

**ARTICLE II**  
**"R-1" SINGLE FAMILY RESIDENTIAL DISTRICT**

**Section 2.01 INTENDED PURPOSES**

The purpose of creating residential districts is to provide areas primarily designed for residential use consisting of single family dwellings with a garage located on individual lots or premises, of adequate size, spaced to diminish spread of fire, and set back from the public thoroughfare to facilitate safe exit from and entrance to the premises.

The requirements are intended to protect and stabilize the basic qualities of each district, and to provide suitable and safe conditions for family living.

The general character of these residential districts is to consist single family detached dwellings, set on large building lots. Nonresidential uses would be restricted to those community facilities which:

- A. May appropriately be located in residential areas to provide educational, recreational, religious, health, and other essential services for residents, or
- B. Can perform their activities more effectively in a residential environment, unaffected by adjacent industrial or general services uses, and
- C. Do not create significant objectionable influences in residential areas.
- D. Residential structures - (See Section 1.13 RESIDENTIAL DWELLINGS, GENERALLY)

**Section 2.02 USE REGULATIONS (Regulation shall apply in "Single Family" Residential Districts)**

A building may be erected, altered, or used, and a lot may be used or occupied for any of the following purposes and no other:

- A. Permitted Uses:
  - 1. Single family residence: there shall be a minimum floor area of eleven hundred (1,100) square feet of living space. Dwellings having more than one story shall have a ground floor area of at least seven hundred twenty (720) square feet. The required garage shall have a minimum floor area of four hundred (400) square feet
  - 2. Publicly owned parks and playgrounds without buildings.
  - 3. Accessory uses.
  - 4. Home Occupations. See Section 9.24.
  - 4. Lake Front Residence in accordance with the requirements of Section 9.18.
- B. Conditional Uses by Permit:
  - 1. Churches, parish houses, schools, educational and philanthropic institutions.
  - 2. The use of open lands and waters for privately owned and operated parks, picnic groves, golf courses, and similar facilities for outdoor exercise and recreation, but not including race tracks or miniature golf courses.
  - 3. Community facilities and public utility uses directly related to and necessary for essential services within the district or Village.
  - 4. Group housing quarters, providing one off street parking space for each three (3) residents.
  - 5. Conversion of single family to two family, providing there will not be less than 720 square feet in each unit.

6. Multiple family dwelling containing not more than 4 units on a lot not less than one half acre in area.
7. Nursery school or day care center, non boarding, on a lot of not less than one-half acre.
8. Agricultural uses provided that livestock must be kept on a site of not less than five (5) acres and that livestock buildings must be at least one hundred eighty (180) feet from any property line.

### **Section 2.03 HEIGHT REGULATIONS**

- A. For any dwelling, thirty-five (35) feet, not exceeding two and one-half (2 1/2) stories;
- B. Any building accessory to any dwelling use, shall not exceed one (1) story. Side wall shall not exceed 10 feet. Roof pitch shall be 4 x 12 or better (See 9.03 Accessory Building or Structure)
- C. For any other nonresidential building or other structure, thirty-five (35) feet, except that such height may be increased to a maximum of sixty-five (65) feet provided that for every foot of height in excess of thirty-five (35) feet there shall be added to each yard requirement one (1) corresponding foot of width and depth.

### **Section 2.04 AREA, WIDTH, AND YARD REGULATIONS**

- A. Minimum Lot Area and Width: A lot area of not less than twelve thousand, (12,000) square feet and a lot width of not less than one hundred (100) feet at the building line shall be provided for every building or other structure erected or used for any use permitted in this district except as provided in Section 1.05.

Each building or structure other than a single family detached dwelling and accessory buildings, shall be located on a lot having an area of not less than twenty thousand (20,000) square feet and a width at the building line of not less one hundred than (100) feet.

In the case of a use dealing with public utilities, the minimum lot area and width requirements may be reduced when authorized by the Planning Commission.

- B. Front Yards:
  1. There shall be a front yard not less than thirty (30) feet in depth between the building line and the front property line except as provided in the following paragraph.
  2. The front yard requirement specified in paragraph 1 above may be modified to equal the average of the actual then existing setbacks on lots wholly or partially within three hundred (300) feet of any lot proposed to be built on and located on the same side of the street in the same block provided that the front yard required by this paragraph shall not be less than twenty (20) feet nor more than fifty (50) feet.
- C. Side Yards:
  1. On each interior lot, there shall be two (2) side yards having a total width of not less than twenty five (25) feet, and no side yard shall be less than ten (10) feet. A lot of record shall be not less than twenty (20) percent of the total lot width at the building line and neither side yard shall have a width of less than six (6) feet.

2. On each corner lot, there shall be two (2) side yards, the side yard abutting the street having a width of not less than thirty (30) feet, and the side yard not abutting the street having a width of not less than six (6) feet.
  3. On any lot, in any side yard not abutting the street, a detached private garage may be erected and maintained within the rear yard of the lot if not closer to the side lot line than five (5) feet.
- D. Rear Yard: There shall be a rear yard on each lot, the depth of which shall be not less than twenty five (25) feet, except that an accessory use structure may be erected within the rear yard not closer to the rear property line than five (5) feet.
- E. Building coverage: If parcel or lot is not connected to a sewer system, buildings may not cover more than thirty (30) percent of the area of any lot.

#### **Section 2.05 VISION CLEARANCE**

Vision clearance requirements will be in accordance with the provisions of Section 9.09 of this Ordinance.

**ARTICLE III**  
**"R-2" MOBLE OR MANUFACTURED HOME PARK DISTRICT**

**Section 3.01 INTENT OF DISTRICT**

It is the intent of this district to provide standards for the placement of mobile and manufactured homes in a park setting in which the sites are rented or leased.

**Section 3.02 USE REGULATIONS**

In the "R-2" District, no land or buildings shall be used, and no buildings or structure shall be erected or converted, for any use or under any condition other than the following:

- A. Mobile home parks as regulated by the State of Michigan pursuant to Public Act 419 of 1976 as amended.

**ARTICLE IV**  
**"R-3" MULTIPLE FAMILY RESIDENTIAL DISTRICT**

**Section 4.01 INTENDED PURPOSES**

The general character of these residential districts is to consist of single family, two (2) family, and multiple family dwellings set in a medium density living environment. Nonresidential uses would be those permitted in "Single Family" Residential Districts.

In Multiple Family Residential Districts, the following regulations apply:

**Section 4.02 USE REGULATIONS**

A building may be erected, altered, or used, and a lot may be used or occupied for any of the following purposes and no other:

A. Permitted Uses:

1. A use permitted in Single Family Residential Districts and consistent with the purpose of the Single Family District, Article II;
2. Single family attached, not to exceed six (6) dwellings per structural unit.
3. Two Family dwelling
4. Multiple family dwellings;
5. Accessory uses.

B. Conditional Uses by Permit:

1. Medical offices or group medical centers, including the practice of dentistry or osteopathy.
2. Conditional uses as described in Article II.

**Section 4.03 HEIGHT REGULATIONS**

- A. For any dwelling, thirty-five (35) feet, not exceeding two and one-half (2-1/2) stories;
- B. For any building accessory to any dwelling use, not to exceed fourteen (14) feet, not exceeding one (1) story.
- C. For any other nonresidential building or other structure, thirty-five (35) feet, except that such height may be increased to a maximum of sixty-five (65) feet provided that for every foot of height in excess of thirty-five (35) feet there shall be added to each yard requirement one (1) corresponding foot of width and depth.

**Section 4.04 AREA, WIDTH AND YARD REGULATIONS**

A. Minimum Lot Area and Width: A minimum lot area per housing unit and a minimum lot width at the building line shall be provided for every building erected, altered, or used for any dwelling use permitted in this district in accordance with the following table;

<u>Type of Dwelling</u>	<u>Minimum Lot Area Per Dwelling Unit</u>	<u>Minimum Lot Width</u>
Single Family Dwelling	7,500 square feet	60 feet

<u>Type of Dwelling</u>	<u>Minimum Lot Area Per Dwelling Unit</u>	<u>Minimum Lot Width</u>
Single Family, Attached (not less than 6 units per structure)	5,000 square feet	16 feet per unit
Two Family Dwelling	10,000 square feet	80 feet
Multi-family--3 Bedroom	4,000 square feet	80 feet
Multi-family--2 Bedroom	3,000 square feet	80 feet
Multi-family--1 Bedroom	2,500 square feet	80 feet

For every building erected, altered, or used for any other uses permitted in this district, there shall be a lot area of not less than twenty thousand (20,000) square feet and a lot width of not less than one hundred (100) feet at the building line.

B. Front Yards: Same as in Single Family Residential District. Section 2.04 (B).

C. Side Yards

1. On each interior lot, side yards shall be provided in accordance with the following table:

<u>Type of Dwelling</u>	<u>Min. No. side of Yards</u>	<u>Total of Side Yards</u>	<u>Any One Minimum</u>
Single Family Dwelling	2	20% of lot width	6 feet
Single Family, Attached (end only)	1	12 feet	12 feet
Two Family Dwelling	2	20% of lot width	12 feet
Multifamily Dwelling	2		25 feet

2. On each corner lot, there shall be a side yard abutting the street having a width of not less than thirty (30) feet.

3. For every building erected, altered, or used for any other use permitted in this district, there shall be side yards provided in accordance with the following:

a. On the interior lots, there shall be two (2) side yards having an aggregate width of not less than twenty (20) percent, neither side yard having a width of less than ten (10) feet.

b. On each corner lot, there shall be two (2) side yards, the side yard abutting the street having a width of not less than thirty (30) feet, and the side yard not abutting the street having a width of not less than ten (10) feet.

