordinance shall not be granted by the ZBA unless and until a written application for a variance is submitted and the ZBA finds that all of the following standards are met:

- (1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District. Exceptional or extraordinary circumstances or conditions include:
  - (a) Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance;
  - (b) By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure;
  - (c) By reason of the use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties; or
  - (d) Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.
- (2) That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
- (3) That the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
- (4) The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
- (5) The variance will not impair the intent and purpose of this Ordinance.
- (6) That the immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant or the applicant's predecessors in title.
- (7) That the reasons set forth in the application justifies the granting of the variance and that the variance is the minimum variance necessary.

B. **Use Variances.** Subject to other provisions of this Ordinance, the ZBA shall have the jurisdiction to decide applications for use variances. The ZBA shall not grant a use variance unless it finds that an unnecessary hardship will occur unless the variance is granted. Additionally, the ZBA shall not grant a use variance unless it also finds that all of the following standards below are met:

- (1) The variance request, if granted, will be the minimum variance (i.e., the least variation or change from the particular requirement of the Ordinance involved) that will make possible the reasonable use of the land, structure, or building involved.
- (2) The granting of the variance will not be injurious or detrimental to neighboring properties or residents.
- (3) The variance will not be detrimental to the public welfare or change the essential character of the neighborhood.
- (4) The variance will not impair the intent or purpose of this Ordinance.
- (5) The problem or condition for which the variance is requested is not a self-created problem by the applicant or property owner (or their predecessors in title) as to the property involved.
- (6) The condition or situation involved is not of so general or recurrent a nature that it would be more reasonable or practical for the Village to amend the provision of the Ordinance involved rather than to grant a variance for the condition or situation.
- (7) There are exceptional, unique, or extraordinary physical conditions or circumstances which directly relate to the property itself (including the land or a structure or building thereon) rather than the individual situation or desire of the applicant or property owner. In other words, the problem or exception or extraordinary circumstances or conditions must be inherent in the land, structure, or building involved.
- (8) The variance must be necessary for the preservation and enjoyment of a substantial property right which is similar to that possessed by other properties in the same zoning district and vicinity. (NOTE-a possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance.)
- (9) As specified above, the ZBA must also find that unnecessary hardship will occur if a use variance is not granted.

No use variance shall be granted unless at least two-thirds (2/3) of all members of the ZBA vote in favor of such use variance. Furthermore, before the members of the ZBA may vote on a given use variance request, the matter shall be referred to the Planning Commission. The Planning Commission shall be asked for its recommendation regarding the proposed use variance request. The ZBA may take final action regarding such a use variance request once the Planning Commission has

forwarded its recommendation on the particular use variance request to the ZBA or 45 days has elapsed since the referral to the Planning Commission, whichever occurs first.

## **SECTION 26.08      APPLICATIONS AND HEARINGS**

- A. Applications for variances shall be submitted to the Zoning Administrator who will review the application for completeness and validity, then transmit it to the ZBA is complete. Applications not meeting the requirements shall be returned to the applicant for completion.
- B. A valid application for a variance to the ZBA shall consist of all of the following:
  - (1) Ten (10) copies of a site plan drawn to scale, which is sufficient to describe the nature of the request.
  - (2) A completed application form as provided by the Village.
  - (3) Payment of the application fee or fees, in accordance with a fee schedule, as determined by the Village Council from time to time.
  - (4) An escrow deposit where applicable.
  - (5) A legal description and/or parcel number of the entire property that is the subject of the request.
  - (6) A statement with regard to compliance with the standards of Section 26.07, as applicable.
  - (7) Other materials as may be required by the ZBA or the Village.
- C. A public hearing shall be held and noticed pursuant to Section 24.07.

## **SECTION 26.09      DECISIONS OF THE ZBA**

- A. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or body or to decide in favor of the appellant on any matter. The ZBA shall render its decision upon any appeal or application submitted to it within a reasonable time after the hearing thereon. However, no use variance shall be granted unless at least two-thirds (2/3) of all of the members of the ZBA vote in favor thereof.
- B. The ZBA may require a performance guarantee or guarantees and/or impose reasonable conditions in conjunction with the approval of an appeal, variance, or any other decision that it is required to make. Conditions shall be imposed in a manner in accordance with the Zoning Act and be related to the standards by which the decision is reached.