4. On any lot, in any side yard not abutting the street, a detached private garage may be erected and maintained within the rear quarter of the lot if not closer to the side lot line than three (3) feet

D. Rear Yard: There shall be a rear yard on each lot, the depth of which shall not be less than twenty-five (25) feet, except that an accessory use structure may be erected within the rear yard not closer to the rear line than eight (8) feet.

Type of Dwelling Unit	<u>Maximum Coverage</u>
Single Family	30 percent
Single Family, Attached	40 percent
Two Family	30 percent
Multifamily	40 percent

F. **Distance Between Structures:** The minimum distance between any two (2) multiple family residence buildings on the same lot shall be fifty (50) feet, except that where two (2) buildings are so situated that:

1. Neither is visible from any window or entrance of the other, or
2. No line drawn perpendicular to any wall of either building intersects the other building,

Then the minimum distance between such buildings may be twenty-five (25) feet less than indicated above.

#### **Section 4.05 FENCES, WALLS, SCREENS AND VISION CLEARANCE**

Vision clearance requirements will be in accordance with the provisions of Section 9.09 of this Ordinance.

#### **Section 4.06 OFF-STREET PARKING**

Off-street parking requirements will be in accordance with the provisions of Article XI of this Ordinance.

#### **Section 4.07 SIGNS**

Sign requirements will be in accordance with the provisions of Section 9.12 of this Ordinance.

**ARTICLE V  
RETAIL COMMERCIAL DISTRICT**

**Section 5.01 INTENDED PURPOSES**

The purpose of the Retail Commercial District is to provide for the everyday shopping needs and related convenience of residential neighborhoods. All activities in this district would take place generally within enclosed buildings.

In Retail Commercial Districts, the following regulations shall apply:

**Section 5.02 USE REGULATIONS**

A building may be erected, altered, or used, and a lot may be used or occupied for any of the following purposes:

**A. Permitted Uses:**

1. Retail stores and shops offering chiefly new merchandise (but not excluding antique shops) when conducted within a building having a roof and four (4) sides.
2. Business and personal services including barber shops, beauty parlors, shoe repair shops, dry cleaning agencies, self-service laundries, printing shops, radio and television shops, real estate sales, insurance and similar businesses and services.
3. Professional offices, show rooms, banks, undertaking establishments, publicly owned buildings, and fraternal, civic, and social organization buildings.
4. Food service establishments (including drive-ins, taverns, or nightclubs) and outdoor play area and patios.
5. Motels and hotels.
6. Theaters (except drive-in theaters).
7. Other uses similar in character to the above and not listed specifically.

**B. Conditional Uses by Permit:**

1. Public utility buildings, telephone exchanges, transformer stations, substations with service yards, but without storage yards.
2. Outdoor advertising media and signs not pertaining exclusively to the business conducted within the building on the premises.
3. Other uses similar in character to the above and not listed specifically.
4. Residential uses above the first floor.



### Section 5.03 HEIGHT REGULATIONS

No building shall exceed forty (40) feet or three (3) stories in height. Churches, hospitals, schools, or any other public building permitted to be constructed in a business district may be built to a height of seventy (70) feet or six (6) stories, provided any such building sets back from every street and lot line, in addition to any other yard and setback requirements specified for commercial districts, one (1) foot for each two (2) feet of height of the building above forty-five (45) feet.

### Section 5.04 AREA, WIDTH AND YARD REGULATIONS

- A. Front Yards: On a street frontage between two (2) street intersections, each lot fronting on such street shall have a setback line between the lot line and the front building line as follows:
1. Where all lots are unimproved, the front building line depth shall not be less than fifty (50) feet from the center of the street or twenty-five (25) feet from the property line, whichever is greater.
  2. Where one (1) or more lots are improved, the front yard depth need not be more than the average depths of the existing front yards of the lots adjoining on either side.
- B. Side Yards
1. On each corner lot, there shall be a side yard abutting the street having a width of not less than fifty (50) feet from the center line of the right-of-way or twenty-five (25) feet from the property line (whichever is the greater), and another side yard having a width of not less than fifteen (15) feet unless the building employs a common party wall with the building of the adjoining lot.
  2. On a lot abutting any residential zoning district, there shall be a side yard abutting such district having a width of not less than thirty (30) feet, which shall be effectively screened from abutting lots by a strip of planting creating an opaque screen at least seven (7) feet in height, such planting consisting of not less than fifty (50) percent evergreen material scattered throughout or a wall or fence as approved by the Zoning Administrator.
  3. Where abutting lots have buildings, employing a common wall, no side yard is required.
  4. All interior lots shall have two (2) side yards, each having a width of not less than fifteen (15) feet, except where common walls are used
- C. Rear Yards: There shall be a rear yard on every lot, which rear yard shall have a minimum depth of not less than ten (10) percent of the depth of the lot for a one (1) story building, which depth shall be increased to fifteen (15) percent of the depth of the lot for a two (2) story building; provided, however, that such rear yard need not exceed thirty (30) feet in depth. Accessory buildings not more than fifteen (15) feet high may be located in a rear yard, providing the accessory buildings occupy not more than twenty-five (25) percent of the rear yard area, and are located no nearer to the side or rear lot line than five (5) feet. Accessory buildings shall not be used for residential purposes.
- D. Building coverage: Not more than sixty (60) percent of any lot may be covered by buildings.

**Section 5.05 SIGNS**

Sign requirements will be in accordance with the provisions of Article 9.12 of this Ordinance.

**Section 5.06 SPECIAL CONDITIONS**

All business shall be conducted within a completely enclosed building, except for off-street parking, unless authorized by the Planning Commission.

**Section 5.07 FENCES, WALLS, SCREENS AND VISION CLEARANCE**

Vision clearance and fence requirements will be in accordance with the provisions of Article IX, Section 9.09 of this Ordinance.

**Section 5.08 FENCES (RESTAURANT)**

The erection of a fence around that portion of this district which a drive-in restaurant utilizes for customer parking shall be mandatory. The ingress and egress driveways are excluded from this requirement. The fence shall be so designed as to contain paper products and debris within the enclosed area.

No fence over seven (7) feet in height shall be erected between the lot line in the rear and the building setback line. No fence over four (4) feet in height shall be erected between the setback line and the front lot line; provided, however, that such fence shall have a minimum of seventy-five (75) percent of its surface open to permit visibility through it.

## **ARTICLE VI SERVICE COMMERCIAL DISTRICT**

### **Section 6.01 INTENDED PURPOSES**

This district is designed to provide for automotive, service, and free-standing commercial activities which require limited comparison shopping. Customers usually arrive by automobile making a separate stop for each errand. Uses permitted in this district usually require larger sites and buildings and often provide services which are not compatible with other commercial or residential districts.

### **Section 6.02 USE REGULATIONS**

Within a Service Commercial District no building, structure, or premises shall be used or arranged or designed to be used, except for one (1) or more of the following uses:

#### **A. Permitted Uses**

1. Any use permitted in the Retail Commercial District
2. Automobile sales and service (new or used)
3. Building materials—retail
4. Contractors--air conditioning, plumbing, heating and ventilating, electric, insulation
5. Laundries and dry cleaners not more than 5,000 square feet
6. Material handling equipment sales and service
7. Meat processing (no slaughtering)
8. Milk distributing (retail-wholesale), no processing
9. Mobile home sales and service
10. Packaging services
11. Restaurants (including drive-ins and fast food service)
12. Animal hospitals, animal boarding or dog kennels
13. Rental equipment
14. Vehicle sales and service
15. Farm equipment sales and service
16. Shopping centers
17. Other uses similar in character to the above and not listed specifically
18. Greenhouse

#### **B. Conditional Uses**

1. Outdoor advertising signs
2. Other uses similar in character to the above and not listed specifically
3. Metal and wood fabrication not exceeding 5,000 square feet
4. Storage facilities designed to be rented or leased to individuals

### **Section 6.03 HEIGHT REGULATIONS**

No building shall exceed forty (40) feet or three (3) stories in height.

### **Section 6.04 AREA, WIDTH AND YARD REGULATIONS**

A. Front Yard: Same as required in Retail Commercial District.

**B. Side Yard:**

1. On each interior lot, there shall be two (2) side yards having a width of not less than twenty five (25) feet each.
2. On each corner lot, there shall be two (2) side yards, the side yard abutting the street having a width of not less than fifty (50) feet from the center line of the right-of-way or twenty-five (25) feet from the property line (whichever is greater), and the side yard not abutting the street having a width of not less than twenty-five (25) feet.
3. On any lot, any side yard not abutting a street may be used to provide access to the rear portion of the yard.
4. On a lot abutting any residential zoning district, there shall be a side yard abutting such district having a width of not less than forty (40) feet, which shall be effectively screened from abutting lots by a strip of planting creating an opaque screen at least seven (7) feet in height, such planting consisting of not less than fifty (50) percent evergreen material scattered through or a wall fence as approved by the Zoning Administrator.

**C. Rear Yards:** There shall be a rear yard on every lot, which rear yard shall have a minimum depth of not less than twenty-five (25) feet. Accessory buildings not more than fifteen (15) feet high may be located in a rear yard, provided the accessory buildings occupy not more than twenty-five (25) percent of the rear yard area, and are located no nearer to the side or rear lot line than five (5) feet.

**D. Building coverage:** Not more than fifty (50) percent of the area of any lot shall be occupied by buildings.

**Section 6.05 SIGNS**

Sign requirements will be in accordance with the provisions of Article 9.12 of this Ordinance.

**Section 6.06 FENCES, WALLS, SCREENS AND VISION CLEARANCE**

Vision clearance and fence requirements will be in accordance with the provisions of Article IX, Section 9.09 of this Ordinance.

**Section 6.07 OFF-STREET PARKING**

Off-street parking will be in accordance with the provisions of Article XI.

## ARTICLE VII MANUFACTURING DISTRICT

### Section 7.01 INTENDED PURPOSES

These districts are intended to provide sites for heavy commercial and manufacturing activities employing relatively large numbers of people. Industrial uses would generally be located on sites of up to ten (10) acres and activities would be of such a nature that they do not create serious problems of compatibility with other kinds of adjacent land use. Such use shall not create objectionable noise, vibration or odor and must not exceed any state law or regulation. Permitted commercial uses would be those which are most appropriately located as neighbors of industrial uses or which are necessary to serve the immediate needs of the people in these districts. Truck traffic and loading operations are expected to be characteristic of the districts, however, all storage and operations would be confined to buildings or areas completely enclosed by walls or opaque fences.

### Section 7.02 USE REGULATIONS

In the Manufacturing District, buildings and premises may be used, and buildings may be erected or structurally altered for the following uses only:

#### A. Permitted Uses

1. Bulk storage
2. Cleaners and laundries
3. Contractors
4. Equipment repair
5. Fabrication assembly and packaging
6. Food processing
7. Grinding, milling, and production
8. Handling and processing of construction materials
9. Manufacturing
10. Material handling and equipment
11. Processing and handling of raw materials
12. Motor vehicle services
13. Repair services
14. Warehousing, storage movers
15. Wholesaling
16. Stamping, Steel Fabricating
17. Accessory uses
18. Other uses similar in character to the above and not listed specifically

#### B. Conditional Uses

1. Freight terminals
2. Outdoor advertising signs
3. Scrap processing and storage
4. Storage and handling of explosives, flammables, or other potentially dangerous materials
5. Other uses similar in character to the above and not listed specifically

### **Section 7.03 HEIGHT REGULATIONS**

The maximum height of buildings and other structures erected or enlarged in this district shall be thirty five (35) feet, except that such height may be increased to a maximum of sixty-five (65) feet, provided that for every foot of height in excess of thirty-five (35) feet, there shall be added to each yard requirement one (1) corresponding foot of width and depth.

### **Section 7.04 AREA, WIDTH AND YARD REGULATIONS**

- A. Front Yards: There shall be a front yard on each lot which shall be not less than fifty (50) feet in depth.
- B. Side Yards
  - 1. On each interior lot, there shall be two (2) side yards, each side yard having a width of not less than twenty-five (25) feet, except as hereinafter provided in Subsection E hereof.
  - 2. On each corner lot, there shall be two (2) side yards, the side yard abutting the street having a width of not less than fifty (50) feet and the side yard not abutting the street having a width of not less than twenty-five (25) feet, except as hereinafter provided in Subsection E hereof.
- C. Rear Yard: There shall be a rear yard on each lot the depth of which shall be not less than fifty (50) feet, except as hereinafter provided in Subsection E hereof.
- D. Building coverage: Not more than fifty (50) percent of the area of any lot shall be occupied by building.
- E. Lots Abutting Residential Districts: Unless authorized as a special exception, in no case shall any building or structure be erected closer than one hundred (100) feet to any residential district nor shall any parking area be closer than forty (40) feet to any residential district, which forty (40) foot area between such parking lot and such residential district shall be maintained as green area entirely covered by grass, shrubs, and/or trees.

### **Section 7.05 OFF-STREET PARKING**

The provisions of Article XI to the contrary notwithstanding, no parking area shall be permitted closer than forty (40) feet to the front line of any lot in this district, nor closer than forty (40) feet to any residential district.

### **Section 7.06 SIGNS**

Sign requirements will be in accordance with the provisions of Article IX of this Ordinance.

### **Section 7.07 OPEN STORAGE**

Any open storage or repair yards shall be entirely enclosed with a fence at least eight (8) feet high. The material and construction of this fence shall be approved by the Planning Commission.

**ARTICLE VIII  
NONCONFORMING BUILDING USES AND LOTS**

**Section 8.01 INTENDED PURPOSE**

- A. Within the districts established by this Ordinance, or amendments that may later be adopted, there exist lots, land, structures, and uses thereof which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their continuation. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- B. Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of land, structure, or combination thereof, shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
- C. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

**Section 8.02 NONCONFORMING LOTS**

- A. In any district in which single family dwellings are permitted, a single family dwelling and accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, in spite of limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. 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 and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Appeals.
- B. If two (2) 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 land 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 sold in a manner which dimensions do not comply with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

### **Section 8.03 NONCONFORMING USES OF LAND**

Where, at the time of this Ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, the use **may** be continued so long as it remains otherwise lawful, provided:

- 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 of this Ordinance;
- B. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
- C. If any such nonconforming use of land ceases for any reason for a period of more than one (1) year, an subsequent use of land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- D. No additional structure, not conforming to the requirements of this Ordinance, shall be erected in connection with such nonconforming use of land.

### **Section 8.04 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, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconforming
- B. Should such nonconforming structures or nonconforming portion of structure be destroyed by not more than 75 percent by any means it may be reconstructed, if initiated and substantially completed within twelve (12) months immediately following its destruction;
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

### **Section 8.05 NONCONFORMING USES OF STRUCTURES AND LAND**

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located;
- B. 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 of this Ordinance, but no such use shall be extended to occupy any land outside such building;



- C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use of the same or a more restricted classification, 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 chapter. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restrictive classification;
- D. Any structure, or structure and land in combination, in or on which a nonconforming use is replaced by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;
- E. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;
- F. Where nonconforming status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than seventy-five (75) percent of the replacement cost at time of destruction.

#### **Section 8.06 REPAIRS AND MAINTENANCE**

On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased. Nothing in this Ordinance 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 8.07 CHANGE OF TENANCY OR OWNERSHIP**

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

**ARTICLE IX  
SPECIAL PROVISIONS**

**Section 9.01 PURPOSE**

There are certain conditions concerning land uses that warrant specific regulations and standards in addition to the requirements of the zoning districts in which they are located.

**Section 9.02 DWELLING PER LOT**

Every dwelling hereafter erected shall be located on a lot or premises, the description of the boundaries of which are on record at the Register of Deeds Office, or in the case of a Land Contract shall be on record with the Zoning Administrator as adequately descriptive.

**Section 9.03 ACCESSORY BUILDING OR STRUCTURE**

- A. All accessory buildings and structures not attached to the main building shall be located in the rear, and not less than five (5) feet from the sideline of the premises on which located. All accessory buildings attached to the main building, including breezeways, shall be considered a part of the main building in determining yard requirements.
- B. No accessory building shall project into any front yard.
- C. No accessory building shall occupy more than thirty (30) percent of the area of any rear yard.
- D. On a corner lot, no accessory building shall be located nearer to the side street lot line than the side yard setback of the principal building on said lot.

**Section 9.04 SUBSTANDARD DWELLINGS**

For the express purpose of promoting the health, safety, and general welfare of the inhabitants of the Village, and of reducing hazards to health, life, and property, no basement dwelling, cellar dwelling, tent, garage-house, or other substandard structure shall hereinafter be erected or moved upon any premises and used for dwelling purposes.

**Section 9.05 REQUIRED WATER SUPPLY AND SANITARY SEWER FACILITIES**

In addition to the requirements established by the State and County Health Departments, no structure for human occupancy or use shall hereafter be erected, altered, or moved unless it shall be properly connected to the Village water system and waste water system. Waste water system permits must be obtained prior to the issuance of the building permit.

**Section 9.06 ACCESS TO A STREET**

No lot of record shall be occupied except where access to a public street or way is provided by a public or private easement or other right-of-way no less than twenty (20) feet in width. Public access to commercial, industrial, or recreational uses shall not be designed so as to pass through the residential neighborhoods.

**Section 9.07 STREET CLOSURES**

Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation, and all area

included therein shall henceforth be subject to all appropriate regulations of that district within which such area is located.

### **Section 9.08 HEIGHT REGULATIONS**

The height requirements established by this Ordinance shall apply uniformly in each zoning district to every building and structure except that the following structures and appurtenances shall be exempt from the height requirements of this Ordinance; spires, belfries, penthouses and domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, utility poles, power lines, radio and television broadcasting and receiving antennas, silos, parapets and other necessary mechanical appurtenances, provided their location shall conform where applicable to the requirements of the Federal Communications Commission and other public authorities having jurisdiction.

### **Section 9.09 FENCES, WALLS, SCREENS AND VISION CLEARANCE**

Within the limits of a front yard space of a lot within a residential district, no fence, wall, other than necessary retaining wall, or other screening structure shall be higher than four (4) feet. No such fence or wall located within a side or rear yard shall exceed seven (7) feet in height. No fence, wall, hedge, screen, sign structure, vegetation, or planting which is more than 30 percent solid shall be higher than two (2) feet above street grade on any corner lot or parcel in any zoning district requiring front and side yards within the triangular area formed by the intersecting street right-of-way lines and a straight line joining the two (2) street lines at points which are thirty (30) feet distant from the point of intersection, measured along the street right-of-way lines. All fences shall be erected so that the finished or smooth side of the fence faces toward the adjacent property.

### **Section 9.10 ESSENTIAL SERVICES**

For purposes of this Ordinance, the following provisions shall apply:

- A. The surface of land used for pipe line right-of-ways shall be restored and maintained as near as possible to its original condition prior to the construction of the pipe line.
- B. Essential services shall be exempt from lot area requirements in the Commercial and Industrial Districts.