- C. All decisions of the ZBA shall become final at the entry of an order, or at the adoption of the minutes, unless the ZBA shall find, and so certify on the record, that it is necessary to cause the order to have immediate effect, in order to preserve property or personal rights.
- D. For each decision of the ZBA, a record shall be prepared including at a minimum, the following items:
  - (1) Description of the applicant's request.
  - (2) The ZBA's motion and vote.
  - (3) A summary or transcription of all competent material and evidence presented at hearing.
  - (4) Any conditions attached to an affirmative decision.
- E. The decision of the ZBA shall be final. However, a party aggrieved by the decision of the ZBA may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Zoning Act. The court may affirm, reverse, or modify the decision of the ZBA, or may remand the decision to the ZBA for further hearings or action.
- F. **Period of Validity.** No variance granted by the ZBA shall be valid for a period longer than twelve (12) months, from the date of its issuance if not used. However the applicant may, upon written request, seek up to one (1) twelve (12) month extension of the variance from the ZBA. The ZBA may grant an extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were reasonably beyond the control of the applicant.

#### **SECTION 26.10 PERFORMANCE GUARANTEE**

The ZBA may require a performance guarantee or guarantees to ensure compliance with any conditions associated with the granting of a variance.

#### **SECTION 26.11 RE-SUBMISSION**

No variance request (or similar request) that has been decided by the ZBA shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the ZBA finds that at least one of the following conditions exists:

- A. That the conditions involving all of the reasons for the original denial have been significantly altered; or
- B. That new conditions or circumstances exist which change the nature of the original request.

## **SECTION 26.12 LACK OF JURISDICTION**

The ZBA is without jurisdiction to hear any appeals or matters involving any of the following:

- A. A planned unit development (PUD).
- B. A special land use.
- C. Site plan decisions.

Notwithstanding the fact that the ZBA generally has no jurisdiction with regard to the above-mentioned matters, the ZBA shall have jurisdiction to entertain variance requests related to subsections A, B, and/or C above, if the body which makes the final decision regarding the matter (for example, the Village Council with regard to a PUD or the Planning Commission or Village Council with regard to a special land use) expressly grants written permission to the landowner or applicant involved to apply to the ZBA for a variance of one or more of the underlying requirements of the Zoning Ordinance. For example, but not by way of limitation, the Planning Commission or Village Council could approve a particular special land use request contingent upon the ZBA granting a variance for an otherwise applicable requirement within the Ordinance which would normally prohibit the applicant or landowner from taking advantage of a special land use approval absent a variance.

## **SECTION 26.13 TERMINATION OF A VARIANCE**

In the event that the ZBA grants a variance, the individual or successor in interest as to the property involved shall not use the property in question such that it would exceed the rights given by the Zoning Ordinance or the variance or fail to follow any conditions placed thereon by the ZBA. In the event that the use of the property exceeds those rights given by the Zoning Ordinance or the variance, or the property owner fails to follow the conditions placed upon the variance, the variance shall immediately terminate. Alternately, in such case, the ZBA shall also have the authority to terminate a variance after reasonable notice and hearing.

## **SECTION 26.14 NO ADVISORY OPINIONS**

The ZBA shall not give advisory, informal, or hypothetical opinions or decisions.

**ARTICLE 27**  
**ZONING COMMISSION**

The Planning Commission is hereby designated as the Planning Commission specified in Act 110 of the Public Acts of 2006, as amended, and shall perform the duties of said Commission as provided in the statute in connection with this Ordinance. The Village does not have a Zoning Commission and any powers of a Zoning Commission under state law have been transferred to and incorporated within the Planning Commission.

**ARTICLE 28**  
**ZONING ORDINANCE REVISIONS**

**SECTION 28.01      CHANGES AND AMENDMENTS**

The Village Council may from time to time on recommendation from the Planning Commission, on its own motion or on petition amend, supplement, or change this Ordinance as follows:

- A.      Upon presentation to the Village Council of a petition for amendment of this Ordinance by an owner of real estate to be affected, such petition shall be accompanied by a fee. The amount of such fee shall be set by resolution of the Village Council
- B.      All amendment proposals not originating with the Planning Commission shall be referred by the Village Council to the Planning Commission for a recommendation before any action is taken by the Village Council.
- C.      The Planning Commission shall study the proposed Ordinance amendment and make a written recommendation to the Village Council for approval, conditional approval, or disapproval. In the course of such study, the Planning Commission may hold public informational meetings on the proposed amendment.
- D.      The Planning Commission shall hold a public hearing thereon. The Village Council may hold a public hearing if it considers it necessary, and must grant a hearing to a property owner who makes a request by certified mail to the Village Clerk. Such hearings may be conducted only after notice is given pursuant to Act 110 of the Public Acts of 2006, MCL 125.3101 *et seq.* as amended, and Section 24.07 hereof.