### **Section 9.11 SWIMMING POOLS**

All swimming pools shall conform to the requirements of the County Health Department. Swimming pools to be constructed shall be enclosed by a fence, wall, or other structure which shall be at least five (5) feet in height as measured from the outside. Any opening under the bottom of the fence shall not be more than four (4) inches in height. A fence or wall enclosure shall be of a type that impedes climbing by small children and shall be equipped with a gate that is a self-closing and latching type with the latch on the pool side of the gate. Said entrance way shall lead to the shallow end of the pool. Swimming pools may be located not closer than ten (10) feet to any property line and may not be located in the front yard. If the entire premises is enclosed by a fence or wall, this requirement may be waived.

### **Section 9.12 GENERAL SIGN REGULATIONS**

No sign shall be erected at any location where, by reason of the position, size, shape, color, movement, or illuminations, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device so as to interfere with, mislead, or confuse traffic. Consideration of traffic visibility and injurious effects on adjacent properties is essential. All signs shall be designed, constructed, and maintained so as not to change the essential character of such area.

### **Section 9.13 PERMITTED SIGNS IN RESIDENTIAL DISTRICTS**

In any residential district, only one (1) sign of each of the following types shall be permitted on each lot or parcel unless otherwise specified herein. The following signs are permitted:

- A. A non-illuminated sign advertising the sale or rental of the building or property, not exceeding six (6) square feet in area and placed no nearer to the street line than one-half (1/2) of the required front yard depth.
- B. A non-illuminated sign announcing a home occupation or service that is offered on the premises provided that such a sign shall not exceed two (2) square feet in area and shall be no nearer the street line than one-half (1/2) of the required front yard depth.
- C. One (1) non-illuminated sign advertising a recorded subdivision or development, not to exceed eighteen (18) square feet in area and placed no closer to any street right-of-way than one-third (1/3) the minimum authorized front yard depth. Such sign shall be removed within one (1) year after the sale of all lots or units within said subdivision or development.
- D. One (1) non-illuminated sign identifying a multiple family building, subdivisions, or development, not having commercial connotations, not to exceed eighteen (18) square feet in area and placed no closer to any street right-of-way line than one-third (1/3) the minimum authorized front yard depth.
- E. A sign or bulletin board identifying a church, school, or other authorized use not to exceed twenty-four (24) square feet in area and placed no nearer than fifteen (15) feet to any property line. Such sign may be illuminated by a non-flashing reflected light and the source of illumination shall not be visible.

### **Section 9.14 TEMPORARY SIGNS**

Temporary signs advertising yard sales, garage sales, special events, election campaigns, etc., not exceeding six (6) square feet in area may be located in residential districts when placed no nearer the street right-of-way than one-half (1/2) the required front yard depth. Temporary signs must be removed within 24 hours following the completion of the sale or event.

### **Section 9.15 PERMITTED SIGNS IN THE COMMERCIAL AND INDUSTRIAL DISTRICTS**

Except as specified in Section 9.14, a sign in any Commercial or Industrial District is permitted only where it advertises a business occupying the same lot of land upon which the sign is erected. Signs shall conform to the building setback and height requirements, except for, and in addition to, the requirements provided below:

- A. In any Commercial or Industrial District, a sign may be affixed flat against the wall of the building, or may project there from not more than forty-eight (48) inches, provided that such signs do not project over a sidewalk or public right-of-way. Projecting signs shall be at least twelve (12) feet above finished grade. The total sign area shall not exceed one (1) square foot for each foot in length or height of the wall, whichever is greater, to which it is affixed. No such sign shall extend more than four (4) feet in height above the building to which it is affixed.
- B. One (1) free-standing identification sign may be erected for a shopping center or other integrated group of stores or commercial buildings. The area for said sign shall be based on one (1) square foot for each foot of building frontage, however, it shall not exceed two hundred (200) square feet in area, or be closer to the front, side, or rear property line than one-third (1/3) the distance of the required building setback.

- C. One (1) free standing identification sign may be erected for each separate enterprise situated on an individual lot not located within a shopping center. Such sign shall not exceed eighty (80) square feet in area, except in the Retail Commercial District, such sign shall not exceed thirty-six (36) square feet in area. All signs shall not be closer to the front, side, or rear property line than one third (1/3) the distance of the required building setback.
- D. All signs may be illuminated internally or by reflected light provided the source of light is not directly visible and is arranged to reflect away from the adjoining premises and provided that such illumination shall not be so placed as to cause confusion or hazard to traffic or conflict with traffic control signs or lights. No illumination involving moving or flashing lights shall be permitted.

#### **Section 9.16 OUTDOOR ADVERTISING SIGNS**

Outdoor advertising signs (billboards) shall not be permitted.

#### **Section 9.17 PROCEDURE FOR SITE PLAN REVIEW**

Site plan review shall be required for all multiple family and nonresidential projects prior to the issuance of a building permit. This review will be carried out by the Planning Commission.

- A. Any applicant shall submit to the Planning Commission a sketch of the proposed project for a preliminary review.
- B. After reviewing the sketch plan with the applicant, the Planning Commission shall suggest any changes in the proposal deemed necessary in order to comply with the provisions of this Zoning Ordinance and the subdivision regulations.
- C. The applicant shall then prepare and submit proper plans of the project to the Planning Commission. Development plans shall be drawn to scale and shall show:
  - 1. Location of main and accessory buildings;
  - 2. Location of yards, driveways, walks, parking areas, recreation areas, and other site improvements;
  - 3. Proposed storm drainage facilities;
  - 4. Surrounding streets and nearby buildings; and
  - 5. Proposed building plans.
- D. Three (3) copies of the development plan should be submitted to the Planning Commission no less than ten (10) days before the next Commission meeting.
- E. After reviewing the development plan, the Commission may approve, conditionally approve, or disapprove the development plan.
- F. After approval of the site plan by the Planning Commission, a copy of the approved drawings along with recommended additions or corrections shall be signed by the officers of the Commission and filed with the Zoning Administrator for future reference.
- G. The Planning Commission shall review with the Zoning Administrator to see that the specifications . . . Of the site plan are carried out.

### **Section 9.18 LAKE FRONT RESIDENTIAL**

When a lot in a Single Family Residential District is located on a lake or stream the following additional conditions shall apply:

- A. The lot width at the building line may be reduced to fifty (50) feet.
- B. The water frontage shall be considered the front yard and no accessory buildings or structures except as follows are permitted:
  - 1. Boat houses, provided they shall not be situated closer than ten (10) feet to any side lot line and not of a height exceeding twelve (12) feet above mean or established water level.
  - 2. Pump houses, provided they shall not exceed sixteen (16) square feet in area and not be of a height exceeding three (3) feet above ground level; and they shall be located not closer than ten (10) feet to any side lot line.
- C. The street frontage is considered the rear yard and no principal or accessory structure may be located within ten (10) feet of the street right of way.

### **Section 9.19 PARKING AND STORAGE OF CERTAIN VEHICLES**

Automotive vehicles or trailers of any kind or type that are inoperable without current license plates shall not be parked or stored on any residentially and commercially zoned property other than in completely enclosed buildings.

### **Section 9.20 PETS AND ANIMALS**

Unless otherwise provided, no livestock shall be kept or maintained in any zone established under this Ordinance. For each dwelling unit, the occupant may keep for his personal use not more than three (3) dogs or cats over twelve (12) months of age.

### **Section 9.21 PARKING, STORAGE, OR USE OF MAJOR RECREATIONAL EQUIPMENT**

For purposes of this Ordinance, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be parked or stored on any lot in a residential district except in a carport or enclosed building or in the rear yard, provided, however, that such equipment may be parked anywhere on residential premises not to exceed 24 hours during loading or unloading. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use. Temporary living in recreational vehicle/trailer is allowed only in the summer months by permit issued by the Zoning Administrator.

### **Section 9.22 REGULATION OF AMUSEMENT GAMES**

Amusement games may be installed as a principle or accessory use in the Retail Business District or as an accessory use in any Service Commercial District. When installed as a principle use amusement games may be no closer than 1,500 feet to any school, church or residential district or any other amusement game establishment. Establishments providing amusement games as an accessory use may not install more than two (2) machines and may not be closer to any school, church or residential district than 300 feet.

# PARKING PERMIT

## VILLAGE OF EDWARDSBURG

This permit allows the parking of recreational vehicles used for living space for a maximum of 14 days consecutive days. This permit must be posted in an area that can be seen in plain view from the outside of unit. (Example: front windshield, or doorway to unit). All equipment must have self contained waste storage. Electrical and water hook up to residence will be permitted.

ISSUE DATE

EXPIRATION DATE

\_\_\_\_\_  
Village President

\_\_\_\_\_  
Village Clerk

## Section 9.23 TREES

Trees may be located in any district not closer than six (6) feet to any property line.

## Section 9.24 HOME OCCUPATION

A home occupation may be conducted in a dwelling unit or accessory structure in any residential district, provided that:

- A. No more than one person other than members of the family residing on the premises shall be engaged in such occupation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of floor area of the dwelling unit shall be used in the conduct of the home occupation.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, as provided for in Section 9.13, paragraph B.
- D. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this ordinance, and shall not be located in a required front yard.
- E. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. 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 cause fluctuations in line voltage off the premises.
- F. Home occupations shall be approved by the Planning Commission upon a special use permit in accordance with the provisions of Article X, Section 10.05, Public Hearing. Annual renewal is approved by the Zoning Administrator. An annual fee of ten (\$10) dollars is required.

## SECTION 9.25(a) SPECIAL REGULATED USES

### 9.25(b) PURPOSE

In the development of a community it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this article. The primary control or regulation is for the purpose preventing a concentration of these uses in any one area (i.e.; not more than one (1) such use within one thousand (1,000) feet of each other which would create such effects).

Uses subject to these controls are as follows:

Group "A", Special regulated uses:  
Adult bookstore.



Adult motion picture theater.  
Adult mini motion picture theater.  
Massage establishments.  
Establishments for consumption of beer or intoxicating liquor on the premises and having adult entertainment.  
Steam baths.  
Health clubs.  
Taxi dance halls.  
Any other uses which provides goods or services which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" or "special anatomical areas" or which distinguished or characterized by its emphasis on "special sexual activities" or "special anatomical areas".

## ZONING

### 9.25(c) Application to Establish Regulated Use.

Application to establish any of the special regulated uses as itemized in section 9.25(b) shall be made to the office of the zoning administrator who shall not approve any such request unless the locational standards listed in the following sections are adhered to.

### 9.25(d) Locational Standards - Relationship to Similar Uses.

- (a) Group "A" special regulated uses (section 9.25(b)). An application to establish a group "A" special regulated use shall not be approved if there is already in existence one (1) or more group "A" special regulated use within one thousand (1,000) feet of the boundaries of the site of the proposed regulated uses, excepting as provided for in section 9.25(e).
- (b) Group "A" special regulated uses (section 9.25(b)) An application to establish a group "A" special regulated use shall not be approved if the proposed location is within one thousand (1,000) feet of any mobile home park, K through 12 school, park, or church, excepting as provided for in section 9.25(e)(b).
- (c) Group "A" special regulated uses (section 9.25(b)). An application to establish a group "A" special regulated use shall not be approved if the proposed location is within two hundred (200) feet of a residentially zoned district.

### 9.25(e) Waiver of Location Standards

- (a) Relationship to similar uses. The planning commission may waive the locational standards of section 9.25(d), limiting the location of group "A" uses as they relate to similar uses if the following findings are made:
  - (1) That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of the article will be observed.
  - (2) That the proposed use will not enlarge or encourage the development of a "skid row" area.
  - (3) That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal.

(4) That all applicable relations of the article will be observed.

2. Relationship to residential areas and other uses. The planning commission may waive the location standards of section 9.25(d), limiting the location of group "A" uses as they relate to residentially zoned districts, trailer parks, K through 12 schools, parks or churches: provided, that a validated petition requesting such a waiver, signed by the owners or purchasers of at least fifty-one (51) percent of the parcels of land within five hundred (500) feet of the proposed location is presented to the board.

- (1) The circulator of the petition requesting a waiver shall subscribe to an affidavit attesting to the fact that the circulator personally witnessed the signatures on the petition and the same were affixed to the petition by the person whose name appeared thereon.
- (2) The petition will be so worded that the signers of the petition will attest to the fact that they are the owners or purchasers of the parcel of land identified by the permanent parcel number opposite their signature.
- (3) For the purpose of this section, parcels of land shall equate to the permanent parcel numbers assigned by the Village of Edwardsburg to all property within the said five hundred (500) feet.

#### 9.25(f) Application to the Planning Commission

An applicant requesting a waiver of the locational requirements of section 9.25(d) shall file an application with the building inspector, however the building inspector shall not accept an application for the waiver of locational requirements for Group "A" uses as they relate to residentially zoned districts, trailer parks, K through 12 schools, parks or churches (section 9.25(d)(b)) until a petition as required in section 9.25(e)(b) has been filed with and validated by the zoning administrator. The zoning administrator shall notify the building inspector of the status of the petition within fifteen (15) days of its filing in the office of the zoning administrator.

#### 9.25(g) Conditions on Waivers.

Prior to the granting of a waiver of locational requirements the planning commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operations of regulated use as may in its judgment be necessary for the protection of the public interest. Any evidence and guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

#### 9.25(h) Definitions for the Purpose of this Article.

**Adult bookstore:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined below) or an establishment with a segment or section devoted to the sale or display of such material.

**Adult motion picture theater:** An enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined below), for observation by patrons therein.

**Adult mini motion picture theater:** An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or

relating to "specified sexual activities" or "specified anatomical areas; (as defined below), for observation by patrons therein.

Adult entertainment: Any conduct which presents materials by books, films, slides or the like or by live presentation which includes services to the patron of an establishment, which material is distinguished or characterized by and emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

Massage establishment: Any establishment where massages are administered for pay, including but not limited to massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the State of Michigan, nor barbershop or beauty shop in which massages are administered only to the scalp, the face, the neck; or the shoulders. This definition shall not be construed to include a public or non-profit organization such as a school, park department, swimming pool or other educational, cultural, recreational facilities for residents of the area.

Specified sexual activities: Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy, fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Specified anatomical areas: Less than completely covered (a) human genitals, pubic region, (b) buttock, and (c) female breast below a point immediately above the top of the areola. Also, human male genitals in a discernibly turgid state, even if completely and opaquely covered

#### 9.25(i) Zoning District Requirements for Special Regulated Uses

The special regulated uses itemized in this article shall be limited to the following zoning districts

- (a) SC Service Commercial

Also each special regulated use shall be subject to the specific requirements of each zoning district and all other applicable regulations.

## **ARTICLE X CONDITIONAL USE**

### **Section 10.01 PURPOSE**

The formulation and enactment of this Zoning Ordinance is based upon the division of the Village into districts, each of which permit specified uses which are mutually compatible. In addition to such permitted compatible uses, however, it is recognized that there are certain other uses which may be necessary or desirable in certain locations in certain districts but which, on account of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the Village. Such uses, on account of their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

### **Section 10.02 AUTHORITY TO GRANT PERMITS (Fee \$200.00)**

The Village Council, with recommendations from the Village Planning Commission, shall have the authority to grant conditional use permits, subject to such conditions of design and operation, safeguards, and time limitations as it may determine for all conditional uses specified in the various district provisions of this Ordinance.

### **Section 10.03 APPLICATION AND INFORMATION REQUIRED**

written **application** shall be made to the Village Council who shall immediately forward a copy of said application to the Planning Commission. The application shall include the following:

- A. Name of applicant and owner of the premises.
- B. Legally recorded description of the premises.
- C. Description of proposed use, including parking facilities, if required.
- D. A legible sketch drawn to scale showing size of building or structure and location on premises.
- E. Sanitary Sewer and water supply connections, existent or proposed.
- F. Use of premises on adjacent properties.
- G. Statement by applicant appraising the effect of proposed use on adjacent properties and development of the neighborhood.

### **Section 10.04 PUBLIC HEARING**

The Village Planning Commission shall hold a public hearing, or hearings within 30 days, upon any application for a conditional use permit, notice of which shall be given by publication in a newspaper of general circulation in the Village. Property owners within 300 feet of the affected property will be notified by first class mail.

### **Section 10.05 REQUIRED STANDARDS AND FINDINGS FOR MAKING DETERMINATIONS**

The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and shall find and record adequate data, information, and evidence showing that such a use on the proposed site, lot, or parcel:

- A. Will be harmonious with and in accordance with the general objectives, intent, and purposes of this Ordinance.
- B. Will be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.

- C. Will be served adequately by essential public facilities and service, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
- D. Will not be hazardous or disruptive to existing or future neighboring uses.
- E. Will not create excessive additional requirements at public cost for public facilities and services.

**Section 10.06 JUNK YARDS**

In addition to and as an integral part of development, the following provisions shall apply:

- A. Junk yards shall be established and maintained in accordance with all applicable State of Michigan Statutes and located only in the Manufacturing District.
- B. It is recognized by this Ordinance that the location in the open of such materials included in this Ordinance's definition of "junk yard" will cause the reduction of the value of adjoining property. To the end that the character of the district shall be maintained and property values conserved, an opaque fence or wall at least eight (8) feet in height, and not less in height than the materials located on the lot on which a junk yard shall be operated, shall be located on said lot no closer to the lot lines than the yard requirements for buildings permitted in this district. The materials and construction of this fence shall be approved by the Planning Commission. All gates, doors, and access ways through said fence or wall shall be of solid, unpierced material. In no event shall any materials included in this Ordinance's definition of "junk yard" be located in the area between the lines of said lot and the opaque fence or wall located on said lot.
- C. All traffic ingress or egress shall be on major streets, and there shall be not more than one (1) entrance way in the lot on which a junk yard shall be operated from each public road on which said lot abuts.
- D. On the lot on which a junk yard shall be operated, all roads, driveways, parking lots, and loading and unloading areas within any yard shall be hard surfaced so as to limit the nuisance caused by windborne dust.

**Section 10.07 DRIVE-IN THEATERS AND TEMPORARY TRANSIENT AMUSEMENT ENTERPRISES**

In addition to and as an integral part of development, the following provisions shall apply:

- A. Drive-in theaters shall be enclosed for their full periphery with an opaque fence at least seven (7) feet in height. Fences shall be of sound construction, painted, or otherwise finished neatly and inconspicuously and shall contain no advertising.
- B. All fences shall be set back at least one hundred (100) feet from any property line. In addition, the Planning Commission may require a greenbelt to be constructed.
- C. All traffic ingress or egress shall be on major streets and all local traffic movement shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements into or out of the public thoroughfares. All points of entrance or exit for motor vehicles shall be located no closer than two hundred (200) feet from the intersection of any two (2) streets or highways.

## **Section 10.08 ESSENTIAL SERVICE BUILDINGS**

In every zoning district, except Manufacturing, the following essential service buildings shall be required to have a conditional use permit prior to their construction; transformer substations, pumping stations, communications relay stations, gas and steam regulating valves and stations and buildings of similar function.

No building shall be used for human occupancy.

An opaque fence or screening material may be required by the Planning Commission.

**ARTICLE XI.  
PARKING AND LOADING REQUIREMENTS**

**Section 11.01 OFF-STREET PARKING**

In all districts, in connection with industrial, business, institutional, agricultural, recreational, residential or other use, there shall be provided at the time any building is erected, or uses established, enlarged or increased in capacity, off-street parking spaces for automobiles with the requirements herein specified.

- A. Plans and specifications showing required off-street parking spaces, including the means of access and interior circulations, for the above uses, shall be submitted to the Zoning Administrator for review at the time of application for a building permit. Required off-street parking facilities shall be located on the same lot as the principal building or on a lot within three hundred (300) feet thereof except that this distance shall not exceed one hundred fifty (150) feet for single family and two family dwellings. This distance specified shall be measured from the nearest point of the parking facility to the nearest point of the lot occupied by the building or use that such facility is required to serve.
- B. No parking area or parking space which exists at the time this Ordinance becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this Ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance, unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this Ordinance within three hundred (300) feet of the proposed or existing uses for which such parking will be available.
- C. Parking of motor vehicles in residential zones shall be limited to passenger vehicles, one (1) camper type recreational vehicle per dwelling unit, and not more than one (1) commercial vehicle of the light delivery type, not to exceed one (1) ton, shall be permitted per dwelling unit. The parking of any other type of commercial vehicle or bus, except for those parked on school or church property, is prohibited in a residential zone. Parking spaces for all types of uses may be provided either in garages or parking areas conforming with the provisions of this Ordinance.
- D. Each off-street parking space for automobiles shall not be less than two hundred (200) square feet in area, exclusive of access drives or aisles, and shall be of usable shape and condition. There shall be provided a minimum access drive of ten (10) feet in width, and where a turning radius is necessary, it will be of such an arc as to reasonably allow an unobstructed flow of vehicles. Parking aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of a parking space. The minimum width of such aisle shall be:
  - 1. For ninety (90) degree perpendicular parking, the aisle shall not be less than twenty-two (22) feet in width.
  - 2. For sixty (60) degree parking, the aisle shall not be less than eighteen (18) feet in width.
  - 3. For forty-five (45) degree parking, the aisle shall not be less than thirteen (13) feet in width.
  - 4. For parallel parking, the aisle shall not be less than ten (10) feet in width.
- E. Off-street parking facilities required for churches may be reduced by fifty (50) percent where churches are located in nonresidential districts and within three hundred (300) feet of usable public or private off-street parking areas. Off-street parking facilities for trucks at restaurants, service stations, and other similar and related uses shall be of sufficient size to adequately serve trucks and not

interfere with other vehicles that use the same facilities. Such truck spaces shall not be less than ten (10) feet in width and fifty-five (55) feet in length.

- F. Every parcel of land hereafter used as a public or private parking area shall be developed and maintained in accordance with the following requirements:
1. All off-street parking spaces shall not be closer than five (5) feet to any property line, except where a wall, fence, or compact planting strip exists as a parking barrier along the property line.
  2. All off-street parking areas shall be drained so as to prevent drainage to abutting properties and shall be constructed of materials which will have a dust-free surface resistant to erosion.
  3. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining premises and streets.
  4. Any off-street parking area providing space for five (5) or more vehicles shall be effectively screened on any side which adjoins, or faces property adjoining, a residential lot or institution, by a wall, opaque fence, or compact planting no less than four (4) feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property.
  5. All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of single or two-family dwellings.
  6. Combined parking facilities are allowed when two (2) or more uses occur on one (1) property or when a building(s) on the (1) property contains two (2) or more uses, provided that the permanent allocation of the required number of parking spaces shall be the sum of the requirements for the various uses and computed in accordance with this Ordinance. Parking facilities for one (1) use shall not be considered as providing the required parking facilities for any other use, except churches.
- G. Any sign intended to advertise parking or loading facilities shall be constructed in accordance with the regulations specified in Article IX.
- H. A business involving the repair, service, sale, or display of vehicles is prohibited in areas used for parking or loading.
- I. For the purposes of determining off-street parking requirements, the following units of measurement shall apply:
1. Floor Area: In the case of uses where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that such floor area need not include any area used for incidental service, storage, installations of mechanical equipment, penthouses, housing ventilators and heating systems, and similar uses.
  2. Places of Assembly: In stadiums, sport arenas, churches, and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each eighteen (18) inches of such seating facilities shall be counted as one (1) seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together. Open assembly areas shall require one (1) space for each six (6) square feet.



3. Fractions: When units of measurement determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half (1/2) shall require one (1) parking space.
4. The minimum required off-street parking spaces shall be set forth as follows:
  - Automobiles or Machinery Sales and Service Garages: One (1) space for each two hundred (200) square feet of showroom floor area, plus two (2) spaces for each service bay, plus one (1) space for each two (2) employees on the maximum shift.
  - Banks, Business, and Professional Offices: Two (2) parking spaces for each two hundred (200) square feet of floor area, plus one (1) parking space for each employee working within the building.
  - Barber Shops and Beauty Parlors: Two (2) spaces for each chair, plus one (1) space for each employee.
  - Boarding and Lodging Houses and Fraternities: Two (2) parking spaces for each three (3) beds.
  - Bowling Alleys: Five (5) parking spaces for each alley, plus one (1) space for each employee per shift.
  - Churches, Auditoriums, Stadiums, Sports Arenas, Theaters, Dance Halls, Assembly Halls Other Than Schools: One (1) space for each four (4) seats, or for each four (4) persons permitted in such edifice as stated by the Fire Marshall.
  - Clinics: Four (4) spaces for each doctor, plus one (1) space for each employee per shift.
  - Convalescent Home, Orphanage, or Similar Use: One (1) parking space for each four (4) beds, plus one (1) space for each one (1) employee, including nurses, per shift.
  - Drive-In Banks, Cleaners, and Similar Businesses: Storage space for five (5) cars between the sidewalk area and the service window and one (1) parking space for each two (2) employees.
  - Drive-In Eating Establishments: Ten (10) parking spaces, plus one (1) parking space for each twenty (20) square feet of building floor area.
  - Dwellings (Single and Two-Family): Two (2) parking spaces for each family dwelling unit.
  - Dwellings (Multiple Family): One and one-half (1 1/2) parking spaces per unit.
  - Funeral Homes and Mortuaries: Four (4) spaces for each individual chapel or one (1) space for each fifty (50) square feet of floor area, whichever is greater, plus one (1) space for each fleet vehicle.
  - Furniture, Appliance Stores, Household Equipment, and Furniture Repair Shops: One (1) space for each four hundred (400) square feet of floor area.
  - Gasoline filling and Service Stations: One (1) parking space for each repair and service stall, plus one (1) space for each employee per shift.

General Office Building: One (1) parking space for each four hundred (400) square feet of gross floor area, excluding auto parking within or on the building, plus one (1) parking space per two (2) employees per shift.

Hospitals: One (1) space for each bed, plus one (1) space for each employee per shift.

Hotels, Motels, Lodging Houses, Tourist and Boarding Homes: One (1) space for each living unit, plus one (1) space for each one (1) employee per shift.

Libraries, Museums, Post Offices: One (1) parking space for each eight hundred (800) square feet of floor area, plus one (1) parking space for each employee per shift.

Manufacturing, Fabricating, Processing and Bottling Plants, Research and Testing Laboratories: One (1) space for each employee on maximum shift.

Restaurants, Taverns, Night Clubs, and Private Clubs: One (1) parking space for each two (2) patron seats, plus one (1) parking space for each employee per shift.

Retail Stores, Except as Otherwise Specified Herein: One (1) parking space for each one hundred fifty (150) square feet of floor area excluding auto parking space within or on the building.

Schools, Private or Public Elementary and Junior High Schools: One (1) space for each employee normally engaged in or about the building or grounds, plus one (1) space for each thirty (30) students enrolled or the requirements of the auditorium, whichever is greater.

Self-Service Laundry or Dry Cleaning Stores: One (1) space for each two (2) washing and/or dry cleaning machines.

Supermarket, Self-Service Food and Discount Stores: Two (2) spaces for each two hundred (200) square feet of floor area, plus one (1) space for each employee per shift.

Wholesale Establishments and Warehouses: One (1) space for each four hundred (400) square feet of floor area, plus one (1) space for each employee.

For uses not specifically mentioned herein, off-street parking requirements shall be established by the Zoning Administrator from requirements for similar uses.

## **Section 11.02 LOADING--UNLOADING REQUIREMENTS**

In connection with every building or part thereof hereafter erected, except single and two-family dwelling unit structures, there shall be provided on the same lot with such buildings, off-street loading and unloading spaces for uses which customarily receive or distribute material or merchandise by vehicle.

- A. Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted to the Zoning Administrator for review at the time of application for a building permit for the erection or enlargement of a use of a building or structure.

- B. Each off-street loading--unloading space shall not be less than the following:
1. In a residential district, a loading--unloading space shall not be less than ten (10) feet in width and twenty-five (25) feet in length and, if a roofed space, not less than fourteen (14) feet in height.
  2. In any commercial or industrial district, a loading--unloading space shall not be less than ten (10) feet in width and fifty-five (55) feet in length, and if a roofed space, not less than fifteen (15) feet in height.
- C. Subject to the limitations of the next paragraph, a loading--unloading space may occupy all or any part of any required side or rear yard, except the side yard along a side street in the case of a corner lot. In no event shall any part of a required front yard be occupied by such loading space.
- D. Any loading--unloading space shall not be closer than fifty (50) feet to any other lot located in any residential district unless wholly within a completely enclosed building or unless enclosed on all sides by a wall, opaque fence, or compact planting not less than six (6) feet in height.
- E. In the case of mixed uses on one (1) lot or parcel, the total requirements for off-street loading-unloading facilities shall be the sum of the various uses computed separately.
- F. All off-street loading--unloading facilities that make it necessary to back out directly into a public road shall be prohibited.
- G. Off-street loading space and access drives shall be paved, drained, lighted, and shall have appropriate bumper or wheel guards where needed and any light used for illumination shall be so arranged as to reflect the light away from the adjoining premises and streets.
- H. Off-street loading--unloading requirements for residential (excluding single family dwellings), hotels, hospitals, mortuaries, public assembly offices, retail, wholesale, or distribution by vehicles, the uses having over five thousand (5,000) square feet of gross floor area shall be provided with at least one (1) off-street loading--unloading space, and for every additional twenty thousand (20,000) square feet of gross floor space, or fraction thereof, one (1) additional loading-unloading space, the size of such loading--unloading space subject to the provisions of this Ordinance.
- I. For uses not specifically mentioned herein, loading--unloading requirements shall be established by the Zoning Administrator from requirements for similar uses.

**ARTICLE XII.  
ADMINISTRATION AND ENFORCEMENT**

**Section 12.01 PURPOSE**

It is the purpose of this Article to provide the procedures for the administration of the Ordinance, issuance of permits, inspection of properties, collection of fees, handling of violators, and enforcement of the provisions of this Ordinance and amendments thereto.

**Section 12.02 ADMINISTRATION**

The provisions of this Ordinance shall be administered by the Village Planning Commission and the Village Council in accordance with the State of Michigan Municipal Planning Act, Act 285 of the Public Acts of 1931, as amended, and the State of Michigan Village Zoning Act, Act 184 of the Public Acts of 1943, as amended.

The Village Council shall appoint a Zoning Administrator in order to effect proper administration of this Ordinance. The individual selected, the terms of employment, and the rate of compensation shall be established by the Village Council.

In the absence of the Zoning Administrator, a Village Clerk or other Village officer as designated by the Village Council shall assume all the powers and duties of the Zoning Administrator. For the purpose of enforcing this ordinance the Zoning Administration shall have the power to issue appearance tickets.

**Section 12.03 DUTIES OF A ZONING ADMINISTRATOR**

- A. Review all applications for building permits and approve or disapprove such applications based on compliance with the provisions of this Ordinance and shall approve issuance of the permit if the use and the requirements of this Ordinance are met.
- B. Review all applications for conditional use permits; conduct field inspections, surveys, and investigations, prepare maps, charts, and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations; and notify the applicant, in writing, of any decision of the Planning Commission.
- C. Receive all applications for appeals, variances, or other matters which the Zoning Board of Appeals is required to decide under this Ordinance; conduct field inspections, surveys, and investigations, prepare maps, charts, and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations to the Zoning Board of Appeals for determination. Attend Zoning Board of Appeals meetings.
- D. Review all applications for amendments to this Ordinance, conduct field inspections, surveys, and investigations, prepare maps, charts, and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations; and report to the Planning Commission all such applications together with recommendations. Attend Planning Commission meetings.
- E. The Zoning Administrator shall be responsible to update the Village Zoning Map and keep it current.
- F. Be responsible for providing forms necessary for the various applications as required by this Ordinance and shall be responsible for what information is necessary on such forms for the effective administration of this Ordinance, subject to the general policies of the Village Council, Planning Commission, and Zoning Board of Appeals.

## Section 12.04 BUILDING PERMIT

A. **Building Permit Requirements:** A building permit is required for and shall be obtained after the effective date of this Ordinance from the Office of the Building Inspector or his agent by the owner or his agent for the following conditions:

1. The construction, enlargement, alteration, or moving of any dwelling, building or Structure, or any part thereof.
2. Repairs or alterations which change the use, occupancy, area, structural strength, fire hazard, fire protection, exits, light, and ventilation of a building, including re-roofing, siding and window and door replacement.

B. **Application for a Building Permit:** Application for a building permit shall be made in writing upon a blank form furnished by the Building Inspector and shall state the name and address of the owner of the building and the owner of the land upon which it is to be erected, enlarged, altered, or moved. There shall be submitted with all applications for building permits two (2) copies of a site layout or plot plan showing:

1. The location, shape, area, and dimensions for the lot, lots, or acreage.
2. The location of the proposed construction upon the lot, lots or acreage affected.
3. The dimensions, height, and bulk of structures.
4. The nature of the proposed construction, alteration, or repair and the intended use.
5. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other uses.
6. The present use of any structure affected by the construction or alteration.
7. The yard open area and parking space dimensions, if applicable.
8. The proposed design and construction standards of parking spaces, if applicable.
9. The number of loading and unloading spaces provided, if applicable.
10. Any other information deemed necessary by the Building Inspector to determine and provide for the enforcement of this Ordinance.

If the information shown on the site layout is in compliance with the above requirements and all other provisions of this Ordinance, the Building Inspector shall issue a building permit upon payment of the required building permit fee.

C. **Voiding of Permit:** In the event a building permit shall have been issued by the Building Inspector, and no proceeding under authority thereof shall have been commenced by the applicant within ninety (90) days following the date of issue, or construction completed by the applicant within twelve (12) months following the date of issue, said permit shall lapse and become null and void unless, within sixty (60) days following said lapsing of said permit, the applicant shall apply for reinstatement thereof. The Building Inspector is hereby authorized to reinstate such permit, providing no original building permit shall be reinstated more than once. The Building Inspector shall make every effort to notify the holder of a permit that is liable for voiding action before voidance is actually declared. The

Building Inspector may suspend or revoke a permit issued in error or on a bases of incorrect information supplied by the applicant or his agent or in violation of any of the ordinances or regulations of the Village.

- D. Fees, Charges, and Expenses: The Village Council may establish a schedule of fees, charges, and expenses, and a collection procedure for building permits, appeals, and other matters pertaining to the Ordinance. The schedule of fees shall be posted in the Office of the Building Inspector, and may be altered or amended only by the Village Council. No permit, certificate, conditional use on approval, or variance shall be issued until such costs, charges, fees, or expenses listed in this Ordinance have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals, until preliminary charges and fees have been paid in full.
- E. Inspection: The construction or usage affected by any building permit shall be subject to the following inspections:
1. At time of staking out of building foundation.
  2. Upon completion of the footings and before erection of the foundation walls.
  3. Upon completion of the frame, pipes, wiring, chimneys, and vents.
  4. Upon completion of the work authorized by the permit.

It shall be the duty of the holder of every permit to notify the Building Inspector when construction is ready for inspection. Within 24 hours of receipt of such notification for the first inspection, the Building Inspector shall determine whether the location of the proposed building, as indicated by comer stakes, is in accordance with yard setbacks and other requirements of the Ordinance. The Building Inspector shall issue his written approval at the time of inspection, if the building or proposed construction meets the requirements of this Ordinance. Should the Building Inspector determine that the building or structure is not located according to the site and construction plans filed, or is in violation of any provision of this Ordinance, or any other applicable law, he shall so notify the holder of the permit, or his agent. Further construction shall be stayed until correction of the defects set forth has been accomplished and approved by the Building Inspector upon notice and request for re-inspection duly made.

Should a building permit holder fail to comply with the requirements of the Building Inspector at any inspection stage, the Building Inspector shall make report in writing of such failure to the Village Clerk. The Building Inspector shall cause notice of such permit cancellation to be securely and conspicuously posted upon or affixed to the construction not conforming to the Ordinance requirements and such posting shall be considered as service upon and notice to the permit holder, of cancellation thereof; and no further work upon said construction shall be undertaken or permitted until such time as the requirements of this Ordinance have been met. Failure of the permit holder to make proper notification of the time for inspection shall automatically cancel the permit, requiring issuance of a new permit before construction may proceed.

#### **Section 12.05 VIOLATIONS**

Any building or structure, including tents and mobile homes, which are erected, constructed, reconstructed, altered, converted, maintained, or used, or any use of land or premise which is begun, maintained, or changed in violation of any provision of this Ordinance, are hereby declared to be a nuisance per se.

#### **Section 12.06 PENALTIES**

Any person, or the agent in charge of such building or land, who violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any provision of this Ordinance or any amendment thereof, shall

be fined upon conviction not more than five hundred dollars (\$500), together with the cost of prosecution, or shall be punished by imprisonment in the county jail for not more than ninety (90) days for each offense, or may be both fined, and imprisoned as provided herein. Each and every day during which any illegal erection, construction, reconstruction, alteration, maintenance, or use continues shall be deemed a separate offense. The Village Council, the Village Planning Commission, the Village Building Inspector, the Zoning Board of Appeals, the Attorney of the Village, or any owner of real estate with the district in which such building, structure, or land is situated may institute injunction, mandamus, abatement, or any other appropriate action, actions, or proceedings to unlawful erection, construction, maintenance, or use. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

#### **Section 12.07 VILLAGE PLANNING COMMISSION**

- A. Creation; duties - The Village Planning Commission is authorized and empowered to make, adopt, amend, extend, add to, or carry out a municipal plan as provided in this act and create by ordinance a Planning Commission with the powers and duties herein set forth. The Planning Commission shall be designated the Edwardsburg Planning Commission.
- B. Members; appointment, compensation, term, removal, vacancies - The Edwardsburg Planning Commission shall consist of the Mayor, 1 of the administrative officials of the village selected by mayor, 1 member of council to be selected by it as members ex officio and 6 persons who shall be appointed by the mayor as is herein provided. All appointed members of the commission may be compensated at a rate to be determined by the Council and the appointed members shall hold no other village office except that 1 of such appointed members shall be a member of the zoning board of appeals. The terms of ex officio members shall correspond to their respective official tenures, except that the term of the administrative official selected by the mayor shall terminate with the term of the mayor selecting him or her. The term of each appointed member, where 6 are appointed shall be 3 years or until his or her successor takes office except that the respective terms of 2 of the members first appointed shall be for 1 year and 2 for 2 years. Members other than the member selected by council may, after public hearing, be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office. Council may for like cause remove the member selected by it.

Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor in the case of members selected or appointed by him, by council in the case of the member appointed by the council, and by the appointing power designated by council in : municipalities in which the mayor is not an elective officer.

- C. Chairman, meetings, rules, records - The commission shall elect its chairman from amongst the appointed members and create and fill such other of its offices as it may determine. The term of chairman shall be 1 year, with eligibility for reelection. The commission shall hold at least 1 regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

#### **Section 12.08 INITIATING AMENDMENTS AND FEES**

The Village Council may from time to time, on recommendation from the Planning Commission, amend, modify, supplement, or revise the district boundaries or the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such amendment. Said amendment may be initiated by resolution of the Village Council, the Planning Commission, or by petition of one (1) or more owners of property to be affected by the proposed amendment. Except for the Village Council or the Planning Commission, the petitioner or petitioners requesting an amendment shall, at the time of application, pay a fee prescribed by the Village Council.

## Section 12.09 AMENDMENT REZONING PROCEDURE

The Village Zoning Ordinance may be amended upon request from a Village property owner or upon initiation by the Village Council or the Village Planning Commission. The following procedures will be followed in receiving, reviewing, and approving amendments for changing the Zoning Ordinance.

- A. The applicant should submit to the Zoning Administrator an application for zoning amendment together with the required application fee and the following documentation:
  1. Evidence that the applicant has interest in the property proposed to be rezoned.
  2. Legal description and dimensions of the property proposed to be rezoned.
  3. Description of proposed use or uses, including access roadways and proposed off-street parking.
  4. Description of sewage disposal and water supply facilities and proposed surface drainage<sup>1</sup>
- B. The Zoning Administrator will review the rezoning application to insure that the application is in order and all required documentation is included.
- C. The Zoning Administrator will transmit the application for rezoning to the Village Planning Commission.
- D. The Village Planning Commission will receive the rezoning application and conduct a background study to determine:
  1. If the proposed rezoning is compatible with the goals and objectives of the Village Land Use Plan.
  2. Impact of the proposed use on surrounding properties and development.
  3. The effect on public facilities and services.
  4. The relationship of the proposed project to the intent of Village Zoning Ordinance.
- E. The Village Planning Commission will establish a date for public hearing on the proposed zoning amendment at its next regular meeting allowing for the requirements for notification. The Planning Commission Secretary will provide to the Village Clerk all required materials for publication and notification.
- F. The Village Clerk will publish one (1) notice of the public hearing in a newspaper of general circulation in the Village. The notice must be printed not less than fifteen (15) days before the hearing. The notice will be posted in three (3) public places.
- G. The Village Clerk shall notify by mail, not less than fifteen (15) days prior to the public hearing, each electric, gas pipeline, telephone utility, and railroad company operating within the district zone affected, that registers its name and mailing address with the Village Planning Commission for the purpose of receiving the notice. An affidavit-of mailing shall be maintained. The notices shall include the places and times at which the tentative text and any maps of the Zoning Ordinance to be examined.



- H. The Village Clerk shall notify by mail, not less than fifteen (15) days prior to the public hearing all property owners within three hundred (300) feet of the affected property.
- I. The Village Planning Commission will hold a public hearing on the requested rezoning. The hearing should represent an opportunity for all involved to present and rebut information concerning a rezoning request.
- J. The Village Planning Commission will complete its background study on the rezoning request and address the concerns raised at the public hearing.
- K. The Village Planning Commission will submit the rezoning request to the County Planning Commission for review and recommendation.
- L. The Village Planning Commission will transmit the rezoning request together with its recommendation and the comments of the County Planning Commission to the Village Council for final action. The transmittal to the Village Council will include a record of the comments received at the public hearing, background material developed by the Village Planning Commission on the rezoning request, and the findings which support the Planning Commission's recommendations.
- M. The Village Council may adopt or reject the proposed amendment to the Zoning Ordinance, provided that:
  - 1. If the Village Council desires to make a change in the proposed amendment, it must refer the amendment back to the Village Planning Commission for recommendation; and
  - 2. If a land owner requests a hearing on the proposed amendment, the Village Council must hold the requested hearing before action is taken.
- N. If the Village Council holds additional public hearings, notice shall be published in the Edwardsville newspaper and/or any newspaper widely circulated in the local area not more than fifteen (15) days nor less than five (5) days before the hearing.
- O. After receiving the Village Planning Commission's report and recommendation on a proposed rezoning amendment, the Village Council shall grant a public hearing to a property owner who, by certified mail addressed to the Village Clerk, requests a hearing. The Village Council shall request the Village Planning Commission to attend the hearing.
- P. After completing its study and review, the Village Council may approve, reject, or approve with changes the proposed rezoning amendment. If the Village Council approves the rezoning amendment with changes, the proposed amendment with changes will be referred back to the Village Planning Commission for further study and recommendation.

**Section 12.10: CONFORMANCE TO COURT DECREE**

Any amendment for the purpose of conforming a provision thereof to the decree of a court of competent jurisdiction shall be adopted by the Village Council and the amendments published without referring the same to any other board or agency.

**ARTICLE XIII.  
ZONING BOARD OF APPEALS**

**Section 13.01 PURPOSE**

It is the purpose of this Article to provide a means to alleviate undue hardship which may, in certain instances, be caused by the strict and literal interpretation and enforcement of the provisions of this Ordinance.

**Section 13.02 BOARD OF APPEALS ESTABLISHED**

There is hereby established a Zoning Board of Appeals which shall perform its duties and exercise its powers as provided by all applicable state laws in such a way that the objectives of this Ordinance shall be enforced, the public health and safety secured, and substantial justice done.

**Section 13.03 MEMBERSHIP, TERMS OF OFFICE**

The Village Council shall appoint a Board of Appeals consisting of five (5) members, each to be appointed for three (3) years; provided that appointments for the first year shall be as follows: Two (2) members for one (1) year, two (2) members for two (2) years and one (1) member for three (3) years, there after all members will be appointed for three (3) years.

**Section 13.04 RULES OF PROCEDURE**

The Board of Appeals may adopt its own rules of procedure as may be necessary to properly conduct its meetings. The concurring vote of four (4) of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the administrative official or to decide in favor of the applicant any matter upon which they are required to pass under this Ordinance or to effect any variation in this Ordinance. A quorum of four (4) members shall be required.

**Section 13.05 POWERS AND DUTIES**

The Board of Appeals shall have powers to interpret the provisions of this Ordinance, and to grant variances from the strict application of any provisions of this Ordinance.

**Section 13.06 VARIANCE**

A variance from the terms of this Ordinance shall not be granted by the Board of Appeals unless and until:

- A. A written application for a variance is submitted, demonstrating:
1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

4. That no nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- B. The Board of Appeals shall make findings that the requirements of the Ordinance have been met by the applicant for a variance.
  - C. The Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
  - D. The Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
  - E. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance, and punishable under Section 13.06 of this Ordinance.
  - F. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in said district.

#### **Section 13.07 VOIDING OF AND REAPPLICATION FOR VARIANCE**

The following provisions shall apply:

- A. Each variance granted under the provisions of this Ordinance shall become null and void unless the construction authorized by such variance or permit has been commenced within ninety (90) days after the granting of such variance and pursued diligently to completion.
- B. No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of three hundred sixty-five (365) days from such denial, except on grounds of new evidence or proof of changed conditions found by the Board of Appeals to be valid.

#### **Section 13.08 PROCEDURE FOR APPEALING TO THE BOARD OF APPEALS**

The following provisions shall apply:

- A. Appeals, How Taken: Appeals from the ruling of the Village Building Inspector may be made to the Board of Appeals in the following manner:
  1. The person, firm, or agent thereof making the appeal shall file in writing to the Building Inspector a letter stating what the specific appeal is and the reasons for said appeal.
  2. The Building Inspector submits the written appeal, along with all papers constituting the record from which the action appealed was taken, to the Zoning Board of Appeals.
- B. Who May Appeal: Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board, agency, or bureau of the Village, County, or State.

- C. Fee for Appeal: A fee as prescribed by the Village Council, no part of which shall be returnable, shall be submitted to the Building Inspector at the time of filing the letter of appeals. The appeals fee shall immediately be placed in the Village General Fund.
- D. Effect of Appeal, Restraining Order: An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Village Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- E. Hearing by the Board of Appeals, Request, Notice, Hearing: When a request for appeals has been filed in proper form with the Board of Appeals, the Secretary or Village Clerk shall immediately place the said request for appeal upon the calendar for hearing, and cause notice, stating the time, place, and object of the hearing to be served personally or by registered return receipt mail at least ten (10) days prior to the date of such hearing, upon the party or parties making the request for appeal.
- F. Representation at Hearing: Any party or parties may appear in person or by agent or by attorney at the hearing.
- G. Decisions of the Board of Appeals and Appeals to the Circuit Court: The Board of Appeals shall decide in the public meeting upon all appeals within a reasonable time and reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Building Inspector from whom the appeal is taken. The Board of Appeals decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Board of Appeals in each particular case and the signatures of each member of the Board of Appeals affixed thereon. Any persons having an interest affected by such resolution shall have the right to appeal to the Circuit Court on questions of law and fact.

**ARTICLE XIV.  
EFFECTIVE DATE OF ORDINANCE**

**Section 14.01 EFFECTIVE DATE**

This Ordinance was adopted by the Edwardsburg Village Council, Cass County, Michigan at a meeting held on the 20<sup>th</sup> day of May, 1985, and notice ordered published in the Edwardsburg Argus, a newspaper having general circulation in said Village, as required by Act 191 of the Public Acts of 1939, as amended, to take effect immediately.

**Section 14.02 PERIOD OF EFFECTIVENESS**

This Ordinance shall remain in full force and effect henceforth unless repealed.

Bernadine Tilbury, Village Clerk