**SECTION 28.02      CONDITIONAL REZONING**

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 rezoning. It is the intent of this section to provide a process consistent with the provisions of Section 405, Michigan Zoning Enabling Act 110 of 2006 (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.

**A.      Application and Offer of Conditions.**

- (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.
- (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 owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- (5) Any use of development proposed as part of an offer of conditions that would require a special land use permit under the terms of the Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- (6) Any use or development proposed as part of an offer of conditions that require variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the ZBA in accordance with the provisions of this Ordinance.
- (7) 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.
- (8) 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 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.

B. **Planning Commission Review.** Planning Commission, after public hearing and consideration of the factors for rezoning, 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.

C. **Village Review.** After receipt of the Planning Commission's recommendations, the Village Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. This Village Council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning of this Ordinance. Should the Village Council consider amendments to the proposed conditional rezoning advisable and if such a contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Village Council shall, in accordance with Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405), 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.



**D. Approval.**

- (1) 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 this Ordinance adopted by the Village Council to accomplish the requested zoning.
- (2) The Statement of Conditions shall:
  - (a) Be in a form recordable with the Barry County Register of Deeds 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.
  - (b) Contain a legal description of the land to which it pertains.
  - (c) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  - (d) 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.
  - (e) Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Village with the Barry County Register of Deeds.
  - (f) 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.
- (3) Upon 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 shall maintain a listing of all lands rezoned with a Statement of Conditions.
- (4) The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Village with the Barry County Register of Deeds. 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.

- (5) 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.

**E. Compliance with Conditions.**

- (1) 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.
- (2) No permit or approval shall be granted under this Ordinance for any uses or development that is contrary to an applicable Statement of Conditions.

**F. Time Period for Establishing Development or Use.** 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 18 months after the rezoning took effect and thereafter proceed diligently to completion. 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 otherwise inconsistent with sound zoning policy.

**G. Reversion of Zoning.** If approved development and/or use of the rezoned land do not occur within the time frame specified under Section 28.02F above, then the land shall revert to its former zoning classification as set forth in the Michigan Zoning Enabling Act (MCL 125.3405). 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.

**H. 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 the Section 28.02G 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 Barry County Register of Deeds that the Statement of Conditions is no longer in effect.

- I. **Amendment of Conditions.** During the time period for commencement of an approved development or use specified pursuant to Section 28.02F 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.
- J. **Village Right to Rezone.** Nothing in the Statement of Conditions or 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 (MCL 125.3405).
- K. **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.

**ARTICLE 29**  
**ENFORCEMENT, PENALTIES AND OTHER REMEDIES**

**SECTION 29.01 VIOLATIONS**

A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$50 nor more than \$500 for the first offense and not less than \$100 nor more than \$2,500 for subsequent offenses, in the discretion of the Court, and such fine shall be in addition to all other costs, attorney fees, damages, expenses, court orders, restitution, and other remedies as provided by law and equity. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same or similar provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses.

**SECTION 29.02 DECLARATION OF PUBLIC NUISANCE**

Any building or structure that is erected, altered or converted, or any use of any premises or land that is begun or changed subsequent to the effective date of this Ordinance and is in violation of any of the provisions hereof is hereby declared to be a public nuisance per se and may be abated by order of any court of competent jurisdiction.

**SECTION 29.03 FINES, SEPARATE OFFENSES**

The owner of any building, structure or premises or part thereof where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation, shall be responsible for a separate offense and be liable for the fines herein provided.

**SECTION 29.04 EACH DAY A SEPARATE OFFENSE**

A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

**SECTION 29.05 RIGHTS AND REMEDIES CUMULATIVE**

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

**SECTION 29.06 OFFICIALS WHO MAY ENFORCE**

The Zoning Administrator for the Village (together with such other officials as are designated from time to time by the Village Council) is authorized to enforce this Ordinance, including issuing and prosecuting municipal civil infraction citations, tickets, or notices.

**ARTICLE 30**  
**EFFECTIVE DATE**

The public hearing having been held hereon, the provisions of this Ordinance shall take effect upon the expiration of seven (7) days after publication, pursuant to the provision of Act 100 of the Public Acts of 2006, as amended.

And made and passed by the Village of Nashville, Barry County, Michigan, on this 9th day of February, 2012.

Effective 2-18-